

Wal-Mart Stores Settle Wage, Hour Lawsuits

Analyst, author hail action as company learning from mistakes

Last updated Tuesday, December 23, 2008 6:39 PM CST in Business

By [Lana F. Flowers](#)

THE MORNING NEWS

Employees nationwide who claimed they weren't paid for meal or rest breaks will get an unexpected Christmas present from Bentonville-based Wal-Mart Stores Inc.

The retailer announced late Tuesday afternoon it will settle 63 of 73 pending wage and hour class action lawsuits.

The settlements are pending court approval, but could cost up to \$640 million. The company will record an after-tax charge of \$250 million, or six cents per share, in the retailer's fourth quarter.

The potential settlements include the only wage and hour class action lawsuit pending in Arkansas, *Works v. Wal-Mart*, to be heard in Miller County Circuit Court.

The amount each wronged employee might get from the settlements could not be determined Tuesday afternoon. Attorneys Franklin Azar, who represented employees in 14 states, and Carolyn Beasley Burton, who handled 35 cases consolidated in Nevada, did not return telephone messages left at their offices.

An analyst and a former Wal-Mart human resources guru praised the settlements as a positive move for the company.

"I think it is an indication on the part of the company of recognizing that managers made mistakes and that the best way to take care of mistakes is to fix them," said Michael

Bergdahl. He has written two books about Wal-Mart and has 26 years of human resources experience, including a stint as a human resources employee at Wal-Mart's Bentonville headquarters.

With more than 7,000 stores and managers nationwide, mistakes will happen in a company of Wal-Mart's size, Bergdahl said.

"The stores were taught all the way back to (founder) Sam Walton to operate autonomously, as if they were small, self-contained businesses," Bergdahl said.

Wal-Mart needs to listen to employees and correct problems on its own, Bergdahl said, as responding to lawsuits about wages "is a breakdown, there is no doubt about that."

Besides, he noted, payroll records would clearly indicate whether Wal-Mart was "in the right or in the wrong."

The company appeared ready to fight some wage and hour lawsuits, including one now on the settlement list.

Hale v. Wal-Mart was set for trial in the Circuit Court of Jackson County, Mo., in the Kansas City area, on June 15.

Wal-Mart in an early December quarterly filing with the U.S. Securities and Exchange Commission stated "the Company believes that it has substantial factual and legal defenses to the claims at issue."

A settlement in the case, and the others, is a good sign, Bergdahl said.

"They (Wal-Mart) are smart about learning from their mistakes, admitting when they are wrong, correcting the issues and moving forward," he said.

Under the proposed settlement, the retailer promises to "use various electronic systems and other measures" to comply with

the company's own wage and hour policies and federal and state laws.

Richard Hastings, consumer strategist at Global Hunter Securities based in Newport Beach, Calif., said the settlement announcement was good news for stockholders.

Settlement costs will be "a one-time, nonrecurring item and has no impact on the core of the business," Hastings said. "It reflects older issues that needed to be put behind them."

Five of the lawsuits date to 2000, with the more recent cases filed in 2005 through 2007.

Hastings said he expects Wal-Mart's December sales to be strong and fourth-quarter earnings to be healthy, while the settlement is a "transitional accounting event" without lasting impact on Wal-Mart's core business.

Wal-Mart Watch, a Washington, D.C.-based lobbying group, used the settlement announcement as a chance to tout labor unions.

"Wal-Mart is scared and is throwing dead weight overboard to lighten its load. The company's decision to settle these cases so suddenly is clearly driven by the knowledge that having such cases pending is strong evidence for the need for the Employee Free Choice Act.

"If these millions of workers had been allowed union representation, they never would have had to hire lawyers and wait years to get their paychecks," Wal-Mart Watch said in a statement posted on its Web site.

Shares of Wal-Mart (NYSE: WMT) closed Tuesday at \$55.29, then rose incrementally to \$55.30 in after-hours trading. The stock price still was off 71 cents from Monday's close.

The share price ranged from a low of \$55.17 to a high of \$56.40 in the past 52 weeks.

