

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

BETTY DUKES; PATRICIA SURGESON;  
 CLEO PAGE; DEBORAH GUNTER;  
 KAREN WILLIAMSON; CHRISTINE  
 KWAPNOSKI; EDITH ARANA,

*Plaintiffs-Appellees,*

v.

WAL-MART, INC.,

*Defendant-Appellant.*

No. 04-16688

D.C. No.

CV-01-02252-MJJ

BETTY DUKES; PATRICIA SURGESON;  
 CLEO PAGE; DEBORAH GUNTER;  
 KAREN WILLIAMSON; CHRISTINE  
 KWAPNOSKI; EDITH ARANA,

*Plaintiffs-Appellants,*

v.

WAL-MART, INC.,

*Defendant-Appellee.*

No. 04-16720

D.C. No.

CV-01-02252-MJJ

ORDER

Filed February 13, 2009

**ORDER**

KOZINSKI, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.

Judges McKeown, Rawlinson and Bybee did not participate in the deliberations or vote in this case.



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