

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

: Civil No.:

v.

: **1** (Judge) **CV-05-0525**

WAL-MART STORES, INC.

:

COMPLAINT

FILED
HARRISBURG, PA
MAR 14 2005

THE UNITED STATES OF AMERICA, by its undersigned counsel,

alleges as follows:

MARY E. D'ANDREA, CLERK
Per  Deputy Clerk

1. This is an action brought by the United States of America, on behalf of its agency, Immigration and Customs Enforcement, seeking equitable relief pursuant to Title 8, United States Code, Section 1324a (f) (2), to enjoin, prevent and deter the employment of unauthorized aliens by contractors employed by the defendant, **WAL-MART STORES, INC.**, and its subsidiaries, divisions, and affiliates (hereinafter referred to as "**WAL-MART**".)

2. Title 8, United States Code, Section 1324a prohibits persons and entities from knowingly hiring, recruiting, or continuing to employ aliens who are not legally authorized under federal law to work within the United States. See 8 United States Code, Section 1324a(a) (1)-(2)

3. Section 1324a(f) (2) of Title 8, United States Code, in turn, provides, in part, that when "the Attorney General has

reasonable cause to believe that a person or entity is engaged in a pattern or practice of employment, recruitment, or referral of [unauthorized aliens] in violation of [Title 8, United States Code, Section 1324a] the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief including a permanent or temporary injunction, restraining order, or other order against the person or entity as the Attorney General deems necessary."

4. This court has jurisdiction over this matter pursuant to Title 28, United States Code, Section 1345.

5. Pursuant to Title 28 United States Code, Section 1391, venue lies in this district since the acts complained of occurred, in part, within the Middle District of Pennsylvania.

6. The United States has initiated this action through the United States Attorney for the Middle District of Pennsylvania, and on behalf of all other United States Attorneys' offices in the United States where **WAL-MART** has stores.

7. **WAL-MART** is a Delaware corporation headquartered in Bentonville, Arkansas, which operates more than 3,000 retail stores, 500 SAM'S Wholesale Clubs, 50 Neighborhood Markets, and distribution centers throughout the United States and around the world, including stores within the Middle District of Pennsylvania, and directly employs world-wide approximately 1,600,000 associates.

8. In addition to its own employees, from 1998 through 2003, **WAL-MART**, acting through its store managers, used independent contractors to provide floor cleaning services to many of its stores in the Middle District of Pennsylvania and elsewhere.

9. At various times between 1998 and 2003, as many as 1,000 **WAL-MART** stores used independent contractors to provide cleaning services to the stores which **WAL-MART** operated in the Middle District of Pennsylvania and elsewhere. By October 2003, approximately 700 **WAL-MART** stores used independent contractors to provide these store cleaning services.

10. Beginning in 1998 and continuing through October 2003, enforcement actions undertaken by Special Agents of the Immigration and Naturalization Service and its successor agency, Immigration and Customs Enforcement, against floor-cleaning contractors performing cleaning services at various **WAL-MART** stores in the Middle District of Pennsylvania and elsewhere documented that independent contractors used by **WAL-MART** to provide floor cleaning services were knowingly hiring, recruiting, and employing unauthorized aliens in violation of Title 8, United States Code, Section 1324a.

11. These enforcement actions culminated on October 23, 2003, when Immigration enforcement actions at approximately 61 **WAL-MART** stores in the Middle District of Pennsylvania and

elsewhere apprehended approximately 245 unauthorized, undocumented aliens employed by independent cleaning service contractors at **WAL-MART** stores located in 21 states.

12. Following this enforcement action, **WAL-MART** notified the United States of its intention to take steps, including, but not limited to, a series of corrective actions to ensure that independent contractors working for **WAL-MART** comply with all aspects of federal laws governing the employment of aliens. Toward this goal, the parties jointly **agreed** that the United States should bring this action for injunctive relief which reflects the joint commitment of **WAL-MART** and the United States to enjoin and prevent the employment of unauthorized aliens by independent contractors used by **WAL-MART**.

WHEREFORE, in accordance with the Stipulation in Compromise executed by the parties and filed with this Complaint, the United States seeks equitable relief pursuant to Title 8, United States Code, 1324a(f)(2) in the form of an Order:

A. Permanently enjoining **WAL-MART**, acting either directly or through independent contractors used by **WAL-MART**, from knowingly hiring, recruiting, and continuing to employ aliens who are not legally authorized to work within the United States.

B. Directing **WAL-MART** to continue to cooperate with the United States in its investigation of alleged illegal employment

practices by independent cleaning contractors previously used by **WAL-MART**.

C. Directing **WAL-MART** to maintain its own established, on-going and pre-existing program of taking reasonable steps to ensure that associates employed by **WAL-MART** are authorized to work within the United States.

D. Directing **WAL-MART** to establish as part of its compliance program a means to verify that independent contractors used by **WAL-MART** are also taking reasonable steps to comply with immigration laws in their employment practices, and cooperate truthfully with any investigation of these matters..

E. Directing **WAL-MART** to provide all of its store managers with training regarding their legal obligations to prevent the knowing hiring, recruitment, and continued employment of unauthorized aliens.

F. Directing **WAL-MART** to make a payment of \$11,000,000 through the United States Attorney's Office to the Treasury Forfeiture Fund for the purpose of promoting future law enforcement programs and activities in this field by the Bureau of Immigration and Customs Enforcement.

G. That the Consent Decree and Order entered approving the Stipulation in Compromise be a global settlement binding all components of the United States Department of Justice, and the Department of Homeland Security.

H. That the Consent Decree and Order entered in this matter terminate on the fifth anniversary of the date the Order is entered by the United States District Court for the Middle District of Pennsylvania.

Respectfully submitted,

THOMAS A. MARINO
UNITED STATES ATTORNEY

BY: Wayne P. Samuelson *By ma*
WAYNE P. SAMUELSON
ASSISTANT U.S. ATTORNEY

Dated: