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O'Melveny Partners Apalla Chopra, Richard Goetz Offer Commentary on the Supreme Court Opinion in Wal-Mart v. Dukes

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MEDIA ADVISORY

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WHAT: Two O'Melveny & Myers LLP partners, Apalla Chopra, Chair of the Labor and Employment Practice, and Richard Goetz, Chair of the Class Actions, Mass Torts and Insurance Litigation Practice, offer the following comments on today's US Supreme Court ruling that overturned class certification for a group of women who alleged Wal-Mart Stores Inc. engaged in gender discrimination. The Court ruled that the group did not have enough in common to be certified as a class action under Rule 23(a)(2) and the worker's back pay claims were improper under Rule 23(b)(2).

WHY:

Chopra: "The Court's decision provides a material check against the ease with which some class actions are certified. The Court held that claims for individualized relief are improper in a Rule 23(b)(2) class. The Court also stressed that the commonality requirement of Rule 23(a)(2) cannot be satisfied by creative class definitions. Instead, a plaintiff must demonstrate

a 'common contention' that is actually 'capable of classwide resolution.' The Court, in addition, expressly disproved of statistical extrapolation methods which deny defendants the right to raise individual defenses, and questioned the usefulness of isolated anecdotes in putative class actions."

Goetz: "The opinion provides a strong defense against several of the plaintiff bar's creative attempts to broaden class actions. Perhaps, most importantly, it says it is not enough for plaintiffs just to rely on vague allegations that all class members were similarly treated. Plaintiffs have to show they have common, real evidence to support their claims and that the evidence can be adjudicated on a classwide basis. And for this type of claim -- a 23(b)(2) class -- the Court said the plaintiff must show a single, indivisible remedy would provide relief to each class member. That is a big hurdle for many of the claims we see, even those not nearly as broad as those against Wal-Mart."

WHO: Chopra heads up the Labor and Employment Practice firmwide and has been recognized nationwide as a "Woman Worth Watching" by the *Diversity Journal*, a top labor and employment lawyer by the *Daily Journal*, and a "Super Lawyer" in a survey conducted by Law & Politics Media Inc. Goetz is chair of the firmwide Class Actions, Mass Torts and Insurance Litigation Practice, which has been named a "Leading Practice" by Chambers USA in 2007, 2008, 2009, 2010, and 2011. Goetz also is a recognized authority who frequently lectures, publishes, and edits scholarly articles on class action, insurance, unfair competition, and product liability litigation.

Feel free to use these quotes in your coverage. If you would like to interview Chopra or Goetz, please contact Julie Fei at the numbers listed above.

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