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## Will Wal-Mart case hit close to home?

**By Andy Ostmeyer**

Globe Metro Editor

The area's largest employer lost a key battle Monday when a federal appeals court granted class-action status to what is being called the largest gender discrimination lawsuit ever filed.

**[Read statements of the Wal-Mart declarants in the class-action lawsuit against the company. \(http://www.walmartclass.com/public\\_home.html\)](http://www.walmartclass.com/public_home.html)**

But what Wal-Mart's loss means on the ground in Northwest Arkansas and Southwest Missouri, where so much of the economy is tied to the retailer, is uncertain. Everything from highway and airport growth to the choice of a university has been altered in the region by the billions of dollars and thousands of people Wal-Mart has put to work in the area.

"We in Northwest Arkansas and you in Southwest Missouri count on Wal-Mart to remain a strong and viable employer," said Kathy Deck, director of the Center for Business and Economic Research at the University of Arkansas in Fayetteville. The business college at that university is named for Sam Walton, Wal-Mart's founder.

But that doesn't mean this lawsuit, which some estimate could potentially cost the company billions if it loses, will wreak havoc in the area. Deck said she is not worried about this case having a direct impact on regional employment, sales tax revenue or construction. Nor does she think it will have a great impact on stores locally, noting that most of Wal-Mart's growth is occurring overseas.

For starters, just getting the courts to grant class-action status has taken nearly a decade, and Wal-Mart officials already have said they are considering appealing to the U.S. Supreme Court. Regardless of who prevails there, it would mean years more of court wrangling over the discrimination allegations, and possible multiple additional appeals, too.

"We are looking at years of litigation," Deck said.

Should the plaintiffs ultimately prevail, however, shareholders would not be immune from the consequences.

"As many people (in the region) do own stock, there may be some 'wealth effect,'" Deck said, referring to loss of income.

Split ruling

In its 6-5 ruling, the 9th U.S. Circuit Court of Appeals in San Francisco granted class-action status to the lawsuit alleging that Wal-Mart paid women less than men for the same jobs, and that female employees received fewer promotions and had to wait longer for promotions than their male counterparts.

The Bentonville, Ark.-based retailer has fought the lawsuit since it was filed in 2001 by six women in federal court in San Francisco.

Jocelyn Larkin, deputy executive director for the California-based Impact Fund, which is lead counsel and one of six firms representing the women, said as many as a million women who worked for Wal-Mart from 1998 to 2001 could be affected by Monday's ruling.

For its part, Wal-Mart asserts that fewer than 500,000 women are covered by the parameters of the ruling.

Either way, the company could lose billions of dollars if it is found liable and required to offer back pay to the affected women. Still to be determined are questions about punitive damages.

Wal-Mart argued that the conventional rules of class-action suits should not apply because each store operates as an independent business. It also maintained that since it doesn't have a companywide policy of discrimination, women alleging gender bias should file individual lawsuits against individual stores.

Larkin dismissed that, noting that more than 100 women from 30 states, including one woman from Carthage and others from Bentonville, filed declarations offering testimony about alleged discrimination. Those declarations were used to support the request for class-action status.

"It was happening in Missouri, California, Florida, Texas," Larkin said, calling the allegations of discrimination "systemic."

"The company had both a culture and set of practices that allowed the discrimination to be occurring across the country," she said.

#### Area women

One of those declarations was filed by Barbara Steele, who said she was first hired in 1986 as an hourly employee at the Wal-Mart store in Carthage and worked for the company for more than 16 years.

In her statement, she said she was promoted several times but eventually hit a roadblock when she first tried to move into a management training program. Steele alleges that when she asked her store manager why her next promotion was being delayed, the manager said the district manager "did not believe women should have management positions."

She said she did eventually get into the management training program and worked at stores around the country. She alleged that she observed numerous instances of discrimination.

"Throughout my career at Wal-Mart, I observed many male assistant managers obtain promotions to store manager after spending less time as an assistant manager than I had," she said in her statement.

Steele left the company in 2003. Attempts to reach her multiple times since the declarations were filed have been unsuccessful.

Other area women, however, have said Wal-Mart was good to them. One former worker, Barbara Nagy, of Pineville, wrote to the Globe in 2007 and said she received numerous promotions. She added that while there may have been "isolated situations of discrimination, I can assure you that there was no company directive whatsoever to 'not' promote women."

Nagy could not be reached for comment Tuesday.

Wal-Mart officials did not respond to telephone calls seeking comment about the case or about Steele's specific allegations, but Jeff Gearhart, an executive vice president and general counsel, said in a statement issued Monday: "It is important to remember the court did not address the merits of this case. The court reiterated, 'our findings relate only to class action procedural questions; we neither analyze nor reach the merits of plaintiffs' allegations of gender discrimination.'"

Gearhart also noted that the retailer has been recognized for its efforts to advance women. In 2008, Wal-Mart was named by Women of Color magazine among the Top 40 Greatest Organizations for Women of Color to Work, and was rated as one of the Top 10 Best Companies for Women by PINK magazine.

Andy Ostmeyer is the metro editor for The Joplin Globe.

The Associated Press contributed to this report.

Image setback?

Monday's ruling was a "big black eye for Wal-Mart, and it's not going to heal any time in the near future," said retail consultant Burt Flickinger. Flickinger said the ruling could turn off female shoppers at a time when it faces increased pressure from a host of competitors.

"We do not believe the claims alleged by the six individuals who brought this suit are representative of the experiences of our female associates," said Jeff Gearhart, an executive vice president for Wal-Mart.

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