

10-277 WAL-MART STORES, INC. V. DUKES

DECISION BELOW: 603 F.3d 571

LOWER COURT CASE NUMBER: 04-16688, 04-16720

QUESTION PRESENTED:

In a sharply divided 6-5 decision that conflicts with many decisions of this Court and other circuits, the en banc Ninth Circuit affirmed the certification of the largest employment class action in history. This nationwide class includes every woman employed for any period of time over the past decade, in any of Wal-Mart's approximately 3,400 separately managed stores, 41 regions, and 400 districts, and who held positions in any of approximately 53 departments and 170 different job classifications. The millions of class members collectively seek billions of dollars in monetary relief under Title VII of the Civil Rights Act of 1964, claiming that tens of thousands of Wal-Mart managers inflicted monetary injury on each and every individual class member in the same manner by intentionally discriminating against them because of their sex, in violation of the company's express anti-discrimination policy.

The questions presented are:

I. Whether claims for monetary relief can be certified under Federal Rule of Civil Procedure 23(b)(2) - which by its terms is limited to injunctive or corresponding declaratory relief - and, if so, under what circumstances.

II. Whether the certification order conforms to the requirements of Title VII, the Due Process Clause, the Seventh Amendment, the Rules Enabling Act, and Federal Rule of Civil Procedure 23.

LIMITED TO QUESTION I PRESENTED BY THE PETITION. IN ADDITION TO QUESTION I, THE PARTIES ARE DIRECTED TO BRIEF AND ARGUE THE FOLLOWING QUESTION: "WHETHER THE CLASS CERTIFICATION ORDERED UNDER RULE 23(b)(2) WAS CONSISTENT WITH RULE 23(a)."

CERT. GRANTED 12/6/2010