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Lululemon Could Face 1,000 Workers Seeking Pay for Yoga Time



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By [Jon Steingart](#)

A Lululemon employee convinced a federal judge she should be allowed to bring in potentially hundreds of other employees who may have been shorted on pay for time spent promoting the company's apparel in yoga classes and other activities.

The U.S. District Court for the Eastern District of New York granted conditional certification of a collective class covering workers at all the company's retail stores in New York state, about 25 locations. It includes anyone who has held the title of key leader, educator, or assistant manager since 2013. That's more than 1,000 employees who could join the lawsuit, Kara Miller, an attorney for the Lululemon employee who filed the lawsuit, told Bloomberg Law Aug. 13.

Certification means the company has to hand over names and contact information for similarly situated employees so Miller can offer them an opportunity to opt into the lawsuit.

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As part of the brand's marketing strategy, employees were expected to take yoga classes at studios that weren't connected to Lululemon and encourage instructors to wear its apparel, Miller said. The company paid registration fees for employees to

attend classes but didn't pay their hourly wages, she said. Miller is with Virginia & Ambinder LLP in New York.

The employees spent about five hours each week in unpaid "community work" and another five hours in unpaid administrative tasks, according to employee declarations submitted in support of the motion for certification.

Lululemon said in court filings that it covers the cost of classes as an employee benefit. Employees aren't expected to promote or discuss the company's products when taking advantage of the benefit, and they aren't required to use it, the company said. A company spokesperson declined to comment Aug. 13, citing a policy against discussing ongoing legal matters. The case is filed against Lululemon USA Inc., a subsidiary of Lululemon Athletica Inc.

Conditional certification is a procedural method for litigating a pay lawsuit under the Fair Labor Standards Act that's similar to a class action. The company will have an opportunity to move for decertification by showing that the workers' experiences are too dissimilar to be litigated collectively.

The case is [Gathmann-Landini v. Lululemon USA Inc.](#), 2018 BL 287974, E.D.N.Y., No. 2:15-cv-06867, conditional certification 8/13/18.

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