

guidelines for class actions and Title VII employment discrimination cases, held that the national class could not be certified, based on the facts it outlined in its opinion. The Supreme Court did not rule on the merits of the action, but only ruled that the class as certified could not proceed. It did not preclude prosecution of a class that was consistent with its newly announced guidelines and standards.

3. Accordingly, this Complaint, brought by a Dukes class member and former plaintiff, alleges claims on behalf of a class of present and former female Wal-Mart retail store employees who have been subjected to gender discrimination as a result of specific policies and practices in Wal-Mart's regions located in whole or in part in Texas ("Texas Regions"). Plaintiffs allege gender discrimination as follows:

- a. Denial of equal opportunities for promotion to management track positions up to and including Co-Manager.

4. The class membership period commences on December 26, 1998, 300 days prior to the earliest class EEOC charge by a former class member. Based on evidence produced in discovery in this matter, interviews with class members and witnesses, and publicly available information, plaintiff alleges that the challenged practices, and therefore the class period, extends at least until June 2004, and, on information and belief, she alleges that members of the class have been denied equal opportunities for promotion through the present. With renewed discovery, plaintiff will plead more specific time periods for the claims.

5. Plaintiffs allege that defendant maintained a pattern or practice of gender discrimination in promotion and that its promotion policies and practices had a disparate impact not justified by business necessity on its female employees whose claims arise in Wal-Mart's regions that include stores located in Texas. As used in this Complaint, Wal-Mart's Texas

Regions and Texas Districts refer to those Wal-Mart and Sam's Club regions and districts that encompass, in whole or in part, Wal-Mart's Texas retail stores.

6. This action seeks an end to Wal-Mart's discriminatory policies and practices in the Texas Regions, make whole relief for the class, and punitive damages.

II. JURISDICTION AND VENUE

7. Plaintiff's 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).

8. Venue is proper in this district pursuant to 42 U.S.C. § 2000e-5(f) and 28 U.S.C. § 1391(b) & (c). Named Plaintiff's claims arose in Texas. Many of the acts complained of occurred in this judicial district and gave rise to the claims alleged. Wal-Mart currently operates 451 Wal-Mart stores and Sam's Clubs in Texas where it employs more than 140,000 workers. It operates at least 34 stores in the Northern District of Texas, Dallas Division.

III. PARTIES

9. Plaintiff Stephanie Odle is a woman and a resident of Norman, Oklahoma. Stephanie Odle was hired by Wal-Mart on November 21, 1991, as an hourly associate to work at the Sam's Club in Lubbock, Texas. She was successively transferred to Sam's Clubs in Dallas, Texas; Yuba City, California; Vacaville, California; Sherman, Texas and Lubbock, Texas. She worked in Texas in Store No. 6530, in Sam's Club District 27, Sam's Club Region 2 in Sherman, Texas and Store No. 8272 in Sam's Club District 47, Region 1 in Lubbock, Texas.

10. Defendant Wal-Mart Stores, Inc. is a Delaware corporation with stores throughout Texas. Its corporate headquarters is located in Bentonville, Arkansas. Wal-Mart Stores, Inc.

operates retail stores doing business as Wal-Mart Discount Stores, Wal-Mart Supercenters, Wal-Mart Neighborhood Markets and Sam's Clubs Stores (collectively "Wal-Mart") in Texas.

IV. CLASS ALLEGATIONS

11. Plaintiff brings this action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of: a) all women who are currently employed or will be employed at any Wal-Mart retail store in a Texas Wal-Mart Region ("Injunctive Relief Class) and b) all women employed at any Wal-Mart retail store in a Texas Region at any time from December 26, 1998 ("Monetary Relief Class"), who have been or may be subject to the following policies and practices:

- i. Denial of promotion to management track positions up to and including Co-Manager.

The proposed classes do not include Store Managers or licensed Pharmacists.

12. Plaintiff is a member of the classes she seeks to represent.

13. The members of the classes are sufficiently numerous that joinder of all members is impracticable. Plaintiff is informed and believes that the Injunctive Relief Class and the Monetary Relief Class each exceed 45,000 women.

14. There are questions of law and fact common to the classes and these questions predominate over individual questions. Such questions include, without limitation, whether defendant, through its Texas Region managers with final authority to make the challenged decisions, has engaged in a pattern or practice of discrimination in management track promotions against its female employees in its Texas Regions, whether there are statistical patterns adverse to female employees in management track promotions in defendant's Texas Regions, whether defendant's policies in its Texas Regions have an adverse impact upon the classes and, if so,

whether this impact can be justified by business necessity; and whether injunctive relief and punitive damage relief for the classes are warranted.

15. The claims alleged by the plaintiff are typical of the claims of the classes. Plaintiff worked in Wal-Mart's Texas Regions and has been subjected to the discriminatory policies and practices alleged.

16. The named plaintiff will fairly and adequately represent and protect the interests of the classes.

17. The Injunctive Relief Class is properly maintainable under Federal Rule of Civil Procedure Rule 23(b)(2) because defendant has acted or refused to act on grounds generally applicable to this class, thereby making appropriate final injunctive relief or corresponding declarative relief with respect to this class as a whole.

18. Class-wide liability and punitive damages liability under the theories advanced in this action are properly certified under Rule 23(c)(4) for both classes because such claims present only common issues, the resolution of which would advance the interests of the parties in an efficient manner.

19. The Monetary Relief Class is properly certified under Rule 23(b)(3) because questions of law and fact common to the class 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.

V. ORGANIZATIONAL AND STORE STRUCTURE WITHIN TEXAS REGIONS

20. *Store Formats* – Within the Texas Regions, Wal-Mart has operated in four primary formats: Wal-Mart Discount Stores, Wal-Mart Neighborhood Markets, Wal-Mart

Supercenters and Sam's Clubs. The basic organizational structure for these stores has been the same across the Texas Regions.

21. *Common Hourly Jobs Within Stores* - All stores within the Texas Regions have used common job titles and job descriptions, and the same job hierarchies. Although the Wal-Mart Stores and Sam's Clubs use somewhat different nomenclature, their personnel and human resources policies, job titles and hierarchies, and compensation and promotion policies have been virtually identical.

22. *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.

23. *Common Department Structure* - Stores within the Texas Regions have been divided into numerous departments, which have been staffed by hourly paid employees. Some departments have been designated as specialty departments. The departmental structure is the same throughout the stores in the Texas Regions.

24. *Common Management Jobs* - With the exception of Support Manager, management positions within the Texas Regions are salaried. Each store has Assistant Managers. 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.

25. *District Organization* - Until 2006, stores within the Texas Regions were grouped into districts which were supervised by District Managers and typically included six to eight stores. Thereafter, districts have been expanded to include more stores.

26. *District Managers' Role* - District Managers within the Texas Regions have been responsible for ensuring store compliance with company policies and culture. District Managers have been 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 made or approved compensation and promotion decisions for the stores.

27. *Regional Organization* - Districts are grouped into regions, headed by a Regional Vice President. As of 2003, each region contained approximately 80 - 85 stores. As of 2003, there were 4 Wal-Mart regions and 2 Sam's Club region that encompassed stores within Texas. These regions together included, as of 2003, over 62 districts. Most of these districts were comprised entirely of Texas stores.

28. *Role of Regional Vice President* - The Regional Vice Presidents in Texas Regions monitor and implement corporate and regional policies regarding compensation and promotion. Regional Vice Presidents regularly meet with District Managers and receive weekly reports from District Managers about the activities in the Texas Region stores they supervise.

29. *Regional Personnel Managers' Role* - Each Texas Region has had a Regional Personnel Manager, who assists the Texas Regional Vice Presidents and District Managers in making pay and promotion decisions for employees working in the Texas Region stores.

30. *Changes to Texas Regions and Districts* - Since 2003, Wal-Mart may have adjusted the borders of these regions and districts.

31. *Divisional Organization* - The Regional Vice President reports to a Divisional Senior Vice President.

VI. PROMOTION DISCRIMINATION WITHIN TEXAS REGIONS

32. *Management Track Positions Below Assistant Manager Positions* - Within Texas

Regions, Support Managers are the highest level hourly supervisory positions and assume the duties of Assistant Managers in their absence. At Sam's Club, Salaried Area Managers serve similar functions. Employees in these positions are often groomed for further advancement. The vast majority of Support Manager and Area Manager vacancies have not been posted. There has been no formal application process for selection for these positions or job related criteria for making selections of those to be promoted.

33. *Promotion to Management Trainee* – 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. Hourly employees in the Texas Regions were not provided any information regarding how to enter management, or what the requirements or qualifications were for entering management, or how to apply for the Management Trainee Program.

34. *Criteria for Promotion to Management Trainee* – District Managers, assisted by Regional Personnel Managers, select management trainees. Within Texas Regions, these managers have been provided 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, but no job related criteria have been provided for making selections among those who meet the minimum criteria. Employees selected into the Management Training program are required to transfer from their stores and often their districts as they enter training and Assistant Manager positions, subject to very limited exceptions which must be approved by the Regional Personnel Manager and Regional Vice President

35. *Promotion to Co-Manager* - Within Texas Regions, 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 determining which store to assign to a co-manager.

36. In each of Texas's Regions and Districts management track promotional policies and practices 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, Managers in Texas Regions do not require or use valid, job related factors in making the promotion selections within the Texas Regions. Nor does Wal-Mart specify the weight that should be accorded any requirements for promotion. As a consequence, qualified women were denied equal access to promotions because of their gender.

37. *Management Trainee Registration of Interest* - In January 2003, Wal-Mart instituted within the Texas Regions 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 such 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 not regular schedule, including work on scheduled days off, work during days, overnights, weekends and holidays, scheduled days off not consecutive and

rotated weekly, and scheduled hours changed or increased without notice. None of these requirements is justified by business necessity, and it is untrue that Assistant Managers must normally travel up to six weeks. Failure to accept all of these conditions precluded consideration as an applicant, which has resulted in the exclusion of interested and qualified women from the management training program.

38. *No Documentation of Promotion Decisions* - Managers have not documented, and Wal-Mart had not tracked, the reason for selecting a particular employee for a management promotion. Managers have not documented, and Wal-Mart has not tracked, which employees have been denied consideration for promotion because of their inability to comply with relocation, travel or scheduling requirements for promotion.

39. *External Statistics* - Wal-Mart has had a significantly lower percentage of female managers in its Texas Regions compared to its largest competitors.

40. *Internal Statistics on Promotion Rates* - Female employees in Texas Regions and Districts, including the regions and districts in which the named plaintiff worked, have been much less likely than their male counterparts to receive promotion to management track positions including Support and Area Managers, Management Trainee and Assistant Manager, and Co-Manager positions, despite the fact that they possess equal or better qualifications than their male counterparts.

41. *Internal Statistics on Time to Promotion* - Female employees must wait significantly longer to be promoted into management track positions than men with equal or lesser qualifications. This is true in each of Texas's Regions and Districts, including the Regions and Districts in which the named plaintiff worked.

42. *Management Knowledge of Promotion Discrimination* - Wal-Mart management has

long known about gender disparities in promotion in Texas and has failed to take any remedial action.

43. *Reporting by Gender* - Every store, district, and region in the Texas Regions 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. District Managers, Regional Personnel Managers and Regional Vice Presidents for the Texas Regions receive these reports.

44. *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.

45. *Store Visits* – District Managers, Regional Personnel Managers and Regional Vice Presidents in the Texas Regions regularly visit stores and are aware of the gender composition of the workforce.

46. *Warnings About Discrimination* - Senior management officials, senior People division officials, and outside consultants have warned Wal-Mart that women are not sufficiently represented in management positions, that women 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.

47. *Discriminatory Practices Identified* - These officials and consultants have also identified policies and practices at Wal-Mart that have an adverse impact on its female employees, 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.

48. *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.

49. *Changes Blocked* - Senior managers also blocked policy changes that would have reduced the impact of Wal-Mart's discriminatory policies including posting of managerial vacancies.

50. *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.

51. *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 the Texas Regions. Because reasons for promotion decisions are not documented, and Wal-Mart does not create or maintain records which identify the impact of separate components of its promotion policies and practices, its promotion decision-making process is not capable of separation for analysis.

VII. WAL-MART MANAGERS RELY ON DISCRIMINATORY STEREOTYPES

52. 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 in the Texas Regions and Districts.

53. 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.”

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

55. All Wal-Mart Store Managers, including Texas 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.

56. On 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.”

57. In Sherman, Texas, the Director of Operations Mr. Anderson approved an idea submitted by Store Manager Bill Smithson identical to an idea Named Plaintiff Stephanie Odle had proposed to Mr. Anderson a few months earlier, which he had rejected. When Named Plaintiff Stephanie Odle asked Mr. Smithson how he had convinced Mr. Anderson to change his mind when he had only recently rejected the suggestion, Mr. Smithson responded that it was “a man thing.”

58. On another occasion, Mr. Smithson declared to Named Plaintiff Stephanie Odle that

as the General Manager, he could do whatever he wanted to do.

59. Store Manager of Store # 535 in Abilene, Texas, Tom Van Vraken justified the paying less to a female supervisor than a male employee on the ground that the male employee “had a family to support” and dismissed the female employees complaints by informing her that she should just be happy with the money she made.

60. In approximately late 2000 or early 2001, Store Manager Mark Antilley at Wal-Mart Supercenter #2862 informed one female employee seeking entry into the management training program that women have to be “bitches” to survive in Wal-Mart management.

61. At the Hulen, Texas store, Assistant Manager David White and Store Manager John Jurca justified directing a female employee who expressed interest in becoming salaried management towards a front end position because as a woman she was better suited for the front end.

62. When this same woman complained to Assistant Manager David White and Store Manager John Jurca about having to train her own supervisor, Mr. White told her that she should be happy with what she had, a Customer Service Manager position.

63. Store Manager Lorenzo Nava at store #2612 in El Paso, Texas justified the disparate treatment of a female Co-Manager by District Manager Rick Klein as something that was to be expected since the female Co-Manager was not part of the “good ‘ole boy” network, unlike her male counterparts.

64. Management at store #3452 in Houston, Texas justified paying women less than men on the ground that men needed to make more money because they had families to feed.

65. Management directed female employees to decorate the store on the ground that female employees were “crafty”.

66. At Store #5021 in Dallas, Texas, Store manager Keith Littlejohn informed a female back door receiving manger that it was a job for a man.

67. Other Texas managers justified denying promotions to women or paying them less than their male employees because of perceived family obligations of the women and male responsibility to support their families or because of their presumed inability to relocate.

VIII. WAL-MART'S INEFFECTIVE ANTI-DISCRIMINATION EFFORTS

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

69. 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.

70. 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.

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

IX. ALLEGATIONS OF NAMED PLAINTIFF

STEPHANIE ODLE

72. Stephanie Odle was hired by Wal-Mart on November 21, 1991, as an hourly associate to work at the Sam's Club in Lubbock, Texas. She was successively transferred to Sam's Clubs

in Dallas, Texas; Yuba City, California; and Vacaville, California.

73. On September 3, 1994, while employed at the Vacaville, California, Sam's Club, Ms. Odle was promoted to Assistant Manager and was assigned to the Sam's Club in Roseville, California, as a Manager-in-Training. Ms. Odle was then assigned to the Sam's Club in Sacramento, California, where she worked as an Assistant Manager. Ms. Odle was subsequently transferred in succession to the Sam's Clubs in Riverside, California; Las Vegas, Nevada; and back to Sacramento, California.

74. In October 1998, Ms. Odle was transferred to the Sam's Club in Sherman, Texas. While at this Sam's Club, she was led to believe by the Regional Director of Operations, who was in charge of the Wal-Mart Region covering Texas and Oklahoma, that she would be promoted to the position of Co-Manager of the Sam's Club store in Tulsa, Oklahoma.

75. On May 14, 1999, to insure that Ms. Odle was not promoted to the Co- Manager position at the Tulsa, Oklahoma, Sam's Club, she was discriminated against by management at the Sherman, Texas, Sam's Club store by being wrongfully suspended for five days concerning a legitimate refund she had made to a customer. On or about May 19, 1999, Ms. Odle was informed by management at the Sherman, Texas, Sam's Club store that she would not be promoted to the position of Co-Manager of the Tulsa, Oklahoma, Sam's Club, and that said position was being given to a male manager from Florida.

76. On May 20, 1999, the management at the Sherman, Texas, Sam's Club store, gave Ms. Odle the most severe form of discipline at Sam's Club short of termination, even though management at the Sherman, Texas, Sam's Club store knew that she did not do anything to warrant such discipline, and management at the Sherman, Texas, Sam's Club store never disciplined male employees in this fashion.

77. Also on May 20, 1999, the male managers at the Sherman, Texas, Sam's Club store wrongfully denied Ms. Odle access to the Sherman, Texas, Sam's Club store or to the Sherman, Texas Sam's Club store's employees and ordered her against her will to transfer from the Sam's Club in Sherman, Texas, to the Sam's Club in Lubbock, Texas.

78. Ms. Odle followed the orders of the male managers in the Sherman, Texas, Sam's Club store and moved to Lubbock, Texas so that she could continue her employment as an assistant manager for Sam's Club in Lubbock, Texas. Thereafter, Ms. Odle performed her duties as an assistant manager at the Sam's Club store in Lubbock, Texas in an exemplary fashion and regularly informed her direct supervisor, the general manager of the Lubbock, Texas Sam's Club store that she wanted to be promoted to Co-Manager or Store Manager of a Sam's Club store as soon as there was an opening for such a position.

79. In early October, 1999 Ms. Odle learned that the three other assistant managers at the Sam's Club store in Lubbock, Texas, who were all male, were being given a skills assessment test which is a critical step in the Sam's Club promotion process for being considered for future promotions to either Co-Manager or Store Manager of a Sam's Club store.

80. After learning the male managers were being given the skills assessment test, Ms. Odle requested of her general manager at the Sam's Club Lubbock, Texas store that she be given the same opportunity to take the skills assessment test. Her Store Manager denied her request informing her that he only had three tests and they were being given to the three male assistant managers.

81. On or about October 6, 1999, Ms. Odle complained to management at the Sam's Club store in Lubbock, Texas that she was being denied an opportunity to take a skills

assessment test critical for future promotion that was being administered to three male managers because she was a female.

82. On October 16, 1999, Ms. Odle was training three hourly Sam's Club employees with respect to a new store procedure. During the training, a \$13.74 accounting adjustment occurred. Ms. Odle notified accounting and the acting general manager of the adjustment, and neither expressed any concern. Two days later, even though management at the Sam's Club store in Lubbock, Texas knew that the cash register discrepancy was a harmless training adjustment causing no loss to the company, management, in order to make available a managerial position for a male manager from Arizona, wrongfully suspended Ms. Odle and placed her on administrative leave.

83. On October 19, 1999, Ms. Odle was wrongfully terminated by the General Manager of the Sam's Club store in Lubbock, Texas, and by the Regional Director of Operations, who was in charge of the Region covering Texas and Oklahoma for Sam's Club.

84. On October 22, 1999, Ms. Odle's attorney filed a charge of discrimination against Sam's Club with the El Paso Area Office of the United States Equal Employment Opportunity Commission and tele-faxed a copy of this Charge of Discrimination to Sam's Club headquarters in Bentonville, Arkansas, regarding the gender discrimination perpetrated against her by Sam's Club. A copy of this charge is attached hereto as Exhibit A and incorporated by reference. Despite being briefly reinstated pending further "investigation" Ms. Odle was again wrongfully discharged on October 29, 1999, and was replaced by the male manager who was transferred to the Lubbock, Texas store from a Sam's Club in Arizona.

85. Ms. Odle filed amended EEOC charges on January 4, 2000, and April 3, 2000, copies of which are attached hereto as Exhibits B and C and incorporated by reference. On or

about May 31, 2001, the EEOC issued a notice of right to sue on these charges, attached hereto as Exhibit D and incorporated by reference, and an action was timely commenced thereafter.

86. Stephanie Odle was discriminated against because of her gender, female, in violation of Title VII of the Civil Rights Act of 1964, as amended, when she was subjected to adverse terms and conditions of employment, denied training opportunities for promotions and denied a promotion.

87. Women employees of the stores operated by Wal-Mart in Texas are discriminated against because of their gender, female, in violation of Title VII of the Civil Rights Act of 1964, as amended.

88. Stephanie Odle brings this charge on behalf of herself and all other women who are similarly situated.

X. CLAIM FOR RELIEF (*Violation of Title VII*)

89. Plaintiff incorporates Paragraphs 1 through 88.

90. This claim is brought on behalf of the Named Plaintiff and the classes she seeks to represent.

91. On or about October 22, 1999, January 4, 2000 and April 3, 2000, Named Plaintiff Stephanie Odle filed charges of sex discrimination against Wal-Mart with the United States Equal Employment Opportunity Commission. Ms. Odle thereafter received a right to sue notice and commenced this action as a named plaintiff in a timely fashion. From the filing of her EEOC complaints through the initiation of this action, the class-wide nature of Ms. Odle's charges has been communicated to defendant.

92. In June 2004, the United States District Court for the Northern District of California certified this case as a national class action, a decision that was largely upheld by the Ninth

Circuit Court of Appeals en banc. On June 20, 2011, the Supreme Court reversed the Ninth Circuit decision. During the pendency of the former certified class, time periods for filing EEOC charges and subsequent litigation for all former class members were tolled. The District Court for the Northern District of California subsequently held that claims of class members would be tolled during the pendency of the national class action until the following dates: for former class members who had received an EEOC right to sue based on a claim encompassed by the former class: October 28, 2011; all other former class members in deferral states would have until May 25, 2012 to file EEOC charges based on conduct encompassed by the former class definition.

93. The foregoing conduct violates Title VII of the Civil Rights Act of 1964. Wal-Mart has engaged in a pattern or practice of discriminating against its female employees in making management track promotion decisions in its Texas Regions.

94. Wal-Mart has maintained a system for making decisions about promotions that has had an adverse impact on its female employees in its Texas Regions. Its management track promotion policies: the absence of an open application process and job posting its relocation and travel requirements for management positions, its scheduling requirements which 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.

95. Wal-Mart has failed in Texas 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 according to each of the requirements for promotion. Wal-Mart's promotion policies and procedures are thus not capable of separation for analysis, and

accordingly the entire decision-making process for promotion decisions may each be analyzed as one employment practice. 42 U.S.C. 2000e-2(k)(1)(B)(i).

96. Wal-Mart's 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.

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

98. Plaintiffs request relief as provided in the Prayer for Relief below.

XI. RELIEF ALLEGATIONS

1. Plaintiff and the Injunctive Relief Class she represents have no plain, adequate or complete remedy at law to redress the wrongs alleged herein, and the injunctive relief sought in this action is the only means of securing complete and adequate relief. Plaintiff and the Injunctive Relief Class she represents are now suffering and will continue to suffer irreparable injury from Defendant's discriminatory acts and omissions.

2. The actions on the part of Defendant have caused and continue to cause Plaintiff and all Monetary Relief class members substantial losses in earnings, promotional opportunities and other employment benefits, in an amount to be determined according to proof.

3. Defendant acted or failed to act as herein alleged with malice or reckless indifference to the protected rights of Plaintiff and Monetary Relief class members. Plaintiff and class

members are thus entitled to recover punitive damages in an amount to be determined according to proof.

XII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff and the proposed classes pray for relief as follows:

1) Certification of the Injunctive Relief and Monetary Relief Classes as class actions under Rule 23 (b)(2) and (3), and designation of the Named Plaintiff Stephanie Odle as representative of the Injunctive Relief class and as representatives of the Monetary Relief class and their counsel of record as Class Counsel for both classes;

2) All damages which the Named Plaintiff and the Monetary Relief Class have sustained as a result of Defendant's conduct, including back pay, front pay, general and special damages for lost compensation and job benefits that they would have received but for the discriminatory practices of Defendant;

3) For Plaintiff and the Monetary Relief Class exemplary and punitive damages in an amount commensurate with Defendant's ability to pay and to deter future conduct;

4) A preliminary and permanent injunction against Defendant 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 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 Plaintiff and Injunctive Relief class members.

- 5) 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;
- 6) Costs incurred, including reasonable attorneys' fees, to the extent allowable by law;
- 7) Pre-Judgment and Post-Judgment interest, as provided by law; and
- 8) Such other and further legal and equitable relief as this Court deems necessary, just and proper.

XII. JURY DEMAND

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

Dated: October 28, 2011

Respectfully submitted,

By: /s/Hal K. Gillespie

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E-mail: josephgillespie@grwlawfirm.com

<p>By: <u>/s/Stephen Tinkler</u> Stephen Tinkler Tinkler Law Firm 309 Johnson Street Santa Fe, New Mexico 87501 Telephone: 505-983-9834 Fax: 505-983-9836</p>	<p>By: <u>/s/Merit Bennet</u> Merit Bennett BENNETT LAW FIRM 460 St. Michael's Drive, Suite 703 Santa Fe, New Mexico 87505 Telephone: 505-982-8533 Fax: 505-982-6698</p>
<p>By: <u>/s/Brad Seligman</u> Brad Seligman The Impact Fund 125 University Avenue Berkeley, CA 94710 Telephone: 510-845-3473 Fax: 510-845-3645</p>	<p>By: <u>/s/Joseph M. Sellers</u> Joseph Sellers COHEN MILSTEIN SELLERS & TOLL, PLLC 1100 New York Ave NW Washington, DC 20005 Telephone: 202-408-4600 Fax: 202-408-4699</p>

ATTORNEYS FOR PLAINTIFF

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Stephanie Odle on behalf of herself and all others similarly situated

(b) County of Residence of First Listed Plaintiff Cleveland

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Gillespie, Rozen & Watsky, PC, 3402 Oak Grove Ave., Ste., 200
Dallas, TX 75204, 214-720-2009**DEFENDANTS**

Wal-Mart, Inc.

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. § 2000e et seq.

Brief description of cause:

Sex Discrimination in Promotion Opportunities/Class Action**VII. REQUESTED IN COMPLAINT:**☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☒ Yes ☐ No**VIII. RELATED CASE(S) (See instructions) PENDING OR CLOSED:**

JUDGE _____

DOCKET NUMBER _____

DATE
10/28/2011SIGNATURE OF ATTORNEY OF RECORD
/s/Yona Rozen**FOR OFFICE USE ONLY**

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)."

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), Fed. R. Civ. P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers, or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress, or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity** Example U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, Fed. R. Civ. P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand, such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference cases that are related to this filing, if any. If a related case exists, whether pending or closed, insert the docket numbers and the corresponding judge names for such cases. A case is "related" to this filing if the case: (1) involves some or all of the same parties and is based on the same or similar claim; (2) involves the same property, transaction, or event; (3) involves substantially similar issues of law and fact; and/or (4) involves the same estate in a bankruptcy appeal.

Date and Attorney Signature. Date and sign the civil cover sheet.

Exhibit A

FAX COVER SHEET

DONALD E. CUMMINGS

Attorney at Law
2435 20th Street
P.O. Box 47
Lubbock, Texas 79408

(808) 762-8503
Fax # (808) 762-8564

TO: *U.S. EQUAL Emp. Opp. Comm.*
DATE: *10/28/99*
FAX NO.: *(915) 832-4026*

FROM: ☒ DONALD E. CUMMINGS
☐ Rene Tadlock, Legal Assistant

SUBJECT:

STEPHANIE M. ODE

CONFIDENTIALITY NOTICE:

The documents accompanying this telecopy transmission contain confidential information that is legally privileged. The information is intended only for the use of the recipient named above. If you have received this telecopy in error, please notify us immediately by telephone to arrange for return of the original documents to us, and you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this telecopied information is strictly prohibited.

HARD COPY Will Follow ☐ Will Not Follow ☒
NUMBER OF PAGES (including Cover Page): *5*

PLEASE CONTACT THIS OFFICE IF YOU DO NOT RECEIVE ALL THE PAGES
OR IF THERE IS A TRANSMISSION PROBLEM

DONALD E. CUMMINGS

Attorney at Law
2435 20th Street
P.O. Box 47
Lubbock, Texas 79408

(806) 762-8503
Fax # (806) 762-8564

October 22, 1999

U.S. Equal Employment Opportunity Commission
El Paso Area Office
4172 N. Mesa, Bldg. C, Suite 100
El Paso, Texas 78229

Via fax to: (915) 832-4026 and via
regular mail

Re: Charge of Discrimination - Stephanie M. Odle, Lubbock, Texas

Gentlemen:

I am representing Stephanie M. Odle, who has retained me to file a charge of discrimination against SAM'S CLUB, a Division of Wal-Mart, Inc. Due to certain time constraints relating to my client's situation, please consider this letter, which has been verified by my client, below, as a formal charge of discrimination against SAM'S CLUB.

The pertinent facts relating to my client and her charge are as follows:

1. Name of complaining party: Stephanie Odle
2. Name of employer: SAM'S CLUB
3. Address of employer: 4304 S. Loop 298
Lubbock, Texas 79407
4. Discrimination complained of: Under Title VII - sex/gender
discrimination
5. Date of birth of complaining
Party: 10/26/71
6. Social Security Number of
complaining party: 461-53-2305
7. Latest date that discrimination
occurred: 10/22/99
8. Earliest date that discrimination

occurred: 2/19/99

9. Statement of facts regarding discrimination charge:

Ms. Stephanie Odle began working for Sam's Club in November 1991 as an hourly Associate. Her beginning employment was at the Sam's Club location in Lubbock, Texas, the address of which is stated above. From there, she has been transferred to several different locations, but has recently been transferred back to Lubbock, Texas from Sherman, Texas. Her position at the Sherman Sam's Club was as Assistant Manager for Merchandise. Her position at the Lubbock Sam's Club has been as Assistant Manager for Sales and Marketing.

In connection with Ms. Odle's employment at the Sherman, Texas Sam's Club, she was discriminated against when she was required to move to Lubbock, Texas, and denied a promotion as a Co-Manager of the Tulsa, Oklahoma Sam's Club facility. This discriminatory act was based upon a charge made by Sam's Club supervisory personnel that she had circumvented some refund procedures in dealing with a customer. In fact, this procedure was not unusual, and her employment should not have been adversely affected.

The present situation involving Ms. Odle is that she has been at the Lubbock Sam's Club for approximately three months after she was required to transfer from Sherman, Texas. While she has been in Lubbock, she has undergone close scrutiny by the male managers of Sam's Club, which recently resulted in her being placed on administrative leave with pay, following a charge against her by the male managers that she had violated company policy when she had mis-rung a \$13.74 amount while she was instructing three hourly employees in a new procedure. This happened on October 16, 1999, and was all fully explained to them. There was no money missing nor any other type of loss to the store.

She was initially terminated on October 19, 1999 by the General Manager of the store, Duke Parish, and Larry Alderson, the Director of Operations, to whom Mr. Parish report to for the region. She was "reinstated" by Greg Spragg, Regional Vice President for Sam's Club, pending further investigation.

Ms. Odle has learned that another assistant manager is being brought to Lubbock from an Arizona Sam's Club, who had stepped down as a general manager of a store in order to move back to Lubbock. The normal contingent of assistant managers at a store is not more than four (4) and with this transfer, the store would have had five, including Ms. Odle. This individual is a

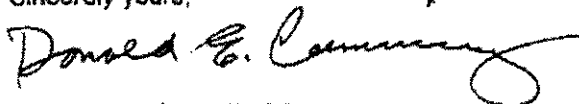
male who has family ties and other ties to the Lubbock area. Ms. Odle believes that the reason for her treatment is pretextual.

Ms. Odle has other evidence of discriminatory treatment of females that likewise indicate a pattern or practice of discrimination toward females in management positions.

Consequently, please consider this letter as a formal charge of discrimination against Sam's Club, a Division of Wal-Mart, Inc., in accordance with the facts and information as are provided herein.

Please note that I am faxing a copy of this letter to your offices for you to formally set up a file on this charge immediately. Please return a notification to me that you have received this letter and the charge number assigned to this matter. Additionally, please forward all correspondence pertaining to my client's charge to me at the above address, or contact me by telephone at the number on this letterhead.

Sincerely yours,




DONALD E. CUMMINGS
DEC:rt

STATE OF TEXAS §

COUNTY OF LUBBOCK §

BEFORE ME, the undersigned authority, on this day personally appeared STEPHANIE ODLE, who first being duly sworn by me stated that every statement contained in this letter is true and correct.


STEPHANIE M. ODLE

SWORN AND SUBSCRIBED BEFORE ME, by Stephanie M. Odle on this
the 22nd day of October, 1999.



Rene Tadlock
Notary Public in and for
the State of Texas

cc: Sam's Club, Lubbock, Texas
via fax to: (806) 793-0258

cc: Sam's Club Administrative Office
Bentonville, Ark - via fax to:
(501) 277-5991

Exhibit B

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

AGE
☐ FEPA
☒ EEOC

361A00154

Texas Human Rights Commission

and EEOC

State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.)

Ms. Stephanie Odle

HOME TELEPHONE (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

DATE OF BIRTH

3707 37th Street, Lubbock, TX 79412

10/26/1971

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

NUMBER OF EMPLOYEES, MEMBERS

TELEPHONE (Include Area Code)

Sam's Club

Cat. D (501 +)

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

4304 S. Loop 298, Lubbock, TX 79407

303

NAME

TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

☐ RACE☐ COLOR☒ SEX☐ RELIGION☐ NATIONAL ORIGIN☐ RETALIATION☐ AGE☐ DISABILITY☐ OTHER (Specify)DATE DISCRIMINATION TOOK PLACE
EARLIEST LATEST

05/20/1999 10/29/1999

☒ CONTINUING ACTION

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):

I. A. On May 20, 1999, I was forced to move from Sherman, Texas, to the Lubbock, Texas Store.

B. On May 20, 1999, I was denied a promotion as Co-manager of the Tulsa, Oklahoma Store.

C. On October 16, 1999, I was suspended and placed on administrative leave with pay, following a charge against me by the male managers that I had violated company policy when I had mis-rung a \$13.74 amount while I was instructing three hourly employees in a new procedure.

D. On October 19, 1999, I was terminated by the General Manager of the store, Duke Parish, and Larry Alderson, the Director of Operations, to whom Mr. Parish reports to for the region. A few days later I was reinstated by Gregg Spragg, Regional Vice President, pending further investigation.

E. On October 29, 1999, I was discharged from my job of Assistant Manager for Sales and Marketing.

II. A through D - No reason given for this treatment.

E. I was discharged by Greg Spragg, Regional Vice President. I was told that it was for "violation of company policy".

III. I believe that I was discriminated against because of my gender, female, in violation of Title VII of the Civil Rights Act of 1964, as

** Text is Continued on Attached Sheet(s) **

☐ I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the foregoing is true and correct.

Date

EEOC FORM 5 (Rev. 06-99)

Charging Party (Signature)

NOTARY - (When required by State or local laws)

I swear or affirm that I am a Notary Public and that it is true to the best of my knowledge and belief.

SIGNATURE

Stephanie Odle
SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(Month, day and year) 01-04-00

Donna Michelle Lange

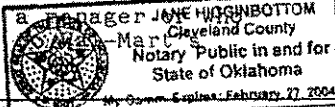
Nov 12 10:09 1999 CP Initials _____ Chg # 361A00154, Attachment Page 1

Equal Employment Opportunity Commission
Form 5 - Charge of Discrimination, Additional Text

amended, when I was subjected to adverse terms and conditions of employment, denied a promotion, disciplined, and discharged.

I also believe that I was retaliated against by being discharged after I complained of gender discrimination to the main office, in violation of Title VII, Section 704(a), of the Civil Rights Act of 1964, as amended.

Exhibit C

CHARGE OF DISCRIMINATION		<input type="checkbox"/> FEPA	AMENDED
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input checked="" type="checkbox"/> EEOC	361A00154
Texas Human Rights Commission		and EEOC	
State or local Agency, if any			
NAME (Indicate Mr., Ms., Mrs.)		HOME TELEPHONE (Include Area Code)	
Ms. Stephanie Odle			
STREET ADDRESS		CITY, STATE AND ZIP CODE	DATE OF BIRTH
3707 37th Street, Lubbock, TX 79412			10/26/1971
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME		NUMBER OF EMPLOYEES, MEMBERS	TELEPHONE (Include Area Code)
Sam's Club		Cat D (501 +)	
STREET ADDRESS		CITY, STATE AND ZIP CODE	COUNTY
4304 W. Loop 289, #8270, Lubbock, TX 79407			303
NAME		TELEPHONE NUMBER (Include Area Code)	
STREET ADDRESS		CITY, STATE AND ZIP CODE	COUNTY
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)		EARLIEST LATEST 05/14/1999 10/29/1999 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):			
<p>I. A. On May 14, 1999, I was suspended for five days pending an investigation concerning a refund I had made to a customer.</p> <p>B. On May 20, 1999, I was given the most severe form of discipline at Sam's Club even though management was aware that I did, in fact, give a \$250.00 refund to the customer at no loss to Sam's Club.</p> <p>C. On May 20, 1999, I was forced to move from Sherman, Texas to the Lubbock, Texas Store.</p> <p>D. On May 20, 1999, I was denied a promotion as Co-manager of the Tulsa, Oklahoma store.</p> <p>E. On October 16, 1999, I was suspended and placed on administrative leave with pay, following a charge against me by the male managers that I violated company policy when I misrung a \$13.74 amount while I was instructing three hourly employees in a new procedure.</p> <p>F. On October 19, 1999, I was terminated by the General Manager of the store, Duke Parish and Larry Alderson, the Director of Operations, to whom Mr. Parish reports for the region. A few days later I was reinstated by Gregg Spragg, Regional Vice President, pending further investigation.</p> <p>G. On October 29, 1999, I was discharged from my job of Assistant Manager for Sales and Marketing and was replaced by an existing male manager who transferred from an Arizona Sam's Club.</p> <p>H. The "glass ceiling" has been the common experience of all women throughout Wal-Mart who want to or apply to become a manager. I want to or apply to advance within management, due</p>			
<div style="text-align: right;">  </div>			
** Text is Continued on Attached Sheet(s) **			
<input type="checkbox"/> I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY (When necessary, See State and Local Requirements) I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
I declare under penalty of perjury that the foregoing is true and correct.		SIGNATURE OF COMPLAINANT	
Date 4/3/00 Charging Party (Signature) Stephanie Odle		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (year)	

EEOC FORM 5 (Rev. 06/99)



FILE COPY

Mar 14 09:28 2000 CP Initials _____ Chg # , Attachment Page 1

Equal Employment Opportunity Commission
Form 5 - Charge of Discrimination, Additional Text

longstanding practice of not treating women equally with regard to promotions to management positions.

II. A. through D.-- No reason given for this treatment.
E. I was discharged by Greg Spragg, Regional Vice President. I was told that it was for "violation of company policy."

III. I believe that I was discriminated against because of my gender, female in violation of Title VII of the Civil Rights Act of 1964, as amended, when I was subjected to adverse terms and conditions of employment, denied a promotion, disciplined and discharged.

I also believe that I was retaliated against by being discharged after I complained of gender discrimination to the main office, in violation of Title VII, Section 704(a), of the Civil Rights Act of 1964, as amended.

Women are discriminated against because of their gender, female, in violation of Title VII of the Civil Rights Act of 1964, as amended, and are subjected to adverse terms and conditions of employment.

RECEIVED
APR 4 2 42 PM '00
U.S. DEPT. OF JUSTICE

Exhibit D

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE

(Issued on request)

To: Stephanie Odle
3707 37TH STREET
LUBBOCK, TX 79412

From:
EQUAL EMPLOYMENT OPPORTUNITY COMM.
El Paso Area Office
4171 N. Mesa, Bldg.C, Ste. 100
El Paso, Texas 79902

☐ On behalf of a person aggrieved whose identity is **CONFIDENTIAL**
(29 C.F.R. 1601.7(a))

Charge Number

361A00154

EEOC Representative

Cathy Blanco

Telephone Number

(915) 832-4001

(See the additional information attached to this form)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue. It is issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA must be filed in federal court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

- ☒ More than 180 days have passed since the filing of this charge.
☐ Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of the charge.
☒ The EEOC is terminating its processing of this charge.
☐ The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- ☐ The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
☐ The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of your charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required). EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit based on this charge, please send a copy of your court complaint to this office.

On Behalf of the Commission

Jose Suarez for
Robert Calderon, Director

5-31-11
(Date)

Enclosure(s)

cc: SAM'S CLUB
4304 S. LOOP 298
LUBBOCK, TX 79407

