

HONORABLE TERRY LUKENS

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To	Beth Terrell	From	Jaye Woz		
Co./Dept	Tousley Brain	Co			
Phone #			Phone #	296-9140	
Fax #	482-2992	Fax #			

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

DEBRA BARNETT, GEORGIE HARTWIG,
and BELLA BLAUBERGS, on their own
behalf and on behalf of all others similarly
situated,

Plaintiffs,

v.

WAL-MART STORES, INC., a Delaware
corporation, d/b/a WAL-MART, d/b/a SAM'S
CLUB, d/b/a SUPERCENTER,

Defendant.

No. 01-2-24553-8 SEA

**ORDER GRANTING CLASS
CERTIFICATION IN PART**

This matter, after being duly noticed, came on regularly for hearing before the
Honorable Terry Lukens on May 14, 2004, on Plaintiffs' Motion for Class Certification.
Beth E. Terrell and Toby J. Marshall of Tousley Brain Stephens PLLC and Richard T. Seymour
and Karin Kramer of Lieff, Cabraser, Heimann & Bernstein, LLP appeared on behalf of
Plaintiffs. Michael Reiss, Michael J. Killeen, and Kathryn S. Loppnow of Davis Wright
Tremaine LLP appeared on behalf of Defendant Wal-Mart Stores, Inc. ("Wal-Mart").

The Court, having reviewed the pleadings, heard the oral argument of the parties, and
being otherwise fully informed,

1 For purposes of this Order, claims 1 and 2 are referred to as the Contract Claims, claims
2 3 through 7 are referred to as the Labor Claims, and claim 8 is referred to as the Consumer
3 Claim. In essence, Plaintiffs allege that Wal-Mart has engaged in a comprehensive course of
4 wage and hour abuse in Washington, depriving tens of thousands of employees of the breaks
5 and pay to which they are entitled. For their alleged injuries, Plaintiffs seek statutory damages,
6 exemplary damages, interest, injunctive and declaratory relief, attorneys' fees, and costs. Wal-
7 Mart denies Plaintiffs' claims and opposes class certification.

8 Where, as here, class certification is sought at the early stages of the litigation, factual
9 allegations in the pleadings are assumed to be true. *Miller v. Farmer Bros. Co.*, 115 Wn. App.
10 815, 820, 64 P.3d 49 (2003). Thus, this Court will not attempt to resolve material factual
11 disputes or make any inquiry into the merits of the claims. *See id.*

12 **C. The Requirements for Class Certification Are Satisfied**

13 A plaintiff seeking class certification must satisfy the requirements of Civil Rule 23(a)
14 and (b). Rule 23(a) enumerates the following four prerequisites to a class action: (1) the class
15 is so numerous that joinder of all members is impracticable; (2) there are questions of law or
16 fact common to the class; (3) the claims or defenses of the representative parties are typical of
17 the claims or defenses of the class; and (4) the representative parties will fairly and adequately
18 protect the interests of the class. CR 23(a).

19 In addition to the criteria set forth in Rule 23(a), a plaintiff seeking class certification
20 must satisfy one of the three subsections of Rule 23(b). CR 23(b). Though Plaintiffs allege in
21 their Third Complaint that the requirements of both Rule 23(b)(2) and 23(b)(3) are satisfied,
22 Plaintiffs presently seek certification under Rule 23(b)(3) only. Pursuant to this subsection,
23 certification is appropriate if the court finds as follows: (1) that the questions of law or fact
24 common to the class predominate over any questions affecting only individual members; and
25 (2) that a class action is superior to other available methods for the fair and efficient
26 adjudication of the controversy. CR 23(b)(3).