**Appendix 3 Wal-Mart Lesson: Solidar*ity Lesson: Solidarity***

***The Good the Bad and the Wal-Mart***

Source: <http://www.workplacefairness.org/reports/good-bad-wal-mart/wal-mart.php>

**Introduction**

As the nation’s largest retailer, second-largest corporation, and largest private employer (with 1.3 million workers), Wal-Mart made headlines this past year at an unprecedented rate. All too often, these headlines revolved around Wal-Mart’s infamous employment practices.

While Wal-Mart isn’t the [only big box store](http://www.chicagotribune.com/business/chi-0608090245aug09,1,7735242.story) criticized for its policies, it has become a symbol for much of what is wrong with employers. Wal-Mart reported a net income of over $11 billion last year—surely plenty of money to remedy some questionable workplace practices—yet stories persist about wage law violations, inadequate health care, exploitation of workers, and the retailer’s anti-union stance. Altogether, some [5,000 lawsuits are filed against Wal-Mart each year](http://www.forbes.com/home/business/2005/11/09/wal-mart-lawsuits-cx_tvr_1109walmart.html), or roughly 17 suits per working day.

Here’s a look back at the year according to Wal-Mart. It’s not pretty.

**Wal-Mart Documentary: Public Relations Nightmare**

November saw the release of the [film](http://www.walmartmovie.com/) *Wal-Mart: The High Cost of Low Price*. Through interviews with employees and former managers, the documentary presented a critical view of Wal-Mart’s policies, particularly with respect to treatment of Wal-Mart employees. In response to the film’s release, Wal-Mart hired several former presidential advisers to establish a “[rapid-response public relations team](http://select.nytimes.com/gst/abstract.html?res=F60A13F6345B0C728CDDA80994DD404482).” In December, Wal-Mart formed an advocacy group, called Working Families for Wal-Mart, which was headed by former Atlanta mayor and UN Ambassador [Andrew Young](http://select.nytimes.com/gst/abstract.html?res=F30615F73C5A0C718DDDAC0894DE404482).

Unfortunately for Wal-Mart, this public relations campaign hit a snag in August, as Young told the *Los Angeles Sentinel* that Wal-Mart should displace traditional mom-and-pop stores. Young elaborated further: “You see those [small store owners] are the people who have been overcharging us, and they sold out and moved to Florida. I think they’ve ripped off our communities enough. First it was Jews, then it was Koreans and now it’s Arabs.” [Young resigned](http://select.nytimes.com/gst/abstract.html?res=F40B12FF3E5A0C7B8DDDA10894DE404482) hours after the interview was published.

**Anti-Union Stance**

Wal-Mart’s anti-union stance made headlines once again this year. After workers at a Wal-Mart store in Québec successfully unionized, Wal-Mart announced that it would close that store, citing “economic reasons.” Last September, Québec’s labor relations board rejected Wal-Mart’s argument and found that [Wal-Mart’s firings were illegal](http://select.nytimes.com/gst/abstract.html?res=F60614FA3D540C738EDDA00894DD404482).

Wal-Mart employees had some success this past year in organizing non-union groups. In the fall of last year, [Wal-Mart employees in central Florida formed a workers group](http://159.54.227.3/apps/pbcs.dll/article?AID=/20051002/BUSINESS/510020382/1003), the Wal-Mart Workers Association, in an attempt to improve working conditions and air grievances against the company. By January, the group had enlisted approximately [300 employees from 40 stores](http://www.zmag.org/content/showarticle.cfm?SectionID=15&ItemID=9568). The United Food and Commercial Workers (UFCW) Union is among the sponsors of the [new group](http://159.54.227.3/apps/pbcs.dll/article?AID=/20051002/BUSINESS/510020382/1003). So far, the group has been able to restore hours cut by the store, reinstate a fired employee, and get the company to install a bike rack—all through non-unionized [collective action campaigns](http://www.zmag.org/content/showarticle.cfm?SectionID=15&ItemID=9568).

In November of last year, Wake Up Wal-Mart, a UCFW-sponsored group critical of the retailer, formed a national association, called the Wal-Mart Workers of America, in an attempt to [organize Wal-Mart workers](http://www.washingtonpost.com/wp-dyn/content/article/2005/11/03/AR2005110302316.html), albeit without forming a union.

In January, the 8th Circuit Court of Appeals handed Arkansas Wal-Mart employees a victory, [reinstating a lawsuit](http://www.arkansasnews.com/archive/2006/01/20/News/333110.html) alleging that Wal-Mart engaged in anti-union activities.

In August, at the same time Wal-Mart was agreeing to work with Chinese officials to establish unions for 30,000 store employees, the retailer reaffirmed its [anti-union stance](http://www.latimes.com/business/la-fi-walmart11aug11,1,3586096.story) in North America. Wal-Mart explained that its motivation for permitting unions in China was to comply with Chinese laws, while the company's critics argued that the [move was not done for the interests of workers](http://www.latimes.com/business/la-fi-walmart11aug11,1,3586096.story) and instead only demonstrated Wal-Mart’s desire to please its biggest trading partner.

**Exploitation of Workers**

Last September, the International Labor Rights Fund filed a class-action lawsuit against Wal-Mart for [violating workers’ rights in foreign countries](http://www.washingtonpost.com/wp-dyn/content/article/2005/09/13/AR2005091301157.html), alleging that Wal-Mart denied minimum wage, required overtime, and punished union activity. In some cases, [workers alleged they were beaten](http://search.chron.com/chronicle/openDocument.do?docRef=archive_2005_3903409&selectedPath=Archives) by supervisors. If certified, [100,000 to 500,000 workers](http://search.chron.com/chronicle/openDocument.do?docRef=archive_2005_3903409&selectedPath=Archives) could be included. Specifically, the suit alleged that one Bangladesh worker worked seven days a week from 7:45 a.m to 10:00 p.m. [without a day off in six months](http://www.washingtonpost.com/wp-dyn/content/article/2005/09/13/AR2005091301157.html).

In another instance, Wal-Mart was accused of failing to provide adequate safety equipment (gloves) for its fabric cutters and seamstresses overseas. According to one report, in Wal-Mart’s cost-benefit analysis, it was [cheaper to wash workers’ blood from clothing](http://www.laborrights.org/press/Wal-Mart/damarys_spokesmanreview_032406.htm) before shipping the clothing overseas for sale than it was to provide gloves.

In any event, Wal-Mart appeared to take notice of the public outcry over rights exploitation. In October of last year, Wal-Mart announced that it would start [holding suppliers more accountable](http://www.washingtonpost.com/wp-dyn/content/article/2005/10/20/AR2005102001973.html) for workers’ rights violations. In March, it was reported that Wal-Mart was [increasing the number of unannounced inspections](http://www.forbes.com/technology/feeds/ap/2006/03/28/ap2629205.html) at foreign factories. Critics urged the retailer to use outside experts to [verify the inspections](http://www.forbes.com/technology/feeds/ap/2006/03/28/ap2629205.html).

In November, the Office of Inspector General released a report critical of the Department of Labor’s settlement agreement with Wal-Mart over [child labor violations](http://www.washingtonpost.com/wp-dyn/content/article/2005/10/31/AR2005103101241.html), claiming that the Department made “significant concessions” and that “serious breakdowns” in the negotiation and approval of the agreement were present. Under the agreement, [Wal-Mart was fined $135,540](http://www.washingtonpost.com/wp-dyn/content/article/2005/10/31/AR2005103101241.html) for child labor violations occurring between 1998 and 2002. Lawmakers and child advocate groups questioned the agreement’s provision that Wal-Mart would receive 15-day advanced notice before certain stores would be [investigated](http://www.washingtonpost.com/wp-dyn/content/article/2005/10/31/AR2005103101241.html).

When Hurricane Katrina hit the gulf region, Wal-Mart contributed $17 million to the relief effort, in addition to more than $3 million in merchandise, which led one commentator to [observe](http://www.thenation.com/doc/20050926/featherstone): “A company capable of operating in such a coordinated, humane way should do so not just in a disaster but every day. There is no reason Wal-Mart could not operate in an equally streamlined, well-organized manner to make sure that labor laws (on overtime, child labor, discrimination) are followed. There is no reason its impressive resources could not be marshaled to remedy the daily, ongoing disaster that so many of its workers face: low wages and inadequate healthcare.”

In November, a federal agency affidavit [revealed](http://www.modbee.com/business/story/11453970p-12195493c.html) that Wal-Mart executives were aware of systematic hirings of illegal immigrants by Wal-Mart’s cleaning contractors. In 2003, immigration officials conducted a [raid](http://www.modbee.com/business/story/11453970p-12195493c.html) on 60 Wal-Mart stores in 21 states, arresting 245 workers. Wal-Mart settled the case for $11 million in March of last year, but [claimed](http://www.modbee.com/business/story/11453970p-12195493c.html) that corporate executives were unaware that illegal immigrants were hired.

**Wage Law Violations**

In California, some [116,000 Wal-Mart employees](http://sfgate.com/cgi-bin/article.cgi?f=/n/a/2005/09/19/state/n143938D94.DTL) joined in a class-action lawsuit against the retailer, claiming that Wal-Mart violated a California law requiring employers to provide an unpaid 30-minute lunch break to employees who work at least six hours. In December, three days before Christmas, California Wal-Mart employees [prevailed](http://pqasb.pqarchiver.com/latimes/access/947091621.html?dids=947091621:947091621&FMT=ABS&FMTS=ABS:FT&type=current&date=Dec+23%2C+2005&author=Molly+Selvin+and+Abigail+Goldman&pub=Los+Angeles+Times&edition=&startpage=A.1&desc=Wal-Mart+Workers+Win+Suit) on their claims in front of a jury, collecting $57 million in compensatory damages and $115 million in punitive damages. The California verdict came on the heels of a $50 million [settlement](http://pqasb.pqarchiver.com/latimes/access/947091621.html?dids=947091621:947091621&FMT=ABS&FMTS=ABS:FT&type=current&date=Dec+23%2C+2005&author=Molly+Selvin+and+Abigail+Goldman&pub=Los+Angeles+Times&edition=&startpage=A.1&desc=Wal-Mart+Workers+Win+Suit) in Colorado and a separate victory in Oregon. By June, however, lawyers of Wal-Mart employees were [back in court](http://pqasb.pqarchiver.com/latimes/access/1066867371.html?dids=1066867371:1066867371&FMT=ABS&FMTS=ABS:FT&type=current&date=Jun+27%2C+2006&author=&pub=Los+Angeles+Times&edition=&startpage=C.2&desc=California+and+the+West), asking for an injunction to compel Wal-Mart to follow the same state lunch-break laws. A California judge has since [ordered the retailer](http://www.latimes.com/business/careers/work/la-fi-walmart15aug15,1,5043098.story) to obey these laws and provide compliance reports for the next 3 years.

Similar wage and hour class-action suits were filed in other states against Wal-Mart. In January, a Pennsylvania judge certified a class-action lawsuit against the retailer that alleged that [workers were not compensated](http://www.indystar.com/apps/pbcs.dll/article?AID=/20060112/BUSINESS/601120370/1003/BUSINESS) for hours worked—in one instance, one employee claimed 8 to 12 unpaid hours a month, on average. [Wal-Mart denied the allegations](http://www.indystar.com/apps/pbcs.dll/article?AID=/20060112/BUSINESS/601120370/1003/BUSINESS), which could include 150,000 Pennsylvania workers, claiming that “Wal-Mart's policy is to pay associates for every minute they work.” This innovative and progressive Wal-Mart policy was first revealed when Wal-Mart CEO Lee Scott made a similar statement in the [documentary](http://www.walmartmovie.com/) *Wal-Mart: The High Cost of Low Price*, which drew the following response from Jon Stewart, host of the television talk show "The Daily Show": “That's the best you can do? ‘If you work here, we'll pay you.’”

Meanwhile, in April, Wal-Mart announced plans that it was testing a “flexible scheduling” policy, which would require workers to shift rotations [instead of having steady shifts](http://money.cnn.com/2006/04/25/news/companies/walmart_labor/.40). Workers claimed that the policy was designed to force full-time workers to [change to a part-time schedule](http://money.cnn.com/2006/04/25/news/companies/walmart_labor/), thereby saving Wal-Mart the cost of salaries and benefits.

In May, California Wal-Mart managers were dealt a legal setback when a federal judge [refused to certify](http://pqasb.pqarchiver.com/latimes/access/1034413481.html?dids=1034413481:1034413481&FMT=ABS&FMTS=ABS:FT&type=current&date=May+10%2C+2006&author=&pub=Los+Angeles+Times&edition=&startpage=C.2&desc=California+and+the+West) a class-action lawsuit, saying that the managers’ claims needed to be addressed individually. The lawsuit claimed that managers were [illegally exempted from overtime pay](http://pqasb.pqarchiver.com/latimes/access/1034413481.html?dids=1034413481:1034413481&FMT=ABS&FMTS=ABS:FT&type=current&date=May+10%2C+2006&author=&pub=Los+Angeles+Times&edition=&startpage=C.2&desc=California+and+the+West).

By the end of the year, the many lawsuits and public outcry seemed to have a slight effect. In August, Wal-Mart announced that it would [raise starting wages](http://select.nytimes.com/gst/abstract.html?res=F20A14F9355B0C7B8CDDA10894DE404482) at one-third of its stores by about 6% in an effort to stay competitive with other retailers.

Just weeks after this announcement of a modest pay raise, Wal-Mart was once again making headlines for all the wrong reasons—this time for a Texas class-action lawsuit alleging hour and wage law violations. After letters were sent to Wal-Mart employees inviting them to join the class-action suit, some Wal-Mart store managers [allegedly pressured employees](http://www.bloomberg.com/apps/news?pid=20601087&sid=a_Nj4JQ7qvGg), by threat of termination, to hand over the invitations and sign a statement saying that they did not work off the clock. Lawyers for the Wal-Mart employees have requested that a federal judge order that Wal-Mart [cease this practice](http://www.bloomberg.com/apps/news?pid=20601087&sid=a_Nj4JQ7qvGg).

**Health Care**

Last October, Wal-Mart announced that it would introduce a [cheaper health insurance](http://www.nytimes.com/2005/10/24/business/24mart.html) plan for employees, with monthly premiums as low as $11. Critics questioned whether Wal-Mart was attempting to boost its sagging image by offering health care to more workers while [neglecting the quality](http://www.nytimes.com/2005/10/24/business/24mart.html) of the health care itself.

Later that month, an internal memo from a Wal-Mart executive recommending numerous ways to [reduce health care spending](http://www.nytimes.com/2005/10/26/business/26walmart.ready.html) was discovered by the *New York Times*. The memo [noted](http://www.nytimes.com/2005/10/26/business/26walmart.ready.html) that Wal-Mart workers were “sicker than the national population” and tended to overuse emergency rooms instead of visiting doctors. Among the memo’s recommendations to reduce health care spending:  Discouraging unhealthy people from working at Wal-Mart; one way to accomplish this goal: require that all jobs involve some physical activity...[...]...and by hiring more part-timers.  All told, as a result of these [recommendations](http://www.nytimes.com/2005/10/26/business/26walmart.ready.html), Wal-Mart estimated it would save more than $1 billion in health care costs by 2011.

In February, the *New York Times* also revealed several [candid internal discussions](http://www.nytimes.com/2006/02/17/business/17walmart.html) between Wal-Mart CEO Lee Scott and Wal-Mart managers on a private website. When one Wal-Mart manager asked the CEO why the company could not provide [medical retirement benefits](http://www.nytimes.com/2006/02/17/business/17walmart.html), Scott snapped back that the manager was disloyal and suggested that the manager quit.

In April, the Change to Win labor federation staged [demonstrations in 35 cities](http://www.mercurynews.com/mld/mercurynews/business/financial_markets/14436130.htm) to protest Wal-Mart’s inadequate health care, with up to 350 protesters reported in Los Angeles and Portland, Oregon.

Perhaps the most significant development over the last year involved attempts by state and city governments to mandate health care for Wal-Mart employees. At the beginning of 2006, the *New York Times* reported that lawmakers in [30 states were considering](http://www.nytimes.com/2006/01/05/business/05fhealth.html) legislation that would require large corporations to increase spending on employee health insurance. Maryland would be the first to enact such laws.

In January, Maryland legislators passed the [Fair Share Health Care Fund bill](http://www.washingtonpost.com/wp-dyn/content/article/2006/01/12/AR2006011201251.html), overriding Governor Robert Ehrlich’s veto. The law requires private companies with more than 10,000 employees to spend 8% of their payroll on one of [three options](http://www.lawmemo.com/blog/2006/07/walmart_health_1.html) for health care: spend the money on health care directly; spend the money on an improved ERISA plan; or pay the money to the state for health care costs. [Maryland was the first state](http://workplacefairness.org/2006_01_01_pblog_archive.php) in the country to pass such a bill, unofficially dubbed the “Wal-Mart bill” because the company was the only one of the four employers in the state which had 10,000 employees but which was not already spending 8% on employee health care.

Workers’ rights advocates hailed the bill’s passage and, in an attempt to bolster momentum for employee health care, [urged other states](http://www.washingtonpost.com/wp-dyn/content/article/2006/01/13/AR2006011301861.html) to pass similar bills.

In July, however, supports of the movement were dealt a setback when a federal [judge invalidated the law](http://www.nytimes.com/2006/07/20/business/20walmart.html), holding that it was preempted by federal law (ERISA). While the ruling only affected the Maryland law, thus preserving similar laws passed in Massachusetts and Vermont, it likely [halted states' efforts](http://www.nytimes.com/2006/07/20/business/20walmart.html) to require large employers to provide employee health care. Despite its invalidation, the law did have one positive outcome, as its passage and the ensuing litigation spurred much [public debate](http://www.tompaine.com/articles/2006/03/07/debating_health_care_finally.php) on the health care issue.

Meanwhile, Chicago was the other major battlefield between Wal-Mart and its governmental critics. In July, the Chicago City Council [passed an ordinance](http://select.nytimes.com/gst/abstract.html?res=F50917FE395B0C748EDDAE0894DE404482), by a 35-14 vote, that would require “big box” stores to pay a minimum wage of $10 an hour by 2010, along with $3 worth of benefits. A “big box” store is defined as a store with more than 90,000 square feet that is part of a company that grosses more than $1 billion annually. The 35 supporting votes would be enough to [override a veto](http://select.nytimes.com/gst/abstract.html?res=F50917FE395B0C748EDDAE0894DE404482) by Mayor Richard Daley. Daley has until September 13 to decide whether to veto [the bill](http://www.csmonitor.com/2006/0814/p04s01-usec.html), which would the first veto in his 17-year tenure. Experts believe [this type of bill could spread to other communities](http://www.suntimes.com/output/business/cst-fin-labor28.html) outside of Chicago, much in the same manner as the Fair Share bill.

**Questions for Discussion:**

Can an individual go up against a large corporation to protect his rights and win?  In the instances where people managed to win against Wal-Mart for unfair work practices, were they able to do it on their own as individuals?

Why might it be difficult for a wronged worker to get compensation from their employer?  What might the worker be afraid will happen to them?

Who has more resources and money, a large union or a corporation like Wal-Mart or MacDonald’s?  Where do unions get their money?  Where do corporations get theirs?