

# Rebuking “Trial by Formula,” Federal Court Decertifies Rule 23(b)(3) Class Action

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*In Stiller v. Costco Wholesale Corp.*, No. 3:09-cv-2473-GPC-BGS, Plaintiffs Eric Stiller and Joseph Moro alleged that Costco’s loss-prevention closing procedures effectively “forced” employees to work off-the clock without getting paid because they were required to remain on-site after they had clocked out of their shifts to go through security screenings. In December 2010, the district court certified a California-wide class finding that common questions predominated because Costco employed a centralized policy which applied to all employees. However, on April 15, the Court decertified the class finding that the purportedly “common” question of whether Costco had a “*de facto* policy of detaining employees in warehouses during closing procedures without pay” would only determine whether “employees were **sometimes** detained without pay as a result of the alleged policy.” Costco’s liability would still hinge on individualized determinations as to “whether, how often, and for how long [individual] class members actually experienced unpaid [off-the-clock] time.” [Continue Reading](#)