SUPREME COURT OF THE UNITED STATES

Syllabus

WAL-MART STORES, INC. *v.* DUKES ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 10–277. Argued March 29, 2011—Decided June 20, 2011

Respondents, current or former employees of petitioner Wal-Mart, sought judgment against the company for injunctive and declaratory relief, punitive damages, and backpay, on behalf of themselves and a nationwide class of some 1.5 million female employees, because of Wal-Mart's alleged discrimination against women in violation of Title VII of the Civil Rights Act of 1964. They claim that local managers exercise their discretion over pay and promotions disproportionately in favor of men, which has an unlawful disparate impact on female employees; and that Wal-Mart's refusal to cabin its managers' authority amounts to disparate treatment. The District Court certified the class, finding that respondents satisfied Federal Rule of Civil Procedure 23(a), and Rule 23(b)(2)'s requirement of showing that "the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." The Ninth Circuit substantially affirmed, concluding, *inter alia,* that respondents met Rule 23(a)(2)'s commonality requirement and that their backpay claims could be certified as part of a (b)(2) class because those claims did not predominate over the declaratory and injunctive relief requests. It also ruled that the class action could be manageably tried without depriving Wal-Mart of its right to present its statutory defenses if the District Court selected a random set of claims for valuation and then extrapolated the validity and value of the untested claims from the sample set.

Held:

   1. The certification of the plaintiff class was not consistent with Rule 23(a). Pp. 8–20.

      (a) Rule 23(a)(2) requires a party seeking class certification to

prove that the class has common "questions of law or fact." Their
claims must depend upon a common contention of such a nature that
it is capable of classwide resolution—which means that determina-
tion of its truth or falsity will resolve an issue that is central to the
validity of each one of the claims in one stroke. Here, proof of com-
monality necessarily overlaps with respondents' merits contention
that Wal-Mart engages in a pattern or practice of discrimination.
The crux of a Title VII inquiry is "the reason for a particular em-
ployment decision," *Cooper* v. *Federal Reserve Bank of Richmond*, 467
U. S. 867, 876, and respondents wish to sue for millions of employ-
ment decisions at once. Without some glue holding together the al-
leged reasons for those decisions, it will be impossible to say that ex-
amination of all the class members' claims will produce a common
answer to the crucial discrimination question. Pp. 8–12.

    (b) *General Telephone Co. of Southwest* v. *Falcon*, 457 U. S. 147,
describes the proper approach to commonality. On the facts of this
case, the conceptual gap between an individual's discrimination claim
and "the existence of a class of persons who have suffered the same
injury," *id.*, at 157–158, must be bridged by "[s]ignificant proof that
an employer operated under a general policy of discrimination," *id.,*
at 159, n. 15. Such proof is absent here. Wal-Mart's announced pol-
icy forbids sex discrimination, and the company has penalties for de-
nials of equal opportunity. Respondents' only evidence of a general
discrimination policy was a sociologist's analysis asserting that Wal-
Mart's corporate culture made it vulnerable to gender bias. But be-
cause he could not estimate what percent of Wal-Mart employment
decisions might be determined by stereotypical thinking, his testi-
mony was worlds away from "significant proof" that Wal-Mart "oper-
ated under a general policy of discrimination." Pp. 12–14.

    (c) The only corporate policy that the plaintiffs' evidence convinc-
ingly establishes is Wal-Mart's "policy" of giving local supervisors
discretion over employment matters. While such a policy could be
the basis of a Title VII disparate-impact claim, recognizing that a
claim "can" exist does not mean that every employee in a company
with that policy has a common claim. In a company of Wal-Mart's
size and geographical scope, it is unlikely that all managers would
exercise their discretion in a common way without some common di-
rection. Respondents' attempt to show such direction by means of
statistical and anecdotal evidence falls well short. Pp. 14–20.

    2. Respondents' backpay claims were improperly certified under
Rule 23(b)(2). Pp. 20–27.

    (a) Claims for monetary relief may not be certified under Rule
23(b)(2), at least where the monetary relief is not incidental to the
requested injunctive or declaratory relief. It is unnecessary to decide

whether monetary claims can ever be certified under the Rule because, at a minimum, claims for individualized relief, like backpay, are excluded. Rule 23(b)(2) applies only when a single, indivisible remedy would provide relief to each class member. The Rule's history and structure indicate that individualized monetary claims belong instead in Rule 23(b)(3), with its procedural protections of predominance, superiority, mandatory notice, and the right to opt out. Pp. 20–23.

(b) Respondents nonetheless argue that their backpay claims were appropriately certified under Rule 23(b)(2) because those claims do not "predominate" over their injunctive and declaratory relief requests. That interpretation has no basis in the Rule's text and does obvious violence to the Rule's structural features. The mere "predominance" of a proper (b)(2) injunctive claim does nothing to justify eliminating Rule 23(b)(3)'s procedural protections, and creates incentives for class representatives to place at risk potentially valid monetary relief claims. Moreover, a district court would have to reevaluate the roster of class members continuously to excise those who leave their employment and become ineligible for classwide injunctive or declaratory relief. By contrast, in a properly certified (b)(3) class action for backpay, it would be irrelevant whether the plaintiffs are still employed at Wal-Mart. It follows that backpay claims should not be certified under Rule 23(b)(2). Pp. 23–26.

(c) It is unnecessary to decide whether there are any forms of "incidental" monetary relief that are consistent with the above interpretation of Rule 23(b)(2) and the Due Process Clause because respondents' backpay claims are not incidental to their requested injunction. Wal-Mart is entitled to individualized determinations of each employee's eligibility for backpay. Once a plaintiff establishes a pattern or practice of discrimination, a district court must usually conduct "additional proceedings . . . to determine the scope of individual relief." *Teamsters* v. *United States*, 431 U. S. 324, 361. The company can then raise individual affirmative defenses and demonstrate that its action was lawful. *Id.*, at 362. The Ninth Circuit erred in trying to replace such proceedings with Trial by Formula. Because Rule 23 cannot be interpreted to "abridge, enlarge or modify any substantive right," 28 U. S. C. §2072(b), a class cannot be certified on the premise that Wal-Mart will not be entitled to litigate its statutory defenses to individual claims. Pp. 26–27.

603 F. 3d 571, reversed.

SCALIA, J., delivered the opinion of the Court, in which ROBERTS, C. J., and KENNEDY, THOMAS, and ALITO, JJ., joined, and in which GINSBURG, BREYER, SOTOMAYOR, and KAGAN, JJ., joined as to Parts I and III.

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GINSBURG, J., filed an opinion concurring in part and dissenting in part, in which BREYER, SOTOMAYOR, and KAGAN, JJ., joined.