
Class Certification: the End or just the beginning?

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Actually not a bulldog.

“Now this is not the end. It is not even the beginning of the end. But it is, perhaps, the end of the beginning.”

-- Winston Churchill, 1942

Introduction & overview

- A war story
- What is he talking about? And why should I care?
- Overview of presentation:
 - The setting & the issues: *Wal-Mart* and its reach
 - Caselaw developments
 - Thesis & illustration

Wal-Mart & its reach

- Class actions from 30,000 feet
- Fed. R. Civ. P. 23
 - 23(a)(2)
 - 23(b)(3)
 - Manageability and ascertainability
- *Wal-Mart*
- *Tyson Foods*
- Types of cases

Wal-Mart implications and developments

- The reach of *Wal-Mart*
- Case examples & developments
- Washington cases
- Where are we going with this: *Epic Systems*

A(nother) war story:

Arredondo v. Delano Farms

Arredondo v. Delano Farms

- Thesis
- Setting, claims, size of class & the issue(s)
- Filed 2009
- Certified 2011; issues avoided in certification ruling
- Motion to de-certify & joint employer trial
- Renewed motion to de-certify & outcome
- Litigation of trial plan, discovery (and arguments for discovery)
- The finale and the denouement

Core arguments, themes & the thesis again

- Plaintiff's core arguments:
 - Something bad happened
 - There is no other way to redress the wrong
 - Individual issues can be addressed as damages, or in mini-trials, or administratively
- Defendants' core arguments:
 - Lack of uniformity defeats certification . . . And failing that
 - Manageability is always an issue: trial plan
 - (Certification decisions are interlocutory and subject to review at any time up to and including trial)

Coda – Statistics

- *Duran v. U.S. Bank National Association*
- Experts

Presentation Material Available

Slides available as a PDF download at our blog:

<http://www.sbwllp.com/blog/>