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Attorneys for Plaintiff Anna Hernandez

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

ANNA HERNANDEZ, individually and as
an aggrieved employee pursuant to the
Private Attorneys General Act ("PAGA"),
and on behalf of the State of California and
other aggrieved employees,

Plaintiff.

vs.

OLD NAVY, LLC, a Delaware Limited
Liability Company.

Defendant.

CASE NO.: CGC-22-598893

**DECLARATION OF ANNA
HERNANDEZ IN SUPPORT OF
INCENTIVE AWARD**

Date: January 30, 2024
Time: 9:30 a.m.
Dept.: 302 (Law and Motion)
Judge: Hon. Richard B. Ulmer

Complaint Filed: March 25, 2022

1 I, Anna Hernandez, declare as follows:

2 1. I currently reside in Santa Barbara, California and was employed by Old Navy,
3 LLC at 1137 State Street, Santa Barbara, California. I was hired as a Sales Associate from 2005
4 to 2020.

5 2. During my employment there have been absolutely no seats available in the store
6 itself. There is no seating at the registers and there is no seating for employees to use during
7 downtime (lulls). Sitting is not tolerated by management. If you lean against a counter because
8 you are fatigued, you are reprimanded and could be written up. In fact, they want us standing or
9 moving at all times even though it would be good to be able to sit during lull periods which
10 occur with some frequency. There are simply hours when there are no customers and we are still
11 expected to stand.

12 3. My involvement with this case began when I contacted attorneys from Capstone
13 Law APC. It was then that I first learned about California's suitable seating law. I spent several
14 hours explaining what the situation was at my store with regards to seating availability.

15 4. Because I am a current employee and my husband and I are dependent upon my
16 income from Old Navy, I was really very concerned about becoming the lead Plaintiff. As it
17 turned out, my husband was later hospitalized so that my Old Navy wages became really critical.

18 5. I assisted in helping to draft the pre-filing letter to the LWDA and reviewed the
19 draft before it was actually sent. During this time, I began to deal with Kevin McNerney who I
20 understood would be primarily responsible for the prosecution of the seating claim. Although I
21 was assured that large retailers rarely retaliate, I continued to be very concerned about the
22 security of my job at Old Navy or, for that matter, any future employment since there would be a
23 record that I had filed a large action against my employer. I am 70 years of age, and it is no
24 secret that it is hard to get a job at my age.

25 6. I spoke with Mr. McNerney on many occasions as we prepared the formal
26 complaint that would be filed in the San Francisco Superior Court. Once again, I went over my
27 work history at Old Navy and the actual situation with respect to seats being available and the
28 employees being able to use those seats. I was concerned about seating because again at my age

1 having to stand for an entire shift is difficult and I am often totally fatigued by the time I get off
2 work. I think being able to sit for even a few moments during a shift would give my feet and legs
3 a fresh start.

4 7. As the case progressed Mr. McInerney sent me written questions that I would
5 have to respond to and also a list of documents that Old Navy was asking me to produce. I did a
6 search of all my records and papers to find any responsive documents and then spent several
7 hours with Mr. McInerney responding to the questions that Old Navy had asked.

8 8. I was informed that I would likely be deposed and that responding to these written
9 questions posed by Old Navy and its Request for Documents would be an important step in
10 preparing for my deposition. It was explained what a deposition would be, and I was naturally in
11 fear of having to testify against my current employer.

12 9. At some point in time, I learned that the other Plaintiff in this action, Mr. Lebrado
13 Madrazo, was working at the Old Navy store in Stockton, California. Unfortunately, I learned
14 that while working at that store he suffered a fatal heart attack. This left me as the sole
15 representative prosecuting this case on behalf of the LWDA and the State.

16 10. I was very relieved when Mr. McInerney advised me that a proposed settlement
17 was reached. I was sent a copy of the proposed settlement agreement, and I took the time to
18 review it. I fully support this settlement because it will provide seats for Old Navy employees
19 going forward and clear instruction as to when they can use those seats. This will be a big change
20 for the future, and I completely support the proposed settlement. It has been a stressful time
21 prosecuting this case and I hope the settlement will be approved and things can get back to
22 normal.

23 This Declaration is made under penalty of perjury under the laws of the State of
24 California. This Declaration is executed at Santa Barbara, California on November 20, 2023.

25 DocuSigned by:
26 *Anna Hernandez*
27 1A1FDBFD60C8433...
28 Anna Hernandez