



New Bill Introduced in the House - Equal Employment Opportunity Restoration Act - Would Overturn Dukes Ruling

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On June 20, 2011, the United States Supreme Court decided the landmark case of Wal-Mart Stores Inc. v. Dukes which significantly impacted enforcing anti-discrimination laws (as well as other laws) by way of class actions.

One year later, both Al Franken, D-Minn., and U.S. Rep. Rosa DeLauro, D-Conn., introduced the Equal Employment Opportunity Restoration Act.

If enacted, the House version of the bill, (a corresponding bill has been introduced in the Senate) which seeks to restore the effective use of group actions for claims related to the Civil Rights Act, the Americans with Disabilities Act and other anti-discrimination statutes, will repeal the Dukes ruling requiring workers to demonstrate company-wide discrimination policies at the class certification stage, thus liberalizing the standards under which individuals may pursue relief on behalf of a group in discrimination lawsuits.

Specifically, the Equal Employment Opportunity Restoration Act would:

- provide an alternative mechanism for workers to join together to enforce their rights to a discrimination-free workplace;
- clarify that workers can challenge the unfettered discretion of supervisors in their subjective decision-making to the same extent as other employment practices;
- ensure that an employers' written nondiscrimination policies are only relevant in determining if a group action can move forward when the policies have been consistently and effectively implemented; and
- restore courts' discretion to determine the correct method for assessing how victims of discrimination should be made whole.

Stay tuned...we will be tracking.