



Supreme Court Unanimously Rejects Class Action Status for Thousands

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In a much anticipated decision, the Supreme Court reversed the Ninth Circuit's ruling granting the employees class action status. In its decision, the Court relied on a procedural analysis and unanimously held that the certification was not consistent with the certification requirements of F.R.C.P. 23(b)(2)(a) because the plaintiffs sought monetary relief (back pay) which was not merely incidental to the injunctive and declaratory relief set forth in the statute.

More importantly, a majority of the Court also found that the employees in thousands of stores and with thousands of different supervisors did not share claims that were similar or common enough so as to merit class action status. Writing for the Court, Justice Scalia explained:

"In all, Wal-Mart operates approximately 3,400 stores and employs more than one million people. Because respondents wish to sue about literally millions of employment decisions at once, they need some glue holding the alleged reasons for all those decisions together."

The Majority then, with four Justices dissenting, further held that class certification was improper because the plaintiffs failed to demonstrate that these were questions common to the entire class.

"In a company of Wal-Mart's size and scope," Scalia wrote, "it is quite unbelievable that all managers would exercise their discretion in a common way without some common direction." "Merely showing that Wal-Mart's policy of discretion has produced an overall sex-based disparity does not suffice."

As a result of this ruling it is anticipated that class actions generally will become more constrained to classes where members have genuinely common injuries.