

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. _____

ZENOVIA LOVE, DAVEN MILLER, LORI
MCCARTHY, CHRISTINA GOING, SUSAN
MIDOLO, JUSTICE HOLLOWAY, MARY
TRACEY, BELINDA HAGER, MARY
HALL, GAIL LOVEJOY, AND CYNTHIA
YORK,

COMPLAINT – CLASS ACTION

Plaintiffs,

v.

WAL-MART STORES, INC.,

Defendant.

**CLASS ACTION COMPLAINT
AND DEMAND FOR JURY TRIAL**

Plaintiffs Zenovdia Love, Daven Miller, Lori McCarthy, Christina Going, Susan Midolo, Justice Holloway, Mary Tracey, Belinda Hager, Mary Hall, Gail Lovejoy, and Cynthia York bring this action against Wal-Mart Stores, Inc., in their individual capacities and on behalf of three regional classes of women defined herein. Plaintiffs allege, upon their own personal knowledge and/or upon information and belief, the following:

INTRODUCTION

1. This is an action under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e, *et seq.*, to correct unlawful employment practices that discriminate on the basis of gender and to provide appropriate relief to female employees who were adversely affected by

such practices. As alleged with greater particularity below, Defendant Wal-Mart has engaged in, and continues to engage in, unlawful gender discrimination by (1) denying female employees equal opportunities for promotion to certain management and management-track positions; (2) denying female employees equal pay for hourly retail store positions; and (3) denying female employees equal pay for certain salaried management positions.

2. This action springs from *Dukes v. Wal-Mart*, the national class action filed more than ten years ago. In *Dukes*, the United States District Court for the Northern District of California certified a national class of female Wal-Mart and Sam's Club employees challenging Wal-Mart's retail store pay and management promotion policies as discriminatory against women. On June 20, 2011, the United States Supreme Court reversed that class certification order, imposing new guidelines for class actions in Title VII employment discrimination cases.

3. Plaintiffs bring this action in accordance with those new guidelines. Rather than challenging Wal-Mart's discriminatory practices on a national level, this action alleges claims on behalf of three regional classes of present and former female Wal-Mart and Sam's Club retail store employees. The members of each class were subjected to gender discrimination as a result of the specific policies and practices in place in their particular region. The three regions at issue in this case, all falling within the Southeastern United States, consist of:

- a. Wal-Mart Region 10—approximately 88 Wal-Mart retail stores located in Florida;
- b. Wal-Mart Region 46—approximately 70 Wal-Mart retail stores, mostly located in Florida, as well as Georgia and South Carolina; and
- c. Sam's Club Region 6—one of only 6 Sam's Club regions in the United States, consisting of approximately 77 Sam's Club retail stores, mostly located in

Florida, as well as Georgia, South Carolina, North Carolina, Alabama, Tennessee, and Virginia.

4. In each of the above Regions, Wal-Mart maintained a pattern or practice of gender discrimination in compensation and promotion. And, in each of the above Regions, the compensation and promotion policies and practices of Wal-Mart had a disparate impact, not justified by business necessity, on its female employees in the Region.

5. The class membership periods start on December 26, 1998, which is 300 days before the earliest charge filed with the EEOC by a former member of the *Dukes* class, and run through the date of trial.

JURISDICTION AND VENUE

6. Plaintiffs' claims arise under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.* This Court has jurisdiction over this matter pursuant to 42 U.S.C. § 2000e-5(f), 28 U.S.C. §§ 1331 and 1343(a)(4).

7. Each Plaintiff has exhausted her administrative remedies and complied with the statutory prerequisites of Title VII by timely filing a charge with the EEOC alleging gender discrimination by Wal-Mart on behalf of herself and a class of similarly situated female employees. The Plaintiffs and class members were members of the national class certified in *Dukes*. While that certification order was working its way through the appellate process, time periods for filing EEOC charges and subsequent litigation for all former class members were tolled. On August 19, 2011, the Northern District of California issued an order in *Dukes* establishing common deadlines for all members of the formerly certified class to file individual charges with the EEOC. The pertinent portion of that order in this case gave former class members in states with a worksharing agreement who would normally have 300 days to file

charges, until May 25, 2012 to file a charge. Each Plaintiff has met that deadline. Furthermore, each Plaintiff has received her Right to Sue.

8. Venue is proper in this district pursuant to 42 U.S.C. § 2000e-5(f) and 28 U.S.C. § 1391(b) & (c). Each of the named Plaintiffs' claims arose in whole or in part in Florida and many of the acts complained of occurred in this judicial district and gave rise to the claims alleged.

9. Wal-Mart currently operates 293 Wal-Mart stores and Sam's Clubs in Florida where it employs more than 94,000 workers.

PARTIES

10. Plaintiff Zenovdia "Zee" Love is a female resident of Polk County, Florida. She was employed by Wal-Mart from 1988 until October 2003, and worked during that period in Store 1077, Store 1223, and Store 1408, which are all in Wal-Mart Region 46, as well as in Stores 417, 736, and 1638 and a Wal-Mart store in Vallejo, California. Upon information and belief, Ms. Love is eligible for rehire.

11. Plaintiff Daven Miller is a female resident of Broward County, Florida. She is currently employed by Wal-Mart in Broward County in Store 1349, which is in Wal-Mart Region 10. Ms. Miller has been employed with Wal-Mart since May 2007.

12. Plaintiff Lori McCarthy is a female resident of St. Lucie County, Florida. She was employed by Wal-Mart in Florida from 1991 until 2001. She worked in Store 1511, Store 973, Store 2151, and Store 2727, which are all in Wal-Mart Region 10, as well as Stores 1362 and 2703. Upon information and belief, Ms. McCarthy is eligible for rehire.

13. Plaintiff Christina Going is a female resident of Palm Beach County, Florida. She was employed by Wal-Mart in Florida from January 1999 until March 2003 in Store 2484, which is in Wal-Mart Region 10. Upon information and belief, Ms. Going is eligible for rehire.

14. Plaintiff Susan Midolo is a female resident of Sarasota County, Florida. She was employed by Wal-Mart in Florida from May 1997 until October 2000 in Store 0721, which is in Wal-Mart Region 10. Upon information and belief, Ms. Midolo is eligible for rehire.

15. Plaintiff Justice Holloway is a female resident of St. Lucie County, Florida. She is currently employed by Wal-Mart in Florida in Store 4260, which is in Wal-Mart Region 10. She has been employed with Wal-Mart since November 2006.

16. Plaintiff Mary Tracey is a female resident of Volusia County, Florida. She was employed by Wal-Mart in Florida beginning in 1983 in Store 0563, which is in Wal-Mart Region 46. She worked for Wal-Mart for a period of 23 years at several other stores in Louisiana, New York, and Georgia, before returning to Store 0563 in 1997, where she remained until 2006. Upon information and belief, Ms. Tracey is eligible for rehire.

17. Plaintiff Belinda Hager is a female resident of Duval County, Florida. She is currently employed by Wal-Mart in Florida in Store 3702, which is in Wal-Mart Region 46. She has been employed with Wal-Mart since April 2006.

18. Plaintiff Mary Hall is a female resident of Leon County, Florida. She was employed by Wal-Mart from July 1985 through August 2010 in Store 1077, Store 1223, Store 0579, Store 0889, and Store 1408, which are all in Wal-Mart Region 46, as well as Stores 0944, 1032, 0919, and 1134. Upon information and belief, Ms. Hall is not eligible for rehire.

19. Plaintiff Gail Lovejoy is female resident of Pasco County, Florida. She was employed by Sam's Club from 1988 through 2003 at Store Number 6448, which is in Sam's Club Region 6. Upon information and belief, Ms. Lovejoy is eligible for rehire.

20. Plaintiff Cynthia York is female resident of Pasco County, Florida. She is currently employed with Sam's Club in Florida, in Store 6448, which is in Sam's Club Region 6. She has been employed with Sam's Club since 1997, and in Florida since 2001.

21. Defendant Wal-Mart Stores, Inc., is a Delaware corporation with stores throughout Florida. Its corporate headquarters is located in Bentonville, Arkansas. In Florida, Wal-Mart operates retail stores doing business as Wal-Mart Discount Stores, Wal-Mart Supercenters, and Sam's Clubs.

CLASS ALLEGATIONS

22. Plaintiffs bring this action pursuant to Federal Rule of Civil Procedure 23 on behalf of three regional classes that are each broken into two subclasses, as specified below:

a. Wal-Mart Region 10 Class—all female employees of Wal-Mart retail stores located in Wal-Mart Region 10, excluding Pharmacists and managers at Store Manager level and above, who were: (1) denied equal opportunities for promotion to management track positions up to and including Store Manager; (2) denied equal pay for hourly retail store positions; or (3) denied equal pay for salaried management positions up to and including Co-Manager

i. Region 10 Injunctive Relief Subclass—All women in the Wal-Mart Region 10 Class who are currently, or who may in the future be, employed at any Wal-Mart retail store located in Region 10, from now until the time of judgment.

- ii. Region 10 Monetary Relief Subclass—All women in the Wal-Mart Region 10 Class who were employed at any Wal-Mart retail store located in Region 10 at any time from December 26, 1998 through the time of judgment.
- b. Wal-Mart Region 46 Class—all female employees of Wal-Mart retail stores located in Wal-Mart Region 46, excluding Pharmacists and managers at Store Manager level and above, who were: (1) denied equal opportunities for promotion to management track positions up to and including Store Manager; (2) denied equal pay for hourly retail store positions; or (3) denied equal pay for salaried management positions up to and including Co-Manager.
 - i. Region 46 Injunctive Relief Subclass—All women in the Wal-Mart Region 46 Class who are currently employed, or who may in the future be employed, at any Wal-Mart retail store located in Region 46 from now until the time of judgment.
 - ii. Region 46 Monetary Relief Subclass—All women in the Wal-Mart Region 46 Class who were employed at any Wal-Mart retail store located in Region 46 at any time from December 26, 1998 through the time of judgment.
- c. Sam's Club Region 6 Class—all female employees of Sam's Club retail stores located in Sam's Club Region 6, excluding Pharmacists and managers at Store Manager level and above, who were: (1) denied equal opportunities for promotion to management track positions up to and including Store Manager; (2) denied

equal pay for hourly retail store positions; or (3) denied equal pay for salaried management positions up to and including Co-Manager.

i. Region 6 Injunctive Relief Subclass—All women in the Sam’s Club Region 6 Class who are currently, or who may in the future be, employed at any Sam’s Club retail store located in Region 6 from now until the time of judgment.

ii. Region 6 Monetary Relief Subclass—All women in the Sam’s Club Region 6 Class who were employed at any Sam’s Club retail store located in Region 6 at any time from December 26, 1998 through the time of judgment.

23. Plaintiffs are members of the classes they seek to represent, as set forth below:

a. Plaintiffs Miller, McCarthy, Going, Midolo, and Holloway are members of the Wal-Mart Region 10 Class. Each of the women is a member of the Region 10 Monetary Relief Subclass and Ms. Miller is also a member of the Region 10 Injunctive Relief Subclass.

b. Plaintiffs Tracey, Love, Hager, and Hall are members of the Wal-Mart Region 46 Class. Each of the women is a member of the Region 46 Monetary Relief Subclass and Ms. Hager is also a member of the Region 46 Injunctive Relief Subclass.

c. Plaintiffs Lovejoy and York are members of the Sam’s Club Region 6 Class. Each of the women is a member of the Region 6 Monetary Relief Subclass and Ms. York is also a member of the Region 6 Injunctive Relief Subclass.

24. The members of the classes are sufficiently numerous that joinder of all members is impracticable. Upon information and belief, each subclass for each regional class exceeds at least 10,000 women.

25. There are questions of law and fact common to the classes, which predominate over individual questions and will be subject to common proof. In each Region, Plaintiffs allege that Wal-Mart cultivates through its Management Team a work environment that discriminates against female employees, which is demonstrated by its policies, a pattern or practice of discrimination, and objective statistical analysis. The common questions of law and fact for each regional class include, without limitation: whether Wal-Mart, through its managers with final authority to make the challenged decisions, has engaged in a general policy of discrimination evidenced by a pattern or practice of discrimination in pay and in management track promotions against its female employees; whether there are statistical patterns adverse to female employees in pay and in management track promotions; whether Wal-Mart's policies have had an adverse impact upon the class members and, if so, whether this impact can be justified by business necessity; whether the failure of Wal-Mart's management in each Region to prevent, investigate, or properly respond to evidence of complaints of discrimination in the workplace violates Title VII; whether Wal-Mart is liable for a continuing, systemic violation of Title VII; and whether injunctive relief and punitive damage relief for are warranted.

26. The claims alleged by the Plaintiffs are typical of the claims of the classes and subclasses. Each Plaintiff has worked in one or more Wal-Mart retail stores located in Wal-Mart Region 10, Wal-Mart Region 46, or Sam's Club Region 6, and has been subjected to the discriminatory policies and practices alleged herein. And each Plaintiff asks for relief typical to that sought on behalf of the subclass she seeks to represent.

27. The named Plaintiffs will fairly and adequately represent and protect the interests of the classes. Each Plaintiff has interests that are coextensive with those of the members of the subclass that she seeks to represent. Further, each Plaintiff is willing and able to fairly and vigorously represent the interests of the members of the subclass she seeks to represent while pursuing her own similar individual claims.

28. The Injunctive Relief Subclasses are properly maintainable under Federal Rule of Civil Procedure 23(b)(2) because Wal-Mart has acted or refused to act on grounds generally applicable to each subclass, thereby making appropriate final injunctive relief or corresponding declarative relief with respect to each subclass as a whole.

29. The Monetary Relief Subclasses are properly maintainable under Federal Rule of Civil Procedure 23(b)(3) because questions of law and fact common to the subclasses predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of this case.

30. Alternatively, class-wide liability and punitive damages liability under the theories advanced in this action are properly certified under Rule 23(c)(4) for each Monetary Relief Subclass because such claims present only common issues, the resolution of which would advance the interests of the parties in an efficient manner.

31. The costs that will be involved in proving Wal-Mart's pattern and practice of discrimination makes it impracticable for the Plaintiffs and class members to pursue their claims individually. Thus, a class action is superior to other available means for fairly and efficiently adjudicating the claims of the Plaintiffs and the class members.

FACTUAL ALLEGATIONS

Organizational and Store Structures

32. *Store Formats*—Within Wal-Mart Region 10 and Wal-Mart Region 46, Wal-Mart has operated in three primary formats—Wal-Mart Discount Stores, Wal-Mart Supercenters; and Wal-Mart Neighborhood Markets. Within Sam’s Club Region 6, Wal-Mart has operated in only one format—Sam’s Clubs. The basic organizational structure for the retail stores within each Region has been the same throughout the Region.

33. *Common Hourly Jobs Within Stores*—The stores within each Region use common job titles and job descriptions, and the same job hierarchies, throughout the Region.

34. *Most Common Positions*—While there are numerous job titles at Wal-Mart, the majority of hourly employees have worked as sales workers, cashiers, department managers and stockers. The most common management position is assistant manager.

35. *Common Department Structure*—Stores within each Region have been divided into numerous departments, which are staffed by hourly paid employees. Some departments have been designated as specialty departments. In each Region, the departmental structure in the stores is the same throughout the Region.

36. *Common Management Jobs*—With the exception of Support Manager, management positions within each Region are salaried. Within each Region, each store has Assistant Managers, while larger stores have had one or more Co-Managers who supervise Assistant Managers and other staff. All stores have Store Managers who are in charge of the store. Specialty department managers, who report to Store Managers, also report to District and Regional Specialty Managers above the store level.

37. *District Organization*—Stores within each Region are grouped into districts consisting of at least six stores that are supervised by District Managers.

38. *District Manager's Role*—Within each Region, District Managers are responsible for ensuring store compliance with company policies and culture. District Managers are based in their districts and spend their time visiting and monitoring the stores in their districts and reviewing all facets of the store operations. District Managers also have authority to make or approve compensation and promotion decisions for the stores within their district.

39. *Regional Organization*—Each Region consists of multiple districts that are headed by a Regional Vice President. Wal-Mart Region 10 consists of approximately 15 districts; Wal-Mart Region 46 consists of approximately 11 districts; and Sam's Club Region 6 consists of approximately 11 districts.

40. *Role of Regional Vice President*—The Regional Vice President of each Region monitors and implements corporate and regional policies regarding compensation and promotion, and makes decisions regarding the pay and promotion of employees working within the Region. In each Region, the Regional Vice President regularly meets with District Managers and receives weekly reports from District Managers about the activities in the Region stores they supervise. Each Regional Vice President is charged with the ultimate responsibility to ensure that personnel decisions in his Region are made in a consistent and lawful manner and has the authority to direct changes to personnel decisions.

41. *Regional Personnel Manager's Role*—Each Region has a Regional Personnel Manager, who assists the Regional Vice President and District Managers in making pay and promotion decisions for employees working within the Region's stores.

42. *Divisional Organization*—Each Regional Vice President reports to a Divisional Senior Vice President.

43. *Management Team*—Each Region has a “Management Team” consisting of the Regional Manager, District Managers, Regional Vice President, and Regional Personnel Manager that provides direction, oversight, and approval of pay and promotion practices at the stores within the Region.

Compensation Discrimination Within The Regions

44. *Common Compensation Policies*—Within each Region, compensation of store-based employees has been set based upon a common set of guidelines from the Management Team that are applied consistently throughout the Region and establish basic standards for setting pay rates at hire and subsequent pay adjustments of hourly and salaried employees, hereby referred to as Pay Guidelines.

45. *Hourly Job Categories*—Within each Region, all hourly positions have been grouped into various job categories, which are uniform throughout the Region. All employees with the same job title, such as sales associates, are placed in the same job category regardless of the department they work in.

46. *Job Category Pay Rates*—Within each Region, the minimum pay levels at hire (“start rates”) for each job category have been established for each regional store with the approval of the Management Team. Thereafter, an employee’s pay level may be adjusted: 1) after an initial probationary period; 2) if the employee is promoted to a higher job class or into management; 3) on an annual basis if the employee satisfies minimum performance standards; or 4) if the employee has been awarded a special “merit” raise.

47. *Process for Setting Hourly Pay*—Within each Region, the Store Manager of each retail store has the initial responsibility to set pay rates for that store’s individual hourly employees within the pay guidelines, subject to a number of constraints set by the Management Team. When a Store Manager sets a pay rate above or below the guidelines, the rate is called an “exception” and is subject to the approval of the Management Team.

48. *Hourly Pay Exceptions*—The pay rate for a new employee may be set up to a maximum of \$2 per hour above the start rate, but if the new employee’s rate is more than 6% above the established start rate for that pay class, a computer program in the payroll system prohibits payment at that rate unless and until the Store Manager manually enters the pay rate for that employee. In virtually every store in each Region, a significant proportion of employees has been paid 6% or more above the start rate.

49. *Approval of Exceptions*—In each Region, hourly pay exceptions are automatically reported to the District Manager who must then approve or disapprove each exception. The Management Team is also informed of hourly pay exceptions and is required by Wal-Mart policy to ensure that hourly compensation is consistent among employees throughout the Region.

50. *Hourly Pay Reports and Audits*—Within each Region, the District Managers, Regional Personnel Managers, and Regional Vice President regularly receive reports of all employees whose hourly pay in a job category is more than 10% below or 5 % above the average pay in that class. The District Managers also perform quarterly audits of each store’s compliance with company policies, including compensation policies, which are reported to Regional Personnel Managers and Regional Vice Presidents.

51. The Management Team for each Region has the ultimate authority whether, and by how much, to adjust the pay of all hourly employees, including those who are listed on

exception reports, and exerts ultimate control over the pay and promotion decisions in the particular stores of each Region. The Management Team of each Region has subjected the Plaintiffs and class members employed in the stores of that Region to a common mode of exercising discretion.

52. *Salaried Pay Guidelines*—Within each Region, salaried employee compensation is required to be made in accordance with pay guidelines for each salaried position. These guidelines set broad pay ranges for each position.

53. *Assistant Manager Salary*—In each Region, District Managers, with the concurrence of the Regional Vice President and Regional Personnel Managers, set the compensation for Assistant Managers throughout the Region.

54. *Co-Manager Compensation*—In each Region, Co-Manager compensation is comprised of a base salary and profit sharing tied to the profitability of the Co-Manager's store. Regional Vice Presidents determine base salary and assign the stores at which Co-Managers work, the profitability of which affects the profit-sharing component of the compensation they receive.

55. *Pay Decisions Not Job Related Or Documented*—In each Region, Managers are not required to use job related criteria such as job performance or experience in setting, adjusting, or approving compensation for individual employees. The managers within a Region do not document the reason for setting, adjusting or approving the compensation of individual employees. The Management Team of each Region does not hold the managers in the Region accountable for the factors they use in making pay decisions or in ensuring those factors comport with the law, nor do they require any documentation of the reasons for the compensation paid to

individual employees. Nor do the managers within a Region specify the weight that should be accorded any requirement for setting or adjusting compensation.

56. *Patterns in Compensation*—In each Region, women who hold salaried and hourly positions have been regularly paid less on average than similarly-situated men, although on average the women have more seniority and higher performance ratings than the men. This gender pay difference adverse to women exists in the vast majority of the stores of each Region, even when nondiscriminatory objective factors, such as seniority, performance, store location and other factors are taken into account. A statistical analysis of this gender discrimination revealed the impact of these policies and practices within each Region:

- a. Wal-Mart Region 10—85-90% of stores show disparate pay that is lower for women as compared to similarly situated men;
- b. Wal-Mart Region 46—87-92% of stores show disparate pay that is lower for women as compared to similarly situated men;
- c. Sam's Club Region 6—72-83% of stores show disparate pay that is lower for women as compared to similarly situated men.

57. *Management Knowledge of Compensation Discrimination*—In each Region, the Management Team receives regular reports about compensation for hourly and salaried employees within the Region showing that female employees were paid less than men on average.

58. *Adverse Impact of Compensation System* —Wal-Mart's compensation policies, including its failure to require managers to base pay decisions for individual employees on job related criteria such as experience or documented performance, have had an adverse impact upon its female employees in each Region. These policies have resulted in a disparate impact on

women that is not justified by business necessity. Because reasons for compensation decisions are not documented, elements of Wal-Mart's compensation decision-making are not capable of separation for analysis.

Promotion Discrimination Within The Regions

59. *Management Track Positions Below Assistant Manager Positions*—Within Wal-Mart Region 10 and Wal-Mart Region 46, Support Managers are the highest level hourly supervisory positions and assume the duties of Assistant Managers in their absence. Within Sam's Club Region 6, Area Managers are the highest level hourly supervisory positions and assume the duties of Assistant Managers in their absence. Employees in the position of Support Manager or Area Manager are often groomed for further advancement. In Wal-Mart Regions 10 and 46, the vast majority of vacancies for the position of Support Manager have not been posted, and there has been no formal application process for selection for this position or any job related criteria for making selections of those to be promoted to the position of Support Manager. In Sam's Club Regions 6, the vast majority of vacancies for the position of Area Manager have not been posted, and there has been no formal application process for selection for this position or any job related criteria for making selections of those to be promoted to the position of Area Manager.

60. *Promotion to Management Trainee*—Within each Region, entry into the Management Trainee Program is a requirement for advancement into Assistant Manager and other salaried management positions. Prior to 2003, there was no application process or job posting for Management Trainee positions. Throughout each Region, hourly employees were not provided any information regarding how to enter management, what the requirements or

qualifications were for entering management, or how to apply for the Management Trainee Program.

61. *Criteria for Promotion to Management Trainee*—Within each Region, District Managers, assisted by Regional Personnel Managers, select management trainees based upon uniform guidelines setting minimal eligibility criteria for promotion into the Management Trainee Program, including: minimum tenure; age (18 years or older); absence of current “active” discipline; satisfactory recent performance evaluation; and willingness to relocate. They are not, however, provided with any job related criteria for making selections among those who meet the minimum criteria. Within each Region, subject to very limited exceptions that must be approved by the Regional Personnel Manager and Regional Vice President, an employee selected into the Management Training program is required to transfer from his or her store, and often his or her district, upon entering training and upon assuming an Assistant Manager position.

62. *Promotion to Co-Manager*—Within each Region, Regional Vice Presidents select Co-Managers subject to approval by the Divisional Senior Vice President. The majority of Co-Manager promotions are transfers across district lines. Co-Manager openings have rarely been posted and there has been no formal application process for such positions. While there have been minimal eligibility requirements for promotion to Co-Manager, such as satisfactory performance and willingness to relocate, there are no job related criteria for making selections among those who meet the minimum criteria or for determining which store to assign to a Co-Manager.

63. Within each Region, the promotional policies and practices regarding management-track positions have denied interested and qualified females equal access to

promotional opportunities because promotion opportunities are not posted, there is not an open application system, and employees are not informed of the criteria for promotion. Moreover, within each Region, managers fail to require or use valid, job-related factors in making the promotion selections within the Region. Nor does Wal-Mart specify the weight that should be accorded any requirements for promotion, provide for detailed objective criteria for the selection of employees for promotion, or monitor the policies and practices used in each Region for the selection of employees for promotion. As a consequence, qualified women in each Region have been denied equal access to promotions because of their gender.

64. *Management Trainee Registration of Interest*—In January 2003, Wal-Mart instituted within each Region an online application process for entry into the Management Training Program. In order to be considered as an applicant, employees were required to agree to a set of conditions, many of which had the purpose and effect of discouraging women from seeking management positions. Potential applicants for entry level store management positions were required to accept the conditions that, as Assistant Managers, they would: travel for up to six weeks in duration; be subject to a varied and irregular schedule, including working on scheduled days off and working during days, overnights, weekends, and holidays; have scheduled days off that were not consecutive and were rotated weekly; and have scheduled hours that could be changed or increased without notice. None of these requirements is justified by business necessity in any of the Regions, and it is untrue that Assistant Managers in any of the Regions must normally travel up to six weeks. But failure of an employee to accept all of these conditions precluded that employee's consideration as an applicant for a management position, which has resulted in the exclusion of interested and qualified women in each Region from the management training program.

65. *No Documentation of Promotion Decisions*—The managers in each Region have failed to document, and Wal-Mart has not tracked, the reason for selecting a particular employee for a management promotion. The managers in each region have failed to document, and Wal-Mart has not tracked, which employees have been denied consideration for promotion because of their inability to comply with the relocation, travel, or scheduling requirements for promotion.

66. *External Statistics*—In each Region, Wal-Mart has had a significantly lower percentage of female managers than its largest competitors.

67. *Internal Statistics on Promotion Rates*—Female employees in each Region, and in each district within each Region, have been much less likely than their male counterparts to receive promotion to management track positions, including Support Manager (Wal-Mart Regions), Area Manager (Sam's Club Region), Management Trainee, Assistant Manager, and Co-Manager, despite the fact that they possess equal or better qualifications than their male counterparts.

68. *Internal Statistics on Time to Promotion*— Female employees in each Region, and in each district within each Region, must wait significantly longer to be promoted into management track positions than men with equal or lesser qualifications.

69. *Management Knowledge of Promotion Discrimination*—Wal-Mart management has long known about gender disparities in promotion in each of the Regions and has failed to take any remedial action.

70. *Reporting by Gender*—Every store and district within each Region regularly compiles and reports to corporate headquarters the gender composition of its hourly and managerial workforce, employee turnover, exceptions to promotion policies, job posting data,

entry into management training programs, and other data. The District Managers, Regional Personnel Managers, and Regional Vice President for each Region receive these reports.

71. *People Division Reports*—Wal-Mart's People Division regularly prepares reports for senior management summarizing promotion and incumbency rates for store management positions by gender, and reports are regularly made to the Board of Directors.

72. *Store Visits*—Within each Region, District Managers, Regional Personnel Managers, and the Regional Vice President regularly visit stores and are aware of the gender composition of the workforce.

73. *Warnings About Discrimination*—Senior management officials, senior People Division officials, and/or outside consultants have warned Wal-Mart that women in each Region are not sufficiently represented in management positions, that women in each Region are paid less than male employees in the same jobs, and that Wal-Mart lags behind its competitors in the promotion of women to management positions in each Region.

74. *Discriminatory Practices Identified*—These officials and/or consultants have also identified policies and practices at Wal-Mart that have an adverse impact on its female employees in each Region, including lack of consistent job posting; the requirement of relocation as a condition of entry into and promotion through management; reliance on stereotypes in making pay and promotion decisions; lack of objective criteria for making promotion decisions; and lack of consistent and reliable scheduling for management level employees.

75. *Relocation Unnecessary*—Wal-Mart's founder, Sam Walton, conceded in 1992 that Wal-Mart's policies, particularly its relocation requirement, were an unnecessary barrier to female advancement, yet this policy remained in place thereafter.

76. *Changes Blocked*—Senior managers also blocked policy changes, such as the posting of managerial vacancies, that would have reduced the impact of Wal-Mart’s discriminatory policies within each Region.

77. *Failure to Analyze*—Wal-Mart had never studied nor analyzed whether any of its practices were consistent with business necessity or whether less discriminatory alternatives to these policies and practices could be adopted in each Region.

78. *Adverse Impact of Promotion Policies*—Wal-Mart’s promotion policies, including its failure to require managers to base promotion decisions for individual employees on job related criteria, have had a statistically significant adverse impact upon its female employees in each of the Regions. Because reasons for promotion decisions are not documented, and Wal-Mart does not create or maintain records that identify the impact of separate components of its promotion policies and practices, its promotion decision-making process is not capable of separation for analysis.

Wal-Mart Managers Create Corporate Culture of Bias Based on Gender Stereotypes

79. In the absence of job-related compensation and promotion criteria, Wal-Mart’s managers rely on discriminatory stereotypes and biased views about women in making pay and promotion decisions within each Region.

80. A 1998 survey of Wal-Mart managers revealed that there was a “good ole boy philosophy” at Wal-Mart, that many managers were “close minded” about diversity in the workplace, and that some District Managers “don’t seem personally comfortable with women in leadership roles.”

81. A committee of Wal-Mart’s few female executives, disbanded before this action was filed, noted that “stereotypes limit the opportunities offered to women.”

82. Within each Region, all Wal-Mart Store Managers have been required to attend training programs at the company's Walton Institute. These managers were advised at the Institute that the reason there are few senior female managers at Wal-Mart is because men were "more aggressive in achieving those levels of responsibility" than women. Managers were cautioned that efforts to promote women could lead to the selection of less qualified women over more qualified men.

83. On or about January 24, 2004, at a meeting of all Wal-Mart's District Managers presided over by Wal-Mart Stores' CEO Thomas Coughlin, the District Managers were told that they were the key to running the stores: "[y]ou are the culture." The key to success was described as "single focus to get the job done. . . . women tend to be better at information processing. Men are better at focus single objective." The District Managers were instructed to create a "culture of execution" and a "culture of results" as they picked "[f]uture leaders."

84. This corporate culture of discrimination based upon gender stereotypes is manifest in each Region:

- a. Between 1998 and 1999, at Store # 0931 in Wal-Mart Region 10, a female employee was discouraged by her department manager from applying for a position in the electronics department because "electronics is a man thing and [she] should stick with jewelry." Though she applied anyway, she never heard anything else about the position.
- b. Between 1998 and 2000, at Store # 0771 in Wal-Mart Region 10, a female employee was told by her Manager that she "was not cut out for Assistant Manager because she had children."

- c. Between 1997 and 2000, at Store # 0721 in Wal-Mart Region 10, Plaintiff Susan Midolo was told by her male manager, Cary Grant, that she could never be promoted to Assistant Shop Manager because, “per Patrick Cust, [District Manager,] there will never be a female assistant shop manager or shop manager in TLE.” Manager Grant also made derogatory comments about females employees seeking promotions, saying they could not be promoted because they “Were married . . .and had children” and “their responsibilities were to their home life, not being promoted at Wal-Mart.”
- d. Between 1998 and 2001, at Store # 0721 in Wal-Mart Region 10, a female employee was passed over for a promotion to the Cash Office in favor of a male because Wal-Mart needed someone who “could have 24 hour availability,” which she did not have “because of her child care responsibilities.”
- e. Between 1998 and 2003, at Store # 1536 in Wal-Mart Region 10, Store Manager Max Smith explained that a male employee made at least \$1.00 more per hour than a more experienced female employee in the same position because “he’s got a family to support.” Aside from being discriminatory, this justification was also false because the male employee was a single man with no children and the female employee had a child to support.
- f. Between 1999 and 2003, at Store # 2484 in Wal-Mart Region 10, when Plaintiff Christiana Going complained to her Support Manager about being paid less than other similarly situated male employees, she was told, "Single mothers like you don't deserve to make as much, you should be in a two income household."

- g. In 2000, at Store # 2727 in Wal-Mart Region 10, a female Assistant Manager was selected for the "rising stars" accelerated management training week-long class. After completing the class, she was eligible for promotion to Co-Manager within 6 months. The males in her week-long class were all promoted within two months, whereas it took her 5 years to gain her promotion to Co-Manager. During this 5 year period, she watched male Assistant Managers who had not been part of the "rising stars" program be promoted before her.
- h. Between 2000 and 2006, at Store # 0811 in Wal-Mart Region 10, a female employee applied to be the pet department manager, but was told by her male store manager, Jeff Norris, that "a women is not suited for the job."
- i. Around late 2002 in Store # 1957 in Wal-Mart Region 10, there were twelve vision center managers with the District. The three male vision center managers were making more money than the nine female vision center managers. A male vision center manager was paid approximately \$225 more per week than his female predecessor, who had been transferred to a different store within the district. The matter was brought to the attention of the District Manager, who failed to redress the pay disparity.
- j. Between 2002 and 2010, at Store # 1541 in Wal-Mart Region 10, a female employee was told by her store's male Assistant Manager that "men do a better job than women can because they can lift more and work faster." Such comments were frequently made around the store.
- k. Between 2003 and 2007, at Store # 0771 in Wal-Mart Region 10, Assistant Manager Tom Mahoney explained to a female employee that men were awarded

promotional transfers over women because “men have families to raise.” The Store Manager, Lenny, told the female employee that “sporting goods isn't for women.”

- l. Between 2004 and 2006, at Store # 5221 in Wal-Mart Region 10, a female employee was told by Store Manager Rusty Godwin, that “she couldn't do any overnight work because she was too busy being too pretty.”
- m. Between 2008 and 2011, at Store # 4260 in Wal-Mart Region 10, a female employee interviewed for the Electronics Department twice, but the position was given to a male both times. She observed that males dominated higher-paying positions in the electronics and sporting goods departments, while females were assigned to lower-paying positions, such as cashier or jewelry department worker.
- n. Between 1998 and 2002, at Store # 1119 in Wal-Mart Region 46, in light of a policy prohibiting family members from working at the same store, Store Manager Ivan Lnu asked a female employee, “Why don't you quit so I can hire your husband?”
- o. In 2000, at Store # 1283 in Wal-Mart Region 46, a female employee with 4 years' experience in the electronics department was told by her Store Manager, Mike Littleton, that she was passed over for a promotion within the Electronics Department in favor of a male employee with only 3 months' experience because “they needed a man for the position.”
- p. Between 2001 and 2008, at Store # 2843 in Wal-Mart Region 46, a female employee was discouraged from applying to the assistant management trainee program by her male store manager, when he made comments such as “oh you

don't want to do that because you have to travel a lot, and you don't know what hours you will get, but they will be long hours.”

- q. In 2002, at Store # 1847 in Wal-Mart Region 46, a female employee was denied a promotion in favor of a male because, according to the store Co-Manager R.A. Reese, the automotive manager position is “a man’s position.” The Store Manager explained that a more “appropriate” position for the female employee would be in cosmetics.
- r. Between 2005 and 2010, at Store # 1283 in Wal-Mart Region 46, a female employee applied for higher paying positions almost every year and was denied every time in favor of male employees with less experience and less education.
- s. Between 1998 and 2003, at Sam’s Club Store # 6448 in Sam’s Club Region 6, Plaintiff Gail Lovejoy was subjected to sexist comments by male managers, such as those by Receiving Manager Jeff Williams who said “keep women barefoot and pregnant – that is where they belong.”
- t. Between 1998 and 2001, at Sam’s Club Store # 8216 in Sam’s Club Region 6, a female employee was told by her General Manager Chris Udermann that in order to be promoted for a current opening that she needed to follow a “particular format.” When the female called the home office to inquire about the “format” she learned the General Manager had lied to her. The promotion was given to a less-qualified male employee who had experience only as a cashier.
- u. Between 2000 and 2005, at Store # 6448 in Sam’s Club Region 6, Store Manager James Fargo told a female employee that she was not suitable for particular

positions that needed to be filled by “a male because of heavy lifting,” and even warned her on one occasion not to lift something because she was a woman.

- v. Between 2000 and 2006, at Store # 6218 in Sam’s Club Region 6, female employees were often told to clean up after males in the males’ stock area, and perform tasks such as dusting, sweeping, and emptying trash because women are “better” at cleaning.
- w. In 2001, at Store # 6441 in Sam’s Club Region 6, a female employee was required to work alone in the meat department because the male “meat cutters [were] not used to working with women.”
- x. In 2002, at Sam’s Club Store # 8218 in Sam’s Club Region 6, a female employee who was filling in as the supervisor in the Tire Department was told by her supervisor, Roy King, that she could not have the position permanently because a woman could not do the job. A man with less seniority and experience was promoted to the position over the female employee.
- y. Between 2002 and 2004 at Store # 8130 in Sam’s Club Region 6, a female employee observed that all of the “good positions” went to men, while women were assigned to departments such as the bakery and “softlines” like household goods, clothing, health care, and beauty departments, which are typically lower-paying positions.

85. Evidence of pay disparities based upon gender discrimination is also manifest in each region:

- a. Between 1998 and 1999, at store # 0973 in Wal-Mart Region 10, a female employee learned that a male co-worker with less seniority was making \$1.00 per hour more for doing the same job.
- b. Around late 2002 in Wal-Mart Region 10, there were twelve vision center managers within the District. The three male vision center managers were making more money than the nine female vision center managers. A male vision center manager was paid approximately \$225 more per week than his female predecessor, who had been transferred to a different store within the district. The matter was brought to the attention of the District Manager, who failed to redress the pay disparity.
- c. Between 2003 and 2005, at Store # 0666 in Wal-Mart Region 10, a female employee with five years' experience was making \$6.80 per hour, while males without more experience were making \$9 or more per hour for doing the same job. The female employee complained to Store Manager Jeff Johnson who failed to redress the pay disparity.
- d. In 2004, at store # 2387 in Wal-Mart Region 10, the male Team Lead in the Unloading Dock, Chris, admitted that female employees working in an Unloading Dock Position were making \$1.00 less per hour than male employees for doing the same job. A female employee brought the matter to management, who failed to redress the pay disparity.
- e. In 2007, at Store # 0859 in Wal-Mart Region 10, a female support manager learned that men with less experience were often paid more than women in the same position.

- f. Every district in Wal-Mart Region 10 shows statistically significant differences in pay in the years 2000 to 2001.
- g. Between 1997 and 2007, at Store # 1283 in Wal-Mart Region 46, a female employee learned that a male co-worker in the same position, but hired one month after her, was given a higher starting hourly wage. The male co-worker bragged to her about his higher pay and offered to show her his pay stub. However, a male manager overheard the conversation and told the male co-worker to “shut up and put it away” rather than redressing the pay disparity.
- h. Between 1998 and 2004, at store # 0613 in Wal-Mart Region 46, a female employee was told by one of her male co-workers, after he saw how much she made, that he made more than she did, even though he had less experience.
- i. Between 1999 and 2000, at Store # 0613 in Wal-Mart Region 46, a female employee was promoted to the position of Assistant Manager at a salary of \$28,000 per year. Shortly after the promotion, she learned that a male co-worker was offered \$32,500 per year for the same position, even though she had worked at the company for 7 years and he had been there only 6 months.
- j. Between 2005 and 2008, at Store # 1082 in Wal-Mart Region 46, a female employee learned that she was paid less per hour than every man she worked with in the meat department, even though they all had the same job duties and responsibilities. In fact, a male who was hired one year after her, with less experience, received a higher hourly wage for the same position. When the female employee complained to the store’s female Co-Manager, the Co-Manager acknowledged the pay disparity was unfair, but said she could not change the

situation, and explained that even she was making less than her male counterpart Co-Manager at the store.

- k. Between 2006 and 2007, at Store # 3309 in Wal-Mart Region 46, a female employee found out that men in her department, in her same position but with less experience, were making \$10.00 to \$11.00 per hour while she was only making \$8.00 to \$9.00 per hour. When she complained to management about the disparity, they failed to redress the disparity, instead telling the female employee to apply for a higher paying position. She applied for higher paying positions, but was never selected. A male manager warned her not to complain “higher up the chain” or she would be terminated.
- l. Every district in Wal-Mart Region 46 shows statistically significant differences in pay in the years 2000 to 2001.
- m. Between 1998 and 1999, at store # 8214 in Sam’s Club Region 6, a female employee working as a Team Leader discovered that a male applicant and female applicant were hired at the same time for the same type of position, but the male was hired at \$1.00 more per hour than the female. The Team Leader made a complaint to her male manager, who told her that the man was “worth the extra dollar, and to hold her tongue.”
- n. In 2000, at store # 8214 in Sam’s Club Region 6, a female employee learned that a male co-worker was earning a dollar more per hour for doing the same job, even though he had less prior experience and had worked for the company for the same amount of time that she had.

- o. Between 2002 and 2004, at Store # 8130 in Sam's Club Region 6, an experienced female Assistant Manager received approximately \$6,000 less per year in salary than newly hired male Assistant Managers with no experience. When she raised the pay disparity with one of the male Assistant Managers, he claimed that his job was harder, even though they both had similar duties
- p. Every district in Sam's Club Region 6 shows statistically significant differences in the years 2000 to 2001.

Wal-Mart's Ineffective Anti-Discrimination Efforts

86. Prior to the filing of the *Dukes* class action, Wal-Mart had no meaningful policies or practices to hold managers accountable, financially or otherwise, to equal employment and diversity policies and goals.

87. Starting in 2000, Wal-Mart asked District Managers to set diversity "goals" for advancement of women in management. The goals were based on each manager's individual views on what was attainable and were not tied to any objective measures of availability or qualifications. Prior to 2004, failure to meet diversity goals had no financial or other consequence for managers.

88. As late as 2003, Wal-Mart Stores' CEO Coughlin was not aware of any diversity goals or whether managers had met such goals. Many Store Managers were also unaware of the existence of any diversity goals.

89. Until at least 2003, there had never been any diversity goals set for individual stores, or for any compensation practices.

Wal-Mart's General Policy of Gender Discrimination

90. At all relevant times herein, and to the best knowledge of Plaintiffs, Wal-Mart engaged in a general policy of gender discrimination in each Region, evidenced by its de facto practice of denying women equal pay for hourly retail store positions, denying women equal pay for salaried management positions up to and including Co-Manager, and denying women equal opportunities for promotion to management track positions up to and including Store Manager.

In each Region, Wal-Mart accomplished this discrimination by:

- a. engaging in a pattern and practice of making pay and promotion decision on the basis of gender;
- b. failing to change pay and promotion policies and practices with an adverse impact on its female employees even though those policies and practices were not justified by business necessity and there were less discriminatory alternatives available;
- c. failing to establish and institute effective practices and procedures to insure that its workplace would be free of invidious and illegal gender discrimination;
- d. acting with reckless indifference to the rights of Plaintiffs and the classes despite systemic gender discrimination in the equal pay and promotion of its female employees; and
- e. failing to take adequate steps to correct known discriminatory disparities.

ALLEGATIONS OF NAMED PLAINTIFFS

Wal-Mart Region 10

Plaintiff Daven Miller

91. Ms. Miller began working in Wal-Mart Store 1408 in Tallahassee, Florida as an overnight stocking associate in May 2007. In July 2008, she was transferred to the Sunrise Supercenter, Store 1349 in Region 10, where she is currently employed as an inventory control Receiving Associate.

92. In March 2009, a male employee transferred into Ms. Miller's store in the same position as hers. Although the male employee had at least a year less seniority with Wal-Mart, and was less experienced than Ms. Miller, his hourly wage was \$.70 more per hour than Ms. Miller's.

93. Ms. Miller continues to suffer from this pay disparity. Upon information and belief, Ms. Miller believes she has been paid less than similarly situated male employees throughout her entire employment with Wal-Mart.

94. On or about May 9, 2012, Ms. Miller submitted a charge of discrimination to the EEOC. (A true and correct copy of which is attached hereto as Composite Exhibit "A," which includes each of the Plaintiffs' Charges of Discrimination and Amended Charges and is incorporated herein by reference). Plaintiff Miller received a right to sue letter on September 21, 2012 and commenced this action in a timely manner. (A true and correct copy of the Plaintiffs' Right to Sue is attached hereto as Composite Exhibit "B" which includes each of the Plaintiffs' Right to Sue Notices and is incorporated herein by reference).

Plaintiff Lori McCarthy

95. Ms. McCarthy was hired by Wal-Mart while a student at Florida State University into the company's management training program. She has worked in several Wal-Mart stores throughout Florida, including Store 1511, Store 973, Store 2151, and Store 2727, which are all in Region 10.

96. Upon her hiring, Ms. McCarthy completed the manager-in-training program in 3 months and was placed as an assistant manager in Fort Walton Beach. Upon information and belief, the time for promotion to Co-Manager for similarly-situated men in the program was 2-5 years.

97. After seven years, Ms. McCarthy was placed in a Co-Manager position and told she needed to work in this role before she could be considered for a Store Manager position.

98. In August 1998, Ms. McCarthy was transferred to a Wal-Mart store in Stuart as a Co-Manager. In 1999, she began requesting consideration for a Store Manager position.

99. In July 1999, in an effort to bolster her chances of promotion, Plaintiff transferred to a Florida City store as an Operating Co-Manager. She held this position until Spring 2001. While in this position, she continued to seek promotional opportunities and expressed a desire to relocate anywhere from Texas to North Carolina for such an opportunity.

100. While working in the Florida City store, Ms. McCarthy was subjected to disparate treatment by Monte Marshall, Store Manager, who would train male co-managers on issues and concerns of business, running the business, ordering merchandise, and managing budgets during special meetings, but would not extend the same training to female co-managers or include them in the meetings.

101. Additionally, while working at the Florida City store, Ms. McCarthy was also subjected to disparate treatment by District Manager Dave Chmura, who would make an effort to foster a mentoring relationship with male co-managers Mr. Marshall and Mr. Mike Williams by meeting with them individually each time he visited the store, but he did not meet with Ms. McCarthy. When she requested that he extend her the same courtesy, Mr. Chmura said he would try and make more of an effort to visit with her each time, however, he never did.

102. During Ms. McCarthy's employment at the Florida City store, she also worked with District Manager Freddie Miller, who exhibited favoritism toward promoting male co-managers over Ms. McCarthy. In fact, when Ms. McCarthy stated her desire to be promoted to Store Manager during a conversation with Mr. Miller, he responded that he would not promote her because he did not know her well, and that he would rather promote a male co-manager, such as Mike Williams (who was less experienced than Ms. McCarthy), because he knew him better.

103. In 2001, Ms. McCarthy transferred to Store 1511 in Miramar, Florida. She applied for the Store Manager position of Miramar, but a male manager was selected.

104. In total, Ms. McCarthy applied for 18 Store Manager positions, but she was never promoted to Store Manager.

105. Additionally, Ms. McCarthy was paid less than other similarly situated men during her employment within Region 10.

106. On or about April 26, 2012, Ms. McCarthy submitted a charge of discrimination to the EEOC. (Exhibit A). She received a right to sue letter on or about September 21, 2012 and commenced this action in a timely manner. (Exhibit B).

Plaintiff Christina Going

107. Ms. Going was hired as a cashier at a Florida Wal-Mart retail store, # 2484, in Region 10. She had previous experience in retail and had expressed a desire to be promoted into management from as early as her initial interview.

108. Ms. Going was assigned as Department Manager of domestics, pets, and other lines, but she was paid less than other similarly situated male employees who also held the position of Department Manager.

109. Ms. Going complained to a Support Manager about being paid less, and was told, "Single mothers like you don't deserve to make as much, you should be in a two income household."

110. Eventually Ms. Going and other female co-workers sought the assistance of a manager to get more pay and to complain about the wage disparity with other similarly-situated males. Their requests were ignored and were never investigated.

111. After Ms. Going was transferred to a Receiving hourly position, she learned that the male Department Manager who replaced her was paid \$5.00 more per hour than she had been paid in that same position.

112. Ms. Going sought promotions to the Support Manager position. The application process required that she be nominated by three or more Managers. All of the Managers in the store were men and they refused to give her a recommendation.

113. Ms. Going witnessed younger, less-experienced, males being promoted to Support Manager and higher level management positions.

114. After several failed requests to be promoted, Ms. Going resigned her employment.

115. On or about April 13, 2012, Ms. Going submitted a charge of discrimination to the EEOC. (Exhibit A). She received a right to sue letter on or about September 13, 2012 and commenced this action in a timely manner. (Exhibit B).

Plaintiff Susan Midolo

116. Ms. Midolo has significant experience as a mechanic, obtained several years of management experience while working as an Administrator for a large hospital where she supervised over a thousand employees, and obtained retail experience with Publix and Home Depot.

117. Ms. Midolo was employed by Wal-Mart in Florida, at Store #0721 in Region 10, from May 1997 to October 2000. She began working for Wal-Mart in the shoe department, which was staffed only by female employees.

118. Given her experience as a mechanic, Ms. Midolo repeatedly requested transfers to the Tire and Lube Express Department [“TLE”]. In October of 1997, she was allowed a transfer into TLE. She immediately expressed interest in moving up within the department.

119. In response to her request to work as a lower bay technician, Ms. Midolo was told by TLE Manager, Cary Grant, that she did not have enough upper body strength. Although no male employees were required to perform a strength test, Ms. Midolo had to show her manager that she could bench press 250 pound weights six times. She was also forced to find a co-worker to train her for the position.

120. In response to Ms. Midolo’s request in 1999 to become the Assistant Shop Manager, she was told by Cary Grant, her male manager, that “per Patrick Cust, [District Manager] there will never be a female assistant shop manager or shop manager in TLE.” Ms. Midolo was not promoted to Assistant Shop Manager.

121. In 1998, Ms. Midolo learned that she was earning less per hour than the starting rate for the TLE department. She was the only female in that department.

122. Ms. Midolo was transferred to a lower bay position within the department, where she was paid \$2.00 less per hour than other similarly-situated men in that position.

123. Ms. Midolo complained about the disparity in pay, but no action was taken by Wal-Mart to investigate or redress the situation.

124. When she was later placed into a Training Coordinator position within TLE, Ms. Midolo was paid \$1.50 less per hour than the starting pay rate of newly hired male employees.

125. Ms. Midolo was not treated with respect while in the Training Coordinator position. She was required to endure comments from her subordinates, all male employees, such as, “We don’t have to listen to you.” and “Who the hell do you think you are?” Management was aware of and permitted this type of disrespectful treatment, which grossly undermined Ms. Midolo’s supervisory authority.

126. Unlike any of the other TLE Department employees, Plaintiff was required to clean bathrooms and cook and prepare food for company meetings, and was expected to bake cupcakes and cookies for the male employees’ birthdays.

127. Ms. Midolo overheard derogatory comments about other female employees seeking promotions. The Manager, Cary Grant, would say these employees could not be promoted because they “Were married . . .and had children” and “their responsibilities were to their home life, not being promoted at Wal-Mart.”

128. Upon information and belief, Ms. Midolo believes she has been paid less than similarly situated male employees throughout her entire employment with Wal-Mart.

129. On or about March 5, 2012, Ms. Midolo submitted a charge of discrimination to the EEOC. (Exhibit A). She received a right to sue letter on or about September 19, 2012 and commenced this action in a timely manner. (Exhibit B).

Plaintiff Justice Holloway

130. Since November 2006, Ms. Holloway, who has an Associate Degree and prior retail sales experience from working at Target, JC Penny, and Express, has been employed by Wal-Mart. She is currently employed in Store #4260 in Region 10.

131. In 2007, Ms. Holloway was moved to the day shift and promoted to a Department Manager position.

132. Between 2009 and 2010, Ms. Holloway applied three times for open Assistant Manager positions. Each time she was interviewed by an all-male panel and was passed over for promotion in favor of less qualified male employees.

133. Upon information and belief, Ms. Holloway believes she has been paid less than similarly situated male employees throughout her entire employment with Wal-Mart. During her employment with Wal-Mart, Ms. Holloway learned that other similarly-situated, male employees were earning more than her for identical work. In 2010, Ms. Holloway was accidentally provided a male-co-worker's paycheck that showed he was paid \$3 per hour more than her.

134. Ms. Holloway complained about the pay disparity to the Human Resources Director, the Human Resources Manager, and the Store Manager. In response, she was "re-evaluated" and given a \$0.40 increase, which was insufficient to resolve the pay disparity issues.

135. On or about March 26, 2012, Ms. Holloway submitted a charge of discrimination to the EEOC. (Exhibit A). She received a right to sue letter on or about September 14, 2012 and commenced this action in a timely manner. (Exhibit B).

Wal-Mart Region 46

Plaintiff Mary Tracey

136. Ms. Tracey worked for Wal-Mart for 23 years in stores in Florida, Louisiana, New York, and Georgia. She worked at Store 0563 in Region 46 from 1997 through 2006.

137. While working in Region 46, Ms. Tracey worked as a Personnel Manager. In that role she discovered a region-wide practice of paying women less wages than men for nearly identical work.

138. For instance, Ms. Tracey observed that for positions requiring nearly identical work, entry level males were hired at a rate of \$5.00 more per hour than women for hourly positions and \$25,000 more annually than women for salaried positions.

139. When Ms. Tracey complained about the disparity in pay to office management personnel she was told, "Keep your mouth shut if you want to keep your job."

140. Upon information and belief, Ms. Tracey believes she has been paid less than similarly situated male employees throughout her entire employment with Wal-Mart.

141. Ms. Tracey repeatedly applied for the Management Trainee Program, but was never accepted.

142. For instance, while at Store Number 0563, Ms. Tracey spoke with both the Store Manager and Co-Manager about her interest in the Management Trainee Program. Instead of receiving a promotion into the program, she was told they would give her a \$0.25 merit raise. Her Store Manager, Gary Grey, continuously discouraged her from applying for management positions.

143. On or about April 20, 2012, Ms. Tracey submitted a charge of discrimination to the EEOC. (Exhibit A). She received a right to sue letter on or about September 19, 2012 and commenced this action in a timely manner. (Exhibit B).

Plaintiff Zenovdia Love

144. Ms. Love began working for Wal-Mart while in high school. She worked at several stores from 1988 until October 2003, many of which were in Region 46.

145. Upon information and belief, Ms. Love believes she has been paid less than similarly situated male employees throughout her entire employment with Wal-Mart.

146. During her 16 year history with Wal-Mart, Ms. Love observed that women tended to be assigned into stereotypically “feminine” departments such as softlines, stationary and health and beauty, while men were assigned departments such as automotive/TLE, receiving, sporting good, hardlines, and grocery.

147. In 1999, while employed as an Assistant Manager in Tallahassee, Ms. Love learned that another similarly-situated male employee in an identical position was earning almost \$20,000 more annually.

148. Having completed the Management In Training program in 2001, Ms. Love was on the “promotable list” for advancement beyond her current Assistant Management position.

149. Though Ms. Love was well-qualified for, and expressed interest in, an unposted Co-Manager position, she was passed over for promotion in favor of a male from outside Wal-Mart who had less experience than Ms. Love.

150. Ms. Love was required to train the newly hired Co-Manager.

151. In 2003, Ms. Love complained about the company’s failure to promote her to Co-Manager. In response, District Manager Burt Dewally stated, “All I can do is give you another

Assistant Manager position.” At the time of this conversation, Ms. Love had been employed with Wal-Mart for 15 years.

152. Given the lack of opportunity for advancement at Wal-Mart and the preference for male managers, Ms. Love resigned.

153. On or about March 5, 2012, Ms. Love submitted a charge of discrimination to the EEOC. (Exhibit A). She received a right to sue letter on or about September 19, 2012 and commenced this action in a timely manner. (Exhibit B).

Plaintiff Belinda Hager

154. Ms. Hager works at Wal-Mart in Store 3702 in Region 46. She has been employed with Wal-Mart since April 2006

155. Ms. Hager’s current Store Manager and District Manager prefer to hire men without retail experience at higher wages than those paid to women with experience. The entry level pay for women is significantly lower than for men. At the time Ms. Hager was hired, two men with no experience were paid \$2.00 more per hour than she was paid.

156. Upon information and belief, Ms. Hager believes she has been paid less than similarly situated male employees throughout her entire employment with Wal-Mart.

157. After Ms. Hager had been employed for 2 years, the Store Manager hired an entry level male employee in her same position at a higher rate of pay. In fact, the entry level male was at a higher rate of pay than the female Deli Supervisor who had been employed over 10 years.

158. When Ms. Hager complained about the disparity, she was told that the maximum raise was \$.40 per hour per year. However, male co-workers confided in Ms. Hager that they received more than \$0.40 per hour increases.

159. Ms. Hager applied for a Support Manager position in May 2011 after she was told that her current position in the deli was being eliminated.

160. Ms. Hager and 6 other women applied for the Support Manager position. Each of the female applicants had between 3 to 9 years' experience working for Wal-Mart, but none of them even received an interview for the position. A man who had been working at Wal-Mart for only 90 days was given the position.

161. On or about March 30, 2012, Ms. Hager submitted a charge of discrimination to the EEOC. (Exhibit A). She received a right to sue letter on or about September 14, 2012 and commenced this action in a timely manner. (Exhibit B).

Plaintiff Mary Hall

162. Ms. Hall was employed by Wal-Mart from July 1985 through August 2010 in several stores, including many in Region 46.

163. While working as a District Assistant, Ms. Hall witnessed Wal-Mart hiring and placing males with little experience in positions where they were paid more than females with more experience and seniority.

164. Ms. Hall also discovered, while inputting salaries as part of her District Assistant duties, that men were paid more for nearly identical positions as compared to females who were similarly-situated.

165. For instance, Ms. Hall observed men coming to the office where she was a District Assistant and telling a district manager that they could not pay their bills. The District Manager would give them an increase in pay, near 5%. However, when she observed women coming in to the office and telling the District Manager that they could not pay their bills, she

heard the District Manager state that he “had to conform to the store policies.” Ms. Hall understood these female employees to be single mothers.

166. As an Assistant Manager with 12 years of employment at Wal-Mart, Ms. Hall complained to management that college-aged males were being hired at a rate of pay that was greater than her own rate of pay, though they had no experience. In response, she was told, “That is their base pay,” and that her “prior experience did not count.”

167. Ms. Hall’s pay was never adjusted. Upon information and belief, Ms. Hall believes she has been paid less than similarly situated male employees throughout her entire employment with Wal-Mart.

168. In 1999, Ms. Hall was accepted into the Management Training Program and then promoted to Assistant Manager. She immediately began inquiring about being promoted to the position of Co-Manager. She was told she needed to work as the Assistant Manager on the grocery side of the store to be considered for that position.

169. Ms. Hall worked as an Assistant Manager or Vision Center Manager, a lateral position, until 2010. She was never promoted to Co-Manager despite expressing interest to her manager, district manager, and regional manager and repeatedly requesting an opportunity to be promoted during her annual performance reviews by listing a promotion to Co-Manager as one of her goals.

170. A male employee with only 2 months’ experience at Wal-Mart was given a Co-Manager position over Ms. Hall. Ms. Hall is aware of numerous other examples where less experienced male Managers were placed in Co-Manager positions and otherwise provided preferential treatment as compared to similarly-situated, female employees.

171. On or about March 26, 2012, Ms. Hall submitted a charge of discrimination to the EEOC. (Exhibit A). She received a right to sue letter on or about September 14, 2012 and commenced this action in a timely manner. (Exhibit B).

Sam's Club Region 6

Plaintiff Gail Lovejoy

172. Ms. Lovejoy worked at Sam's Club Store 6448 in Region 6 from 1993 to 2003.

173. Before working at Sam's, Ms. Lovejoy worked at Wal-Mart where she held positions that include receiving clerk, Claims Department clerk, invoice clerk, Customer Service Manager, cash office clerk, and Toy Department Manager. During her employment with Sam's Club, she worked as a receiving clerk and as a Claims Department clerk.

174. While employed at Sam's Club, Ms. Lovejoy was subjected to sexist comments by male managers, such as those by Receiving Manager Jeff Williams who said "keep women barefoot and pregnant – that is where they belong."

175. Upon information and belief, Ms. Lovejoy believes she has been paid less than similarly situated male employees throughout her entire employment with Wal-Mart.

176. At Sam's Club, Ms. Lovejoy applied for an open night receiving crew position that paid \$0.50 cents more per hour than her current position. She was told by male Receiving Manager Jeff Williams that she would not be considered for the position because she "had children at home and you would be working at night with all men."

177. In or around 1999, Ms. Lovejoy applied and interviewed for a delivery driver position. The management dissuaded her from pursuing the position, telling her that as a woman she would not be a good fit because the position would require heavy lifting. Ms. Lovejoy continued to express interest in the position. Although she had worked at Wal-Mart and Sam's

Club for over 12 years, the company promoted a male employee from the position of cart pusher with only one year experience.

178. In or around 2002, Ms. Lovejoy interviewed for Area Manager and was told by the District Manager doing the interview, Mike Peel, that the position's pay was capped at \$29,000 per year, and that it would be long hours and possibly would require her to move. Ms. Lovejoy continued to express her interest in the position, though she felt that she was being discriminated against based on her gender. Those feelings were confirmed when a male Area Manager in the same store, Mr. Marley Bunker, told Ms. Lovejoy that he was being compensated at a rate of \$35,000 per year for an Area Manager position, which was contrary to what she had been informed concerning the maximum salary for the position.

179. On or about May 15, 2012, Ms. Lovejoy submitted a charge of discrimination to the EEOC. (Exhibit A). She received a right to sue letter on or about September 15, 2012 and commenced this action in a timely manner. (Exhibit B).

Plaintiff Cynthia York

180. Since 1996, Ms. York has worked at Sam's Club in Florida, Store 6448 in Sam's Club Region 6.

181. During her employment, Ms. York has worked in a service desk position and as a cashier. As is the common practice in Sam's Club Region 6, Ms. York, as a female employee, was placed in positions stereotypically associated with women, such as working in the soft-lines department and working as a cashier, while higher-paying positions in the hardware, electronics, and sporting goods departments were given to men.

182. While working only part-time, Ms. York's request for a full-time position was denied in favor of giving the full-time position to a less experienced male. When Ms. York

asked why the position was given to the male, she was told, "[he has] a family to feed." Ms. York is also a parent.

183. Ms. York expressed an interest in being transferred to the Tire Department, which had a higher-paying position and often provided a path to management opportunities. In response, Ms. York was told by her manager "they don't want women out there," and to not "waste her time applying." The position she was interested in was given to a male.

184. Upon information and belief, Ms. York believes she has been paid less than similarly situated male employees throughout her entire employment with Wal-Mart.

185. On or about May 15, 2012, Ms. York submitted a charge of discrimination to the EEOC. (Exhibit A). She received a right to sue letter on or about September 21, 2012 and commenced this action in a timely manner. (Exhibit B).

STATEMENT OF CLAIMS

COUNT I—VIOLATION OF TITLE VII DISPARATE TREATMENT IN WAL-MART REGION 10

186. Plaintiffs Miller, McCarthy, Going, Midolo, and Holloway bring this action on behalf of themselves and all women similarly situated.

187. Plaintiffs incorporate and reallege paragraphs 1 through 185 herein.

188. In Region 10, through its Management Team, Defendant Wal-Mart engaged in a pattern or practice of treating its female employees less favorably than similarly situated male employees.

189. Wal-Mart denied Plaintiffs Miller, McCarthy, Going, Midolo, Holloway, and the class members pay equal to that earned by similarly situated men.

190. Wal-Mart denied Plaintiffs McCarthy, Going, Midolo, Holloway, and the class members equal opportunities for promotion to management track positions that the female employees were qualified for and interested in.

191. Wal-Mart's conduct of engaging in a pattern or practice of discriminating against its female employees working in Region 10 by making compensation and management track promotion decisions on the basis of gender violates Title VII of the Civil Rights Act of 1964.

192. Wal-Mart's discriminatory practices described above have denied female employees promotional opportunities and compensation to which they are entitled, which has resulted in the loss of past and future wages and other job benefits.

193. Wal-Mart actions or inactions were based in malice or a reckless indifference to the protected rights of Plaintiffs and the class members, entitling them to an award of punitive damages.

194. Furthermore, Plaintiff Miller and the members of the Injunctive Relief subclass are still employed by Wal-Mart and have no plain, adequate, or complete remedy at law to redress the wrongs alleged herein. The injunctive relief they seek is the only means by which they will be able to secure complete and adequate relief and end the irreparable injury they have suffered and will suffer as a result of Wal-Mart's discriminatory behavior.

195. Plaintiffs, therefore, request relief as provided in the Prayer for Relief below.

COUNT II—VIOLATION OF TITLE VII
DISPARATE TREATMENT IN WAL-MART REGION 46

196. Plaintiffs Tracey, Love, Hager, and Hall bring this action on behalf of themselves and all women similarly situated.

197. Plaintiffs incorporate and reallege paragraphs 1 through 185 herein.

198. In Region 46, through its Management Team, Defendant Wal-Mart engaged in a pattern or practice of treating its female employees less favorably than similarly situated male employees.

199. Wal-Mart denied Plaintiffs Tracey, Love, Hager, and Hall, and the class members, pay equal to that earned by similarly situated men.

200. Wal-Mart denied Plaintiffs Tracey, Love, Hager, and Hall, and the class members, equal opportunities for promotion to management track positions that the female employees were qualified for and interested in.

201. Wal-Mart's conduct of engaging in a pattern or practice of discriminating against its female employees working in Region 46 by making compensation and management track promotion decisions on the basis of gender violates Title VII of the Civil Rights Act of 1964.

202. Wal-Mart's discriminatory practices described above have denied female employees promotional opportunities and compensation to which they are entitled, which has resulted in the loss of past and future wages and other job benefits.

203. Wal-Mart actions or inactions were based in malice or a reckless indifference to the protected rights of Plaintiffs and the class members, entitling them to an award of punitive damages.

204. Furthermore, Plaintiff Hager and the members of the Injunctive Relief subclass are still employed by Wal-Mart and have no plain, adequate, or complete remedy at law to redress the wrongs alleged herein. The injunctive relief they seek is the only means by which they will be able to secure complete and adequate relief and end the irreparable injury they have suffered and will suffer as a result of Wal-Mart's discriminatory behavior.

205. Plaintiffs, therefore, request relief as provided in the Prayer for Relief below.

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**COUNT III—VIOLATION OF TITLE VII
DISPARATE TREATMENT IN SAM’S CLUB REGION 6**

206. Plaintiffs Lovejoy and York bring this action on behalf of themselves and all women similarly situated.

207. Plaintiffs incorporate and reallege paragraphs 1 through 185 herein.

208. In Sam’s Club Region 6, through its Management Team, Defendant Wal-Mart engaged in a pattern or practice of treating its female employees less favorably than similarly situated male employees.

209. Wal-Mart denied Plaintiffs Lovejoy and York, and the class members, pay equal to that earned by similarly situated men.

210. Wal-Mart denied Plaintiffs Lovejoy and York, and the class members, equal opportunities for promotion to management track positions that the female employees were qualified for and interested in.

211. Wal-Mart’s conduct of engaging in a pattern or practice of discriminating against its female employees working in Sam’s Club Region 6 by making compensation and management track promotion decisions on the basis of gender violates Title VII of the Civil Rights Act of 1964.

212. Wal-Mart's discriminatory practices described above have denied female employees promotional opportunities and compensation to which they are entitled, which has resulted in the loss of past and future wages and other job benefits.

213. Wal-Mart actions or inactions were based in malice or a reckless indifference to the protected rights of Plaintiffs and the class members, entitling them to an award of punitive damages.

214. Furthermore, Plaintiff York and the members of the Injunctive Relief subclass are still employed by Wal-Mart and have no plain, adequate, or complete remedy at law to redress the wrongs alleged herein. The injunctive relief they seek is the only means by which they will be able to secure complete and adequate relief and end the irreparable injury they have suffered and will suffer as a result of Wal-Mart's discriminatory behavior.

215. Plaintiffs, therefore, request relief as provided in the Prayer for Relief below.

**COUNT IV—VIOLATION OF TITLE VII
DISPARATE IMPACT IN WAL-MART REGION 10**

216. Plaintiffs Miller, McCarthy, Going, Midolo, and Holloway bring this action on behalf of themselves and all women similarly situated.

217. Plaintiffs incorporate and reallege paragraphs 1 through 185 herein.

218. Wal-Mart has maintained a system for making decisions about compensation and promotions that has had an adverse impact on its female employees in Region 10. Its compensation policies for setting and adjusting pay collectively and individually, including its failure to require or use job related criteria for making compensation decisions, has had an adverse impact on women. Its management track promotion policies; its failure to provide for an open application process or job posting; its relocation and travel requirements for management positions; its scheduling requirements that deny managers a consistent schedule; and its failure to apply job-related objective criteria for making management selections, have all, individually and collectively, caused this adverse impact on female employees in promotions.

219. In Region 10, Wal-Mart has failed to create or maintain the data that would allow analysis of the impact of each of these policies and practices individually. Nor does Wal-Mart specify the weight that should be accorded to each of its requirements for pay and promotion.

Wal-Mart's pay and promotion policies and procedures are, thus, not capable of separation for analysis, and accordingly the entire decision-making process for compensation and promotions decisions may each be analyzed as one employment practice. 42 U.S.C. 2000e-2(k)(1)(B)(i).

220. Wal-Mart's compensation and promotion policies are not job related or consistent with business necessity. Wal-Mart's own consultants and human resources staff have proposed job posting, elimination of relocation requirements, adoption of more consistent and reliable scheduling, and the use of more objective criteria for management promotions. Adopting these policies would have resulted in less discriminatory impact upon female employees while serving Wal-Mart's business needs more effectively than its current practices.

221. Wal-Mart's discriminatory practices described above have denied female employees promotional opportunities and compensation to which they are entitled, which has resulted in the loss of past and future wages and other job benefits.

222. Furthermore, Plaintiff Miller and the members of the Injunctive Relief subclass are still employed by Wal-Mart and have no plain, adequate, or complete remedy at law to redress the wrongs alleged herein. The injunctive relief they seek is the only means by which they will be able to secure complete and adequate relief and end the irreparable injury they have suffered and will suffer as a result of Wal-Mart's discriminatory behavior.

223. Plaintiffs, therefore, request relief as provided in the Prayer for Relief below.

COUNT V—VIOLATION OF TITLE VII
DISPARATE IMPACT IN WAL-MART REGION 46

224. Plaintiffs Tracey, Love, Hager, and Hall bring this action on behalf of themselves and all women similarly situated.

225. Plaintiffs incorporate and reallege paragraphs 1 through 185 herein.

226. Wal-Mart has maintained a system for making decisions about compensation and promotions that has had an adverse impact on its female employees in Region 46. Its compensation policies for setting and adjusting pay collectively and individually, including its failure to require or use job related criteria for making compensation decisions, has had an adverse impact on women. Its management track promotion policies; its failure to provide for an open application process or job posting; its relocation and travel requirements for management positions; its scheduling requirements that deny managers a consistent schedule; and its failure to apply job-related objective criteria for making management selections, have all, individually and collectively, caused this adverse impact on female employees in promotions.

227. In Region 46, Wal-Mart has failed to create or maintain the data that would allow analysis of the impact of each of these policies and practices individually. Nor does Wal-Mart specify the weight that should be accorded to each of its requirements for pay and promotion. Wal-Mart's pay and promotion policies and procedures are, thus, not capable of separation for analysis, and accordingly the entire decision-making process for compensation and promotions decisions may each be analyzed as one employment practice. 42 U.S.C. 2000e-2(k)(1)(B)(i).

228. Wal-Mart's compensation and promotion policies are not job related or consistent with business necessity. Wal-Mart's own consultants and human resources staff have proposed job posting, elimination of relocation requirements, adoption of more consistent and reliable scheduling, and the use of more objective criteria for management promotions. Adopting these policies would have resulted in less discriminatory impact upon female employees while serving Wal-Mart's business needs more effectively than its current practices.

229. Wal-Mart's discriminatory practices described above have denied female employees promotional opportunities and compensation to which they are entitled, which has resulted in the loss of past and future wages and other job benefits.

230. Furthermore, Plaintiff Hager and the members of the Injunctive Relief subclass are still employed by Wal-Mart and have no plain, adequate, or complete remedy at law to redress the wrongs alleged herein. The injunctive relief they seek is the only means by which they will be able to secure complete and adequate relief and end the irreparable injury they have suffered and will suffer as a result of Wal-Mart's discriminatory behavior.

231. Plaintiffs, therefore, request relief as provided in the Prayer for Relief below.

**COUNT VI—VIOLATION OF TITLE VII
DISPARATE IMPACT IN SAM'S CLUB REGION 6**

232. Plaintiffs Lovejoy and York bring this action on behalf of themselves and all women similarly situated.

233. Plaintiffs incorporate and reallege paragraphs 1 through 185 herein.

234. Wal-Mart has maintained a system for making decisions about compensation and promotions that has had an adverse impact on its female employees in Sam's Club Region 6. Its compensation policies for setting and adjusting pay collectively and individually, including its failure to require or use job related criteria for making compensation decisions, has had an adverse impact on women. Its management track promotion policies; its failure to provide for an open application process or job posting; its relocation and travel requirements for management positions; its scheduling requirements that deny managers a consistent schedule; and its failure to apply job-related objective criteria for making management selections, have all, individually and collectively, caused this adverse impact on female employees in promotions.

235. In Region 6, Wal-Mart has failed to create or maintain the data that would allow analysis of the impact of each of these policies and practices individually. Nor does Wal-Mart specify the weight that should be accorded to each of its requirements for pay and promotion. Wal-Mart's pay and promotion policies and procedures are, thus, not capable of separation for analysis, and accordingly the entire decision-making process for compensation and promotions decisions may each be analyzed as one employment practice. 42 U.S.C. 2000e-2(k)(1)(B)(i).

236. Wal-Mart's compensation and promotion policies are not job related or consistent with business necessity. Wal-Mart's own consultants and human resources staff have proposed job posting, elimination of relocation requirements, adoption of more consistent and reliable scheduling, and the use of more objective criteria for management promotions. Adopting these policies would have resulted in less discriminatory impact upon female employees while serving Wal-Mart's business needs more effectively than its current practices.

237. Wal-Mart's discriminatory practices described above have denied female employees promotional opportunities and compensation to which they are entitled, which has resulted in the loss of past and future wages and other job benefits.

238. Furthermore, Plaintiff York and the members of the Injunctive Relief subclass are still employed by Wal-Mart and have no plain, adequate, or complete remedy at law to redress the wrongs alleged herein. The injunctive relief they seek is the only means by which they will be able to secure complete and adequate relief and end the irreparable injury they have suffered and will suffer as a result of Wal-Mart's discriminatory behavior.

239. Plaintiffs, therefore, request relief as provided in the Prayer for Relief below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and the class members pray for relief as follows:

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240. Certification of the Wal-Mart Region 10 Class and Monetary Relief and Injunctive Relief subclasses as a class action under Rule 23(b)(2) and (b)(3); designation of Plaintiffs Miller, McCarthy, Going, Midolo, and Holloway as class representatives and representatives of the Monetary Relief subclass; designation of Plaintiff Miller as representative of the Injunctive Relief subclass; and designating Plaintiff's counsel of record as Class Counsel for the class and subclasses;

241. Certification of the Wal-Mart Region 46 Class and Monetary Relief and Injunctive Relief subclasses as a class action under Rule 23(b)(2) and (b)(3); designation of Plaintiffs Tracey, Love, Hager, and Hall as class representatives and representatives of the Monetary Relief subclass; designation of Plaintiff Hager as representative of the Injunctive Relief subclass; and designating Plaintiff's counsel of record as Class Counsel for the class and subclasses;

242. Certification of the Sam's Club Region 6 Class and Monetary Relief and Injunctive Relief subclasses as a class action under Rule 23(b)(2) and (b)(3); designation of Plaintiffs Lovejoy and York as class representatives and representatives of the Monetary Relief subclass; designation of Plaintiff York as representative of the Injunctive Relief subclass; and designating Plaintiff's counsel of record as Class Counsel for the class and subclasses;

243. All damages which the Named Plaintiffs and the Monetary Relief Classes have sustained as a result of Wal-Mart's conduct, including back pay, front pay, and damages for lost compensation and job benefits that they would have received but for the discriminatory practices of Wal-Mart;

244. For Named Plaintiffs and the Monetary Relief subclasses, exemplary and punitive damages in an amount commensurate with Wal-Mart's ability to pay and to deter future conduct;

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245. For the Injunctive Relief subclasses, a permanent injunction against Wal-Mart and its directors, officers, owners, agents, successors, employees and representatives, and any and all persons acting in concert with them, from engaging in each of the unlawful practices, policies, customs and usages set forth herein. Such relief at minimum should include professional designed job analyses of all job positions and identification of objective, nondiscriminatory criteria for promotion and compensation decisions, record keeping that requires documentation of promotion decisions, open application and job posting procedures for promotion, training and accountability measures to ensure consistent, nondiscriminatory decision-making, and affirmative action to provide lost promotion opportunities to Plaintiffs Miller, Hager, York, and members of the Injunctive Relief subclasses.

246. A declaratory judgment that the practices complained of in this Complaint are unlawful and violate 42 U.S.C. § 2000(e), et. seq., Title VII of the Civil Rights Act of 1964;

247. Costs incurred, including reasonable attorneys' fees, to the extent allowable by law;

248. Pre-Judgment and Post-Judgment interest, as provided by law; and

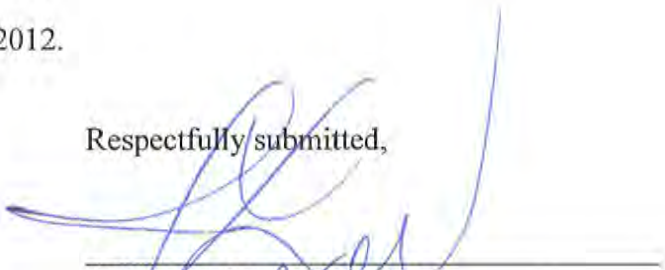
249. Such other and further legal and equitable relief as this Court deems necessary, just and proper.

JURY DEMAND

Plaintiffs hereby demand a jury trial on all issues, claims, actions, and defenses in this case.

Dated this 4th day of October, 2012.

Respectfully submitted,



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