

**SNELL & WILMER PARTNER M.C. SUNGAILA FILES U.S. SUPREME COURT
AMICUS BRIEF ON BEHALF OF IADC IN WAL-MART V. DUKES**

ORANGE COUNTY (January 31, 2011) – Snell & Wilmer partner Mary-Christine (“M.C.”) Sungaila, on behalf of the International Association of Defense Counsel (“IADC”), recently filed a merits-stage amicus brief in the closely watched Wal-Mart v. Dukes (“Wal-Mart”) Title VII class action case before the U.S. Supreme Court. Sungaila serves as chair of IADC’s Amicus Curiae Committee and vice-chair of its Appellate Practice Committee. For her work on the case, she was recently profiled as the “Appellate Lawyer of the Week” in the National Law Journal’s Supreme Court Insider.

In the Wal-Mart matter, a divided Ninth Circuit affirmed the district court’s certification of a nationwide class of female workers at Wal-Mart who made Title VII disparate impact pay and promotion gender discrimination claims. As Judge Kozinski, dissenting from the en banc determination, pointed out, the class posed a number of concerns about class representation and commonality of issues. The U.S. Supreme Court granted certiorari to determine two issues: (1) whether class certification was consistent with the requirements of Federal Rule of Civil Procedure rule 23(a) and (2) whether claims for monetary relief, as opposed to injunctive relief, can be certified at all under Federal Rule of Civil Procedure rule 23(b)(2).

The amicus brief authored by Sungaila provides additional context for the Court’s decision. The brief explains why, given the level of organizational and cultural change plaintiffs claim is needed, a class action is unlikely to provide the kind of sustained, structural change plaintiffs seek. The brief introduces organizational development theory, which teaches that organization-wide change in a company’s culture is more likely to take root when the organization’s members participate in the change, rather than having it imposed on them from the outside.

A “one-size-fits-all” approach to change at Wal-Mart, the brief argues, is further complicated by the various regions and stores, each of which is subject to substantial individual managerial discretion and therefore may be at different stages of inclusiveness. The brief also describes a series of store-level classes that may serve as an alternative to the nationwide class that was certified.

The IADC has been serving a distinguished membership of corporate and insurance defense attorneys since 1920. Its core purpose is to enhance the development of skills, professionalism and camaraderie to serve and benefit the members, their clients, as well as the civil justice system, the legal profession and society in general. Members represent the largest corporations around the world, including the majority of companies listed in the FORTUNE 500.

About Snell & Wilmer L.L.P.

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