

Wal-Mart Class Action Earns Plaintiff's Attorneys \$45.7 Million

By Anique Gonzalez

Following a \$188 million verdict that was awarded to Wal-Mart employees in October 2006 when the company was found guilty of failing to pay them for work they performed off the clock, a Philadelphia judge has now told the retailer that it must also pay \$45.7 million in attorney fees. In addition to the \$45.7 million, which denotes 31% of the plaintiffs' monetary award, Wal-Mart is also responsible for covering \$3.6 million in expenses as well as \$10 million in prejudgment interest. .

After a five-year-long legal battle, Wal-Mart was ordered to pay \$187,648,589 to plaintiffs in *Hummel v. Wal-Mart Stores Inc.* who were not compensated for missed rest breaks and work performed off the clock. (This award did not, however, apply to missed meal breaks.) The original verdict of \$78.5 million, awarded for compensatory damages, was thereafter increased by \$62 million in statutory damages as a result of the Wage Payment and Collection Law. According to this law, employees who are not paid for earned wages are also entitled to liquidated damages as well as statutory. In total the class comprised 187,000 current and former Wal-Mart employees.

During the trial Wal-Mart's lead attorney, Neal Manne of Susman Godfrey, asked that the jury only award \$7 million to the plaintiffs, citing what he believed to be problems with data used by the plaintiffs' counsel. Additionally, Wal-Mart's counsel argued at the time that employees chose to skip their breaks.

Soon after the verdict was read, Wal-Mart's attorneys indicated that they would appeal. They subsequently filed several post-trial motions.

In the case's most recent development, Judge Mark I. Bernstein, who presided over the trial, said that the plaintiffs' attorneys demonstrated that the time and effort put into the case justified the nearly \$46 million in compensation, which will be divided among the 26 attorneys and 17 paralegals who contributed to the case.

Responding to the decision, lead class counsel Michael Donovan of Donovan Searles said, "We were gratified by the fact that he recognized that we were as capable professionally and as worthy of a fair fee award as...the defense counsel were in their defense."

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“The contingency factor in this complex case justifies an award of at least one-third of the recovery. Plaintiffs’ counsel has a high degree of success in this case. Plaintiffs won a verdict of \$151,164,277.35 on a claim that was actively and zealously contested on every discovery, trial, and post-trial issue,” Bernstein said in his opinion.

“Plaintiffs’ high degree of success has benefited 186,000 class members, restoring them to earnings they had earned. Plaintiffs’ success has delivered a message to employees and employers across the commonwealth, which proclaims that work without pay is not tolerated in Pennsylvania,” he added.

In addition to awarding the plaintiffs’ counsel hefty compensation, Bernstein also rejected all of Wal-Mart’s post-trial motions.

On the Net

Wal-Mart

www.walmart.com

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