



# Equal Rights Advocates

Since 1974, Fighting for Women's Equality

## **Federal Court of Appeals Upholds Class Certification of *Dukes v. Wal-Mart Stores***

On February 6, 2007, the Ninth Circuit Court of Appeals upheld the June 2004 United States District Court decision certifying a class consisting of all women employed at Wal-Mart's U.S. facilities any time since December 26, 1998 to the present. The case, *Dukes v. Wal-Mart Stores*, claims that Wal-Mart discriminates against women in pay and promotions.

The Ninth Circuit described the case as "the largest certified class in history." In upholding the decision of U.S. District Court Judge Martin Jenkins, the Ninth Circuit noted that plaintiffs "present significant proof of a corporate policy of discrimination and support Plaintiffs' contention that female employees nationwide were subjected to a common pattern and practice of discrimination."

We have far to go, but each ruling in favor of the plaintiffs hammers home the message to Wal-Mart: the nation's largest employer is not exempt from civil rights law.

Lead plaintiff Betty Dukes said, "We have been waiting a long time for this day. Women at Wal-Mart, including myself, have been discriminated against." Dukes has worked at a Wal-Mart in Pittsburg, California for 12 years and credits the lawsuit with improving conditions for women including reducing the wage disparity between male and female workers. She is one of the six women plaintiffs in the case that now includes over two million women.

But much reform is still necessary. In 2001, women at Wal-Mart earned, on average, about \$5,200 less than men, and women comprised 14 percent of Wal-Mart's store managers. In the 2005 "Year of Accomplishments," report issued by the company, pay comparisons between women and men were glaringly absent. The report also told us that women still comprise only 38 percent of Wal-Mart's store managers, as compared with the retail industry average of 47.5 percent.

ERA Executive Director Irma D. Herrera said, "Our clients, of whom we're very proud, prove that when courageous women stand up for their rights, they make a difference in the lives of millions of women. For four decades federal and state laws have guaranteed women their right to full and equal participation in the workforce. Today women are 46 percent of the workforce and our goal is to eradicate the bias and stereotyping that keeps women from reaching our fullest potential. We are ready to move forward on this case."

The team of Plaintiffs' lawyers include Equal Rights Advocates, The Impact Fund as lead counsel, The Public Justice Center, and four private law firms, Cohen, Milstein, Hausfeld & Toll; Tinkler & Firth, Merritt Bennett, and Davis Cowell & Bowe. The case was filed in 2001 and was certified as a class action in June 2004. Further appeals are possible and discovery on the case is currently stayed.

Information about the case and the court's decision is at [www.walmartclass.com](http://www.walmartclass.com).

More information is also available at <http://www.equalrights.org/professional/walmart.asp>.