



THE DISTRICT SENTINEL

Two Losses for Bosses—SCOTUS Rules Against Walmart, Wells Fargo in Class Action Suits

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April 4, 2016

The Supreme Court made more decisions unfavorable to corporate executives in the wake of Antonin Scalia's death.

Justices declined on Monday to hear appeals by Walmart and Wells Fargo in moves that upheld two nine-figure class action judgments that went against the multinational giants.

Walmart had been ordered to pay \$150 million to 187,000 Pennsylvania workers for wage theft that occurred between 1998-2006. The Pennsylvania Supreme Court had sided with the employees in 2014, ruling that they were forced to work off-the-clock and denied breaks. Wells Fargo had been ordered by a federal appellate judge in 2014 to pay California consumers \$203 million, for misleading them on overdraft policies in violation of state consumer protection laws. That ruling upheld a 2010 District Court decision.

The cases were decided less than two weeks after the Supreme Court ruled against another class action defendant, Tyson Foods. On March. 22, Justices ruled 6-2 that the meat producer must pay thousands of workers \$5.8 million. Tyson employees also said they were victimized by wage theft -- they had not been compensated for the time it took them to prepare for shifts.

Reuters noted that the Tyson case had been "closely watched" by corporate America due to its centering around the use of statistics in awarding damages. "Critics in the business community have described such use of statistics as 'trial by formula' that violates defendants' due process rights, instead of assessing each claim individually for the more than 3,000 current and former employees who are suing," the wire service reported.

Conservatives often accuse class action litigants of frivolity. The Cato Institute, for example, says that the lawsuits "are increasingly becoming tools to enrich lawyers and harass businesses."

In 2011, the Supreme Court set an important precedent in class action matters, by ruling against 1.5 million women who had claimed Walmart had discriminated against them, when setting pay. A 5-4 majority found that "the women had distinct and different employment experiences and thus lacked the commonality needed to proceed as a class," *The Progressive Pulse* said after the Tyson case.

The climate for class action defendants, however, suddenly changed on Feb. 13, when the author of the 2011 Walmart opinion, Justice Scalia, died. Just two weeks later, Dow Chemical said that it would settle an \$835 million class action lawsuit, centered around price-fixing allegations.

"Dow said in a statement that Scalia's death and the raging political fight over naming his successor meant an 'increased likelihood for unfavorable outcomes for business involved in class action suits,'" Reuters reported in February.