

# Lululemon Workers Poised To Get Cert. In FLSA Suit

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Law360 (August 13, 2018, 8:02 PM EDT) -- A New York federal magistrate judge Monday recommended the court certify a class of employees in a suit alleging fitness wear retailer Lululemon does not pay them for hours spent on mandatory community outreach and administrative work.

U.S. Magistrate Judge Anne Shields said named plaintiff Rebecca Gathmann-Landini had put forth sufficient evidence of her claim that employees at Lululemon Athletica Inc. stores across the state of New York have been forced to perform tasks, like attending fitness classes and writing reports off the clock, to merit a conditional class certification.

“As discussed in great detail above, plaintiff’s submission more than supports the modest factual showing that all the members of the proposed collectives had similar job duties, were subject to the same de facto policies and compensation scheme and were not paid overtime,” Judge Shields said.

According to her complaint, Gathmann-Landini was an assistant manager employed at a New York City Lululemon outlet. She claimed company policy requires assistant managers and other store employees to take part in “community work,” like attending fitness classes, without compensation in violation of the federal Fair Labor Standards Act and state law.

She also claimed assistant managers are assigned too much paperwork and other administrative tasks to complete in a standard workday alongside other mandated tasks, and that company executives place “immense pressure” on store management to avoid overtime, resulting in her and other employees in similar positions working up to five hours off the clock per week.

In her recommendation, Judge Shields said while Lululemon argued a class could not be certified because there were no company-wide policies mandating unpaid work and therefore no common issues — specifically stating the employee manual says community work is both voluntary and unpaid — Gathmann-Landini had established the existence of a statewide class.

Shields said Gathmann-Landini had submitted documentary evidence of de facto policies, such as emails encouraging employees to do more community outreach and Gathmann-Landini’s account of a store manager receiving a “final warning” before termination for “failing to manage hours like an entrepreneur.” Shields said Gathmann-Landini also stated she had met with employees from multiple stores who complained of the same issues.

“It is reasonable to allow conditional certification state-wide because Plaintiff’s affidavits demonstrate the possibility of FLSA violations occurring at defendant’s New York State retail store locations,” she said.

In a phone interview Monday, Gathmann-Landini counsel Kara Miller said her client was terminated after organizing a meeting between employees in multiple stores and upper management to complain about the unpaid hours.

She said the class is expected to include employees from 25 stores in the state.

“We believe it could encompass about 1,000 people,” she said. “We’re obviously happy with the decision.”

Counsel for Lululemon did not immediately respond to requests for comment Monday.

Gathmann-Landini is represented by Kara S. Miller of [Virginia & Ambinder LLP](#) and Brett R. Cohen of [Leeds Brown Law PC](#).

Lululemon is represented by Katharine Liao and Meghan E. Hill of [Squire Patton Boggs LLP](#).

The case is Rebecca Gathmann-Landini et al. v. Lululemon USA Inc., case number [2:15-cv-06867](#), in the United States District Court for the Eastern District of New York.

--Editing by Connor Relyea.

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