

# No Class Action in Wal-Mart Gender Case

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rights to be free from employment discrimination. The ruling does not, however, address whether Wal-Mart committed sex discrimination against its female employees. Rather, it addresses how women inside Wal-Mart must press ahead with their claims.

The attorneys noted they plan to assist the women with individual claims against Wal-Mart, either in the courts or with the U.S. Equal Employment Opportunity Commission.

In its ruling, the high court reversed a decision by the Ninth Circuit Court of Appeals and said the case could not be certified as a class action because the plaintiffs did not meet the critical legal standard of commonality. The court was split 5 to 4 in its ruling on commonality, with the dissent penned by Justice Ruth Bader Ginsburg.

In the majority opinion, penned by Justice Antonin Scalia, the court said the plaintiffs "wish to sue about literally millions of employment decisions at once. Without some glue holding the alleged reasons for all those decisions together, it will be impossible to say that examination of all class members' claims for relief will produce a common answer to the crucial question of 'Why was I disfavored?'"

Wal-Mart operates about 3,400 stores. Each store has 40 to 53 separate departments and 80 to 500 staff positions, according to court documents.

Corporate lawyers hailed the Supreme Court's ruling as a landmark decision, saying it will set the bar higher

Betty Duken



PHOTO BY ALEX WONG/GETTY IMAGES

for certifying class action lawsuits and protect corporations from massive, costly class action litigation.

"This is without a doubt the most important class action case in more than a decade," said Robin Conrad, executive vice president of the U.S. Chamber of Commerce's National Chamber Litigation Center. "Today's ruling reinforces a fundamental principle of fairness in our court systems: that defendants should have the opportunity to present individualized evidence

to show they complied with the law. Too often the class action device is invoked and abused to force businesses to choose between settling meritless lawsuits or potentially facing financial ruin."

On the other side, employment discrimination and civil rights attorneys said the ruling could make it more difficult for female workers at large corporations to bring sexual discrimination lawsuits.

"The bottom line is anyone who looks into investing time and money into filing a class-action case will now have to look more closely at whether it can overcome the obstacles the Supreme Court has now thrown in the way," said Sara Kane, partner in Valli Kane & Vagnini, which handles employment discrimination and civil rights cases.

David Sanford, a partner with Sanford Wittels & Heister, said, "The five-member majority has handed corporations a 'get out of jail free card' they don't deserve, insulating large corporations from accountability if they are merely 'too big' or if they simply institute a policy against having uniform employment practices. Ironically, the companies now the most insulated from liability are those capable of causing the most harm."

In a separate legal aspect of the case, the court was unanimous in its finding that the plaintiffs could not sue for back pay in the case. Had they succeeded in proving commonality, the plaintiffs in the case still would not have been able to sue for back wages.

"The most important thing the court said was you cannot get monetary damages in suits for injunctive relief," said John Coffey Jr., professor and director of the Center on Corporate Governance at Columbia University Law School.

## ENK, M.Seventy Team for Shows

MILAN — ENK International is partnering with Italy's M.Seventy Srl trade show organization, which schedules White, to hold joint exhibitions in New York and Milan eight times a year (four men's and four women's). The licensing agreement was signed for three years and the first show will bow in February 2012.

The name of the collaboration and the number of exhibitors is still to be determined, but a press conference is to be held in Milan today to announce the partnership.

"White is a great show, one of the best trade show operations, with carefully selected brands," ENK president Tom Nastos told WWD. "[White founders and owners Massimiliano and Brenda Bizzi] have done an amazing job, it's well-managed and well-curated, and retailers have an amazing experience. It's a very, very productive show," he said.

Nastos described this as a "natural progression" for ENK, given that the city of Milan "is a fashion capital," with "so many talented companies in men's, women's, children's, footwear and accessories — and Italians love fashion." In addition to ENK NYC and ENK WSA, the group lists Accessorie Circuit and Fashion Coterie among some of its shows.

Bizzi said the agreement offers White exhibitors the opportunity to approach the American market. "ENK has a huge organization, it's a guarantee for us, as we need a strong partner," said Bizzi at White's headquarters in Milan. "This is a long-term business project, in line with our strategy to internationalize White." The trade show, which was launched in 2002 with 90 exhibitors, counted 350 companies showcasing their ready-to-wear and accessories collections in February. "White is known for its extensive research, niche brands and Made in Italy quality. ENK and White are complementary and synergic, and the agreement will benefit both organizations," added Bizzi, anticipating about 100 brands traveling to New York.

Nastos said ENK has teamed with government associations in the past, but "nothing of this kind. The level of collaboration is a first."

Nastos and Bizzi are working on further expanding together in other countries next year.

— LUISA ZARGANI

## Belstaff Taps Cooper as Creative Boss

By MARC KARINZADEH

BELSTAFF HAS TAPPED Martin Cooper as chief creative officer, a new position at the English outerwear brand, which was acquired by Labelux Group earlier this month with additional investments by Harry Slater and Tommy Hilfiger.

Cooper will play an instrumental role at Belstaff, which the new owners are planning to turn into a global luxury lifestyle brand. Cooper comes to Belstaff with an extensive background in the outerwear category. He was at Burberry Group for 16 years and most recently served as vice president and design director for outerwear. In this role, Cooper worked closely with Burberry chief creative officer Christopher Bailey in London, overseeing design, production, and manufacturing of the brand's global outerwear. He also played a key role in the launch of Burberry Sport and Art of the Trench.

He will report to Slater, who, as reported, became Belstaff's chief executive officer as part of his investment. Hilfiger serves as a business consultant and member of Belstaff's advisory team and board.

"Everything is fortuitous," Slater said on Monday. "When I decided to be a part of this brand, Martin was the first person someone introduced me to. I couldn't dream of a

Martin Cooper



PHOTO BY JEFFREY MANN

better fit than for Martin to join Belstaff, which is primarily an outerwear business, after 16 years in charge of outerwear for Burberry."

Slater also cited Cooper's design sensibility coupled with his understanding of the business and manufacturing side as reasons he is suited for the job. "What is so wonderful about the brand that we bought is that it has a great archive," Slater said. "Martin has been at a brand for 16 years and has gone through the transition of taking a brand from its origin and updating it so that it still stays true to its past but current in its environment."

Cooper, 45, started his career working in the women's design studio at Calvin Klein Collection before moving to Fairbrooke Enterprises as design director for the licensed Calvin Klein and Perry Ellis Coats business. After living in London for several years, he will now be based in New York.

Belstaff was founded in 1924 with waxed cotton clothes for the motorcycling industry. Labelux, Slater and Hilfiger plan to reestablish Belstaff as a luxury

lifestyle brand starting with the fall 2012 season.

"Belstaff has a wonderful history and legacy," Cooper said. "It has incredible potential to be one of the great brands of the world, and I think there is a wonderful synergy between myself and this brand. I specialize in outerwear — it's been the bulk of my career — and Belstaff has been steeped in the outerwear tradition. I think there is a greater story that can be told at Belstaff."

## Guess' Maurice Marciano to Retire in January

MAURICE MARCIANO, chairman and co-founder of Guess Inc., will retire at the conclusion of his current employment contract on Jan. 23, the end of the company's current fiscal year.

Marciano, 62, who founded Guess with his brothers Paul, Armand and Georges in 1981, will move to the post of non-executive chairman at that time. The company said that, as agreed upon earlier, Marciano will begin a two-year consulting arrangement upon his retirement, including the provision of advice and counsel to Paul Marciano, 59, the company's chief executive officer.

"I am proud of the work we have done and of the strong management team that we have assembled," Maurice Marciano said. "As chairman of the board, I will continue to oversee the strategy of the company as well as its expansion and well being."

Maurice Marciano has served as chairman since 2007 and for eight years prior to that shared the titles of chairman and CEO with Paul Marciano.

Originally among a large number of Los Angeles-based vendors of high-end denim, Guess in 1990 set out a strategy, highly controversial at the time, to become more vertical and less dependent on department store business. In the fiscal year ended last January, net income increased 10.3 percent, to \$289.5 million, as revenues grew 10.9 percent to \$2.49 billion. North American retail operations accounted for 43 percent of revenues while wholesale activity on the continent, once the bulk of the business, accounted for just 7.3 percent of volume.

As of April 30, the company owned 686 stores worldwide in addition to 735 Guess stores operated through third-party arrangements.

— ARNOLD J. KARR