

## SECOND AMENDMENT TO THE AGREEMENT OF SETTLEMENT AND RELEASE

**THIS SECOND AMENDMENT TO THE AGREEMENT OF SETTLEMENT AND RELEASE (“*Second Amendment*”)** is entered into by and between plaintiffs Anastasha Barba, James Andrews, Anna Nemykina and Brenda Tripicchio, individually, and in their representative capacity on behalf of all others similarly situated (collectively “Plaintiffs”), on the one hand, and Defendants Old Navy, LLC, Old Navy Apparel, LLC, Old Navy Holdings, LLC, GPS Services, LLC, and The Gap, Inc. (collectively “Old Navy” or “Defendants”), on the other (collectively referred to as the “Parties” or singularly “Party”) to effect the settlement set forth herein, subject to Court approval.

WHEREAS, the Parties wish to amend the Agreement of Settlement and Release entered into on February 15, 2021 and amended on September 15, 2021 (“Settlement Agreement”) a second time as provided below:

NOW, THEREFORE, the Plaintiffs (for themselves and the Settlement Class Members) and Defendants, by and through undersigned attorneys of record who are duly authorized to enter into this Amendment on behalf of their respective clients, hereby agree as follows:

1. Section 1.9 of the Settlement Agreement is amended as follows:

**1.9** As used herein, the terms “*Class*” and “*Class Members*” mean the following Class:

All United States citizens who made one or more purchases at an Old Navy Store or Old Navy Outlet Store or from the Old Navy website, excluding purchases made while in Missouri, between November 12, 2015 and the date of entry of the Preliminary Approval Order.

2. Section 3.8 of the Settlement Agreement is amended as follows:

**3.8 Exclusion from the Class.** Class Members may elect not to be part of the Class and not to be bound by this Agreement. To make this election, Class Members must send a letter, email, fax or postcard to the Claims Administrator stating: (a) the name and case number of the Action; (b) the full name, address, and telephone number of the person requesting exclusion; and (c) a statement that he/she does not wish to participate in the Settlement, sent or postmarked no later than the Exclusion Deadline. The Claims Administrator must serve on Class Counsel and Defendants’ Counsel a list of Class Members who have timely and validly excluded themselves from the Class within five (5) days after the Exclusion Deadline.

3. Section 3.3(a) of the Settlement Agreement is amended as follows:

**3.3(a) Settlement Website.** The Claims Administrator will post the Full Notice on an Internet website (“Internet Posting”) specifically created for the Settlement. The Full Notice shall be substantially similar to the form attached as **Exhibit B**. The Internet Posting will also

contain the Claim Form, Complaint, Agreement, and Preliminary Approval Order. The Internet Posting shall be operative starting on or before thirty (30) calendar days after entry of the Preliminary Approval Order. The Internet Posting shall remain active at least until the Final Settlement Date. Old Navy's website shall provide a clear and conspicuous link to the Internet Posting.

4. Attached hereto are amended Exhibits A-G to the Settlement Agreement that have been revised consistent with this Second Amendment and which replace and supersede the prior versions of Exhibits A-G. Also, for clarity, and to avoid any ambiguity, it is the intent of the Parties that the Agreement of Settlement, as amended, and the Settlement (including its definition of "Class Released Claims") do not and will not release any claims asserted by, or on behalf, consumers (whether individually or as members of a proposed class), concerning purchases they made in-store or online while in Missouri, and which are the subject of the separate lawsuit *Hennessey v. The Gap, Inc. and Old Navy, LLC*, Case No. 4:19-cv-1867-SEP, pending in the United States District Court of Missouri, Eastern Division.

IN WITNESS WHEREOF, the Parties hereto, and their respective Counsel of record, have so AGREED:

Dated: 11/30/2021

DocuSigned by:

Anastasha Barba

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ANASTASHA BARBA, PLAINTIFF

Dated: 11/30/2021

DocuSigned by:

James Andrews

471329E718D64F5...

JAMES ANDREWS, PLAINTIFF

Dated: 11/30/2021

DocuSigned by:

Anna Nemykina

6ED68F0CD3524D5...

ANNA NEMYKINA, PLAINTIFF

Dated: 11/30/21

Brenda Tripicchio

BRENDA TRIPICCHIO, PLAINTIFF

Dated: 11/29/21

Hayden Tollar

OLD NAVY, LLC, OLD NAVY (APPAREL),  
LLC, OLD NAVY HOLDINGS, LLC, GPS  
SERVICES, INC., THE GAP, INC.

By: Hayden Tollas

Their: CFO – Old Navy

Dated: 11/30/21

**DENITTIS OSEFCHEN PRINCE, PC**



Stephen DeNittis  
Counsel for Plaintiffs

And

**HATTIS & LUKACS**

DocuSigned by:



A2F82C8ADE7E44E...

Daniel M. Hattis  
Counsel for Plaintiffs

Dated: 11/30/21

**MORGAN, LEWIS & BOCKIUS LLP**



Joseph Duffy  
Counsel for Defendants

**EXHIBIT A**  
**PROPOSED PRELIMINARY APPROVAL ORDER**

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9 Daniel M. Hattis, Esq. (SBN 232141)  
10 Paul Karl Lukacs, Esq. (SBN 197007)  
11 HATTIS & LUKACS  
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13 Bellevue, Washington 98004  
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16 dan@hattislaw.com  
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18 *Attorneys for Plaintiffs*  
19 *and the Proposed Class*

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA

21 COUNTY OF SAN FRANCISCO

22 ANASTASHA BARBA,  
23 for Herself, as a Private Attorney General,  
24 and/or On Behalf Of All Others Similarly  
25 Situated,

26 Plaintiff,

27 vs.

28 OLD NAVY, LLC,  
29 OLD NAVY (APPAREL), LLC,  
30 OLD NAVY HOLDINGS, LLC,  
31 GPS SERVICES, INC., and  
32 THE GAP, INC., and  
33 DOES 1-20, inclusive,

34 Defendants.

Case No. CGC-19-581937

**[PROPOSED] ORDER FOR  
PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT AND  
PROVISIONAL CERTIFICATION OF  
A SETTLEMENT CLASS**

1 On \_\_\_\_\_ (month) \_\_\_\_ (day), 2021, this Court heard Plaintiff Anastasha Barba's  
2 motion for preliminary approval of class settlement and provisional class certification under  
3 California Rule of Court 3.769(c) and (d). This Court reviewed the motion, including the  
4 Settlement Agreement and Release and the Amendment to the Agreement of Settlement and  
5 Release (collectively, the "Agreement" or "Settlement"). Having received and considered  
6 Plaintiff's submissions and oral arguments (summarized below), and based on this review and the  
7 findings below, the Court finds good cause to GRANT the motion.

8 **FINDINGS:**

9 1. Unless otherwise specified, defined terms in this Preliminary Approval Order have  
10 the same definitions as the terms in the Agreement.

11 2. The Agreement falls within the range of possible approval as fair, reasonable and  
12 adequate.

13 3. The Court finds that (a) the Full Notice, Email Notice, and Publication Notice  
14 constitute the best notice practicable under the circumstances, (b) they constitute valid, due, and  
15 sufficient notice to all members of the Class, and (c) they comply fully with the requirements of  
16 California Code of Civil Procedure section 382, California Rules of Court 3.766 and 3.769, the  
17 California and United States Constitutions, and other applicable law.

18 4. For settlement purposes only, the Class is so numerous that joinder of all Class  
19 members is impracticable, Plaintiff's claims are typical of the Class's claims, there are questions  
20 of law and fact common to the Class which predominate over any questions affecting only  
21 individual Class members, and Class certification is superior to other available methods for the  
22 fair and efficient adjudication of the controversy.

23 5. **Realistic Range of Recovery.** Plaintiff demonstrates that, even if she were to win  
24 at trial on liability, she and the Class might have no damages under case law. This is so because it  
25 is not alleged that the purchased items were defective, and Plaintiff does not necessarily contend  
26 that the items purchased were not worth the price which Plaintiff or Class members actually paid.  
27  
28

1           **IT IS ORDERED THAT:**

2           **1. Settlement Approval.** The Agreement, including the Full Notice, Email Notice,  
3 Publication Notice, Claim Form, and Exemplar Purchase Certificate attached to the Agreement as  
4 Exhibits B-F, is preliminarily approved.

5           **2. Provisional Certification.** The Class is provisionally certified for settlement  
6 purposes only as a class of all United States citizens who made one or more purchases at an Old  
7 Navy Store or Old Navy Outlet Store or from the Old Navy website, excluding purchases made  
8 while in Missouri, between November 12, 2015 and the date of entry of the Preliminary Approval  
9 Order.

10          **3. Leave to File Amended Complaint.** To effectuate the terms of the proposed  
11 settlement, Plaintiff Barba is granted leave to file a First Amended Complaint which is attached  
12 as Exhibit B to Mr. DeNittis' Declaration which adds to this action Plaintiffs James Andrews,  
13 Anna Nemykina and Brenda Tripicchio.

14          **4. Appointment of Class Representative and Class Counsel.** Plaintiffs Anastasha  
15 Barba, James Andrews, Anna Nemykina and Brenda Tripicchio are conditionally certified as the  
16 class representatives to implement the Parties' Settlement in accordance with the Agreement.  
17 DeNittis Osefchen Prince, P.C. and Hattis & Lukacs are conditionally appointed as Class  
18 Counsel. Plaintiffs and Class Counsel must fairly and adequately protect the Class's interests.

19          **5. Appointment of Claims Administrator.** Angeion Group is appointed as the  
20 Claims Administrator. Pursuant to Section 2.5(a) of the Amendment to the Agreement of  
21 Settlement and Release, Defendants shall pay Angeion Group \$825,000 from the Cash Fund  
22 within twenty (20) days of this Order being entered.

23          **6. Provision of Class Notice.** The Claims Administrator will notify Class Members  
24 of the Settlement in the manner specified under Section 3.3 of the Agreement and will pay all  
25 costs associated with claims administration and providing notice to Class Members as set forth in  
26 the Settlement Agreement.

27          **7. Objection to Settlement.** Class Members who have not submitted a timely  
28 written exclusion request pursuant to paragraph 9 below and who want to object to the Agreement

1 may file a written objection with the Court and deliver such objection to Class Counsel and  
2 Defendants' Counsel no later than seventy-five (75) calendar days after entry of this Order. The  
3 delivery date is deemed to be the date the objection is deposited in the U.S. Mail as evidenced by  
4 the postmark, the date set forth on an email or the date time stamp via facsimile machine. Written  
5 objections are required to state: **(1)** the name and case number of the Action; **(2)** the Class  
6 member's full name, address, and telephone number; **(3)** the words "Notice of Objection" or  
7 "Formal Objection"; **(4)** in clear and concise terms, the legal and factual arguments supporting the  
8 objection; **(5)** facts supporting the person's status as a Class member (e.g., either any unique  
9 identifier included by the Claims Administrator in his/her notice, or the date and location of  
10 his/her relevant purchases); **(6)** the Class member's signature and the date; and **(7)** the following  
11 language immediately above the Class member's signature and date: "I declare under penalty of  
12 perjury under the laws of the State of California that the foregoing statements regarding class  
13 membership are true and correct to the best of my knowledge." Class members have the option to  
14 appear at the Fairness Hearing, either in person or through personal counsel hired at the Class  
15 member's expense, to object to the fairness, reasonableness, or adequacy of the Settlement  
16 Agreement or the proposed Settlement, or to the award of attorneys' fees. However, Class  
17 Members (with or without their attorneys) intending to make an appearance at the Fairness  
18 Hearing must so-inform the Parties and the Court no later than seventy-five (75) calendar days  
19 after entry of this Order by providing a "Notice of Intention to Appear" to the Claims  
20 Administrator. Only Class Members who file and serve timely Notices of Intention to Appear  
21 may speak at the Fairness Hearing.

22 **8. Failure to Object to Settlement.** Class Members who fail to object to the  
23 Agreement in the manner specified above will: (1) be deemed to have waived their right to object  
24 to the Agreement; (2) be foreclosed from objecting (whether by a subsequent objection,  
25 intervention, appeal, or any other process) to the Agreement; and (3) not be entitled to speak at  
26 the Fairness Hearing.

27 **9. Requesting Exclusion.** Class Members who want to be excluded from the  
28 Settlement must send a letter, email, fax or postcard to the Settlement Administrator stating: (a)



1 the name and case number of the Action; (b) the full name, address, and telephone number of the  
2 person requesting exclusion; and (c) a statement that he/she does not wish to participate in the  
3 Settlement, postmarked no later than seventy-five (75) calendar days after entry of this Order. If  
4 a Class member submits a Claim Form and a request for exclusion, the request for exclusion will  
5 be deemed invalid.

6 **10. Claim Form.** Class members must submit complete, valid and sufficient Claim  
7 Forms no later than one hundred and eighty (180) calendar days after entry of this Order in order  
8 to be included in the distribution of the Settlement Purchase Certificates. Class Members may  
9 also be required to provide proof of Qualifying Purchase(s) as described in Sections 2.1 and 2.2  
10 of the Agreement. The Claim Form shall have a space for Class members to elect the number of  
11 Settlement Purchase Certificates he or she wishes to obtain that corresponds with his/or her tier as  
12 described in Sections 2.1 and 2.2 of the Agreement.

13 **11. Termination.** If the Agreement terminates for any reason, the following will  
14 occur: (a) this Order and all of its provisions will be vacated, including, but not limited to,  
15 vacating conditional certification of the Class, conditional appointment of Plaintiffs as class  
16 representatives, and conditional appointment of Plaintiffs' Counsel as Class Counsel; (b) the  
17 Action will revert to the status that existed before Plaintiff Barba filed her motion for Preliminary  
18 Approval of Class Action Settlement; and (c) no term or draft of the Settlement Agreement, or  
19 any part of the Parties' settlement discussions, negotiations or documentation will have any effect  
20 or be admissible into evidence for any purpose in the Action or any other proceeding. This Order  
21 will not waive or otherwise impact the Parties' rights or arguments.

22 **12. No Admissions.** Nothing in this Order is, or may be construed as, an admission or  
23 concession on any point of fact or law by or against any Party.

24 **13. Stay of Dates and Deadlines.** All discovery and pretrial proceedings and  
25 deadlines are stayed and suspended until further notice from the Court, except for such actions as  
26 are necessary to implement the Agreement and this Order.

27 **14. Release.** For clarity, and to avoid any ambiguity, it is the intent of the Parties that  
28 the Agreement of Settlement, as amended, and the Settlement (including its definition of "Class

Released Claims”) do not and will not release any claims asserted by, or on behalf, consumers (whether individually or as members of a proposed class), concerning purchases they made in-store or online while in Missouri, and which are the subject of the separate lawsuit *Hennessey v. The Gap, Inc. and Old Navy, LLC*, Case No. 4:19-cv-1867-SEP, pending in the United States District Court of Missouri, Eastern Division.

**15. Fairness Hearing.** On March 16, 2022, at 9:30am this Court will hold a Fairness Hearing to determine whether the Agreement should be finally approved as fair, reasonable, and adequate. All papers supporting Plaintiffs’ request for attorneys’ fees and costs and Plaintiffs’ incentive awards must be filed no later than fourteen (14) calendar days before the deadline for Class members to object to the Settlement. All papers supporting final approval of the Agreement must be filed no later than seven (7) calendar days before the Fairness Hearing. Based on the date of this Order and the date of the Fairness Hearing, the following are the certain associated dates in this Settlement:

Event	Timing	Date
Last day for Defendants, through the Claims Administrator, to send Email Notice and Publication Notice, and start operating Settlement Website	30 days after entry of this Order	January 1, 2022
Last day for Defendants, through the Claims Administrator to send 2 <sup>nd</sup> Email Notice	44 days after entry of this Order	January 15, 2022
Last day for Plaintiffs to file fee petition	61 days after entry of this Order	February 1, 2022
Last day for Class Members to request exclusion or object to the Settlement	75 days after entry of this Order	February 16, 2022
Last day for Class Members to file a claim	180 days after entry of this Order	May 31, 2022

Event	Timing	Date
Last day for Parties to file briefs in support of the Final Order and Judgment	7 days before Fairness Hearing	March 9, 2022

This Court may order the Fairness Hearing to be postponed, adjourned, or continued. If that occurs, the updated hearing date shall be posted on the Settlement Website but other than the website posting, Old Navy will not be required to provide any additional notice to Class Members.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

**EXHIBIT B**  
**FULL NOTICE**

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Paul Karl Lukacs (SBN 197007)  
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Attorneys for Defendants

Attorneys for Plaintiffs and the Proposed Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

ANASTASHA BARBA, JAMES ANDREWS,  
ANNA NEMYKINA AND BRENDA TRIPICCIO,  
on behalf of themselves and all others similarly  
situated,

Plaintiff,

v.

OLD NAVY, LLC, OLD NAVY (APPAREL,  
LLC, OLD NAVY HOLDINGS, LLC., GPS  
SERVICES, LLC, and THE GAP, INC.;

Defendants.

CGC-19-581937

**IF YOU MADE ONE OR MORE PURCHASES AT AN OLD NAVY OR OLD NAVY OUTLET STORE OR FROM THE OLD NAVY WEBSITE BETWEEN NOVEMBER 12, 2015 AND [MONTH], [DAY], [YEAR] YOU MAY BE ELIGIBLE TO RECEIVE AN AWARD TO USE IN-STORE OR ONLINE AT OLD NAVY FOR FUTURE PURCHASES. PURCHASES MADE WHILE IN THE STATE OF MISSOURI ARE EXCLUDED.**

*A CALIFORNIA COURT AUTHORIZED THIS NOTICE. THIS IS NOT A SOLICITATION FROM A LAWYER.*

A settlement (“Settlement”) has been proposed in the class action lawsuit referenced above pending in the Superior Court of the State of California in the County of San Francisco (“Action”). If the Court gives final approval to the Settlement, Old Navy, LLC, Old Navy (Apparel), LLC, Old Navy Holdings, LLC, GPS Services, Inc., and The Gap, Inc. (collectively “Old Navy”) will provide, for each eligible Class Member (eligibility described below) one or more Settlement Purchase Certificates good for a purchase of merchandise in-store at in an Old Navy Store or Old Navy Outlet Store located in the United States or online at the Old Navy website, for (i) \$5 or \$10 in Settlement Purchase Certificates to use for purchase(s) (no minimum purchase required) or discount off of a purchase(s), subject to the additional conditions explained later in this notice.

Your legal rights are affected whether you act or don’t act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT		
<b>SUBMIT A CLAIM FORM</b>	<p>A Class Member who submits a timely and sufficient Claim Form (“Authorized Claimant”) shall be able to identify the form of Settlement Purchase Certificate he or she wishes to receive on the Claim Form.</p> <p>Visit the Settlement website located at _____ to obtain a Claim Form.</p>	<p>Deadline: _____</p>
<b>EXCLUDE YOURSELF</b>	<p>If you exclude yourself from the Settlement, you will not receive a Settlement Purchase Certificate under the Settlement. Excluding yourself is the only option that allows you to bring or maintain your own lawsuit against Old Navy regarding the allegations in the Action ever again.</p>	<p>Deadline: _____</p>
<b>OBJECT</b>	<p>You may write to the Court about why you object to (i.e., don’t like) the Settlement and think it shouldn’t be approved. Submitting an objection does not exclude you from the Settlement.</p>	<p>Deadline: _____</p>

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT		
<b>GO TO THE “FAIRNESS HEARING”</b>	<p>The Court will hold a “Fairness Hearing” to consider the Settlement, the request for attorneys’ fees and costs of the lawyers who brought the Action, and the Representative Plaintiffs’ request for service awards for bringing the Action.</p> <p>You may, but are not required to, speak at the Fairness Hearing. If you intend to speak at the Fairness Hearing, you must also submit a “Notice of Intention to Appear” indicating your intent to do so.</p>	<p>Hearing Date and Time:</p> <p>_____</p>
<b>DO NOTHING</b>	<p>If you do not submit a Claim Form, you will not receive a Settlement Purchase Certificate</p> <p>You will also give up your right to object to the Settlement and you will be not be able to be part of any other lawsuit about the legal claims in this case.</p>	N/A

These rights and options—and the deadlines to exercise them—are explained in more detail below.

The Court in charge of this Action has preliminarily approved the Settlement and must decide whether to give final approval to the Settlement. The relief provided to Class Members will be provided only if the Court gives final approval to the Settlement and, if there are any appeals, after the appeals are resolved in favor of the Settlement. ***Please be patient.***

WHAT THIS NOTICE CONTAINS

**BACKGROUND INFORMATION ..... ##**

1. Why did I get a notice?
2. What is this lawsuit about?
3. Why is this a class action?
4. Why is there a Settlement?
5. How do I know if I am part of the Settlement?
6. I’m still not sure if I am included.

**THE PROPOSED SETTLEMENT ..... ##**

7. What relief does the Settlement provide to the Class Members?

**HOW TO REQUEST A SETTLEMENT PURCHASE CERTIFICATE – SUBMITTING A CLAIM FORM..... ##**

8. How can I get a Settlement Purchase Certificate or Settlement Purchase Certificates?
9. When will I get my Settlement Purchase Certificate or Settlement Purchase Certificates?

**THE LAWYERS IN THIS CASE AND THE REPRESENTATIVE PLAINTIFFS ..... ##**

10. Do I have a lawyer in this case?
11. How will the lawyers be paid?
12. Will the Representative Plaintiffs receive any compensation for their efforts in bringing this Action?

**DISMISSAL OF ACTION AND RELEASE OF ALL CLAIMS..... ##**

13. What am I giving up to obtain relief under the Settlement?

**HOW TO EXCLUDE YOURSELF FROM THE SETTLEMENT ..... ##**

14. How do I exclude myself from the Settlement?

**HOW TO OBJECT TO THE SETTLEMENT ..... ##**

15. How do I tell the Court that I disagree with the Settlement?
16. What is the difference between excluding myself and objecting to the Settlement?

**FAIRNESS HEARING ..... ##**

17. What is the Fairness Hearing?
18. When and where is the Fairness Hearing?
19. May I speak at the hearing?

**ADDITIONAL INFORMATION ..... ##**

20. How do I get more information?
21. What if my address or other information has changed or changes after I submit a Claim Form?

## **BACKGROUND INFORMATION**

### ***1. Why did I get a notice?***

You received a notice because a Settlement has been reached in this Action. According to Old Navy's available records you might be a member of the Settlement Class and may be eligible for the relief detailed below.

This Notice explains the nature of the Action, the general terms of the proposed Settlement, and your legal rights and obligations. To obtain more information about the Settlement,



including information about how you can see a copy of the Settlement Agreement (which defines certain capitalized terms used in this Notice), see Section 20 below.

## ***2.What is this lawsuit about?***

Plaintiffs Anastasha Barba, James Andrews, Anna Nemykina and Brenda Tripicchio (the “Representative Plaintiffs”) filed a lawsuit against Old Navy on behalf of themselves and all others similarly situated. The lawsuit alleges that Old Navy engaged in deceptive advertising by advertising false discounts on merchandise in-store at Old Navy Stores and Old Navy Outlet Stores located in the United States and online on the Old Navy website.

Old Navy denies each and every one of the allegations of unlawful conduct, any wrongdoing, and any liability whatsoever, and no court or other entity has made any judgment or other determination of any liability. Old Navy further denies that any Class Member is entitled to any relief and, other than for settlement purposes, that this Action is appropriate for certification as a class action.

**The issuance of this Notice is not an expression of the Court’s opinion on the merits or the lack of merits of the Representative Plaintiffs’ claims in the Action.**

For information about how to learn about what has happened in the Action to date, please see Section 20 below.

## ***3.Why is this a class action?***

In a class action lawsuit, one or more people called “Representative Plaintiff(s)” (in this Action, Anastasha Barba, James Andrews, Anna Nemykina and Brenda Tripicchio) sue on behalf of other people who allegedly have similar claims. For purposes of this proposed Settlement, one court will resolve the issues for all Class Members. The companies sued in this case, Old Navy, LLC, Old Navy (Apparel), LLC, Old Navy Holdings, LLC, GPS Services, Inc., and The Gap, Inc., are called the Defendants.

## ***4.Why is there a Settlement?***

The Representative Plaintiffs have made claims against Old Navy. Old Navy denies that it has done anything wrong or illegal and admits no liability. The Court has **not** decided that the Representative Plaintiffs or Old Navy should win this Action. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial, and the Class Members will receive relief now rather than years from now, if at all.

### ***5.How do I know if I am part of the Settlement?***

The Court has decided that everyone who fits this description is a Class Member for purposes of the proposed Settlement: All United States citizens who made one or more purchases at an Old Navy Store or Old Navy Outlet Store or from the Old Navy website, excluding purchases made while in Missouri, between November 12, 2015 and [DATE]

### ***6.I'm still not sure if I am included.***

If you are still not sure whether you are included, you can write the Claims Administrator for free help. The email address of the Claims Administrator is \_\_\_\_\_ and the U.S. postal (mailing) address is \_\_\_\_\_.

## **THE PROPOSED SETTLEMENT**

### ***7.What relief does the Settlement provide to the Class Members?***

Old Navy has agreed to provide Class Members with a Settlement Purchase Certificate or Settlement Purchase Certificates good for purchase in an Old Navy Store or Old Navy Outlet Store located in the United States or on the Old Navy website. The number and amount of Settlement Purchase Certificate(s) available to each Class Member depends on the total of the Class Member's Qualifying Purchases made between November 12, 2015 and \_\_\_\_.

A Class Member who submits a timely and sufficient Claim Form ("Authorized Claimant") shall be able to identify the form of Settlement Purchase Certificate he or she wishes to receive on the Claim Form.

- A Tier 1 Authorized Claimant is one who does not submit proof of Qualifying Purchase(s), or submits proof of Qualifying Purchase(s) that are less than \$90.00, with his or her timely and valid Claim Form. To each Tier 1 Authorized Claimant, Old Navy, shall issue one (1) Settlement Purchase Certificate for \$5 for any purchase or off any purchase (no minimum purchase required).
- Tier 2 Authorized Claimants: A Tier 2 Authorized Claimant is one who has Qualifying Purchase(s) during the Class Period totaling \$90.00 or more and submits proof of such purchase(s) with their timely and valid Claim Form. To each Tier 2 Authorized Claimant, Old Navy, shall issue two (2) Settlement Purchase Certificates for a total value of \$10 for any purchase or off any purchase (no minimum purchase required).

Settlement Purchase Certificates are single-use vouchers usable for the purchase of merchandise and will be valid for 1 year. The Settlement Purchase Certificates may be used on items that are on sale or otherwise discounted. The Settlement Purchase Certificates shall not be redeemable for cash, may not be used to purchase gift cards, will not be replaced if lost, stolen or damaged, and if there is any balance left after the single

permitted use, the balance will be forfeited. The Settlement Purchase Certificates are transferable.

## **HOW TO REQUEST A SETTLEMENT PURCHASE CERTIFICATE – SUBMITTING A CLAIM FORM**

### ***8. How can I choose the Settlement Purchase Certificate or Settlement Purchase Certificates I want?***

To choose your Settlement Purchase Certificate, you must send in a Claim Form, and, depending upon the Tier sought potentially proof of Qualifying Purchase(s) as explained in Section 7 above. A Claim Form is available by clicking [HERE](#) or on the Internet at the website \_\_\_\_\_. The Claim Form may be submitted electronically, fax or by postal mail. Read the instructions carefully, fill out the form, and postmark it by \_\_\_\_\_ or submit it online on or before 11:59 p.m. (Pacific) on \_\_\_\_\_.

### ***9. When will I get my Settlement Purchase Certificate or Settlement Purchase Certificates?***

As described in Sections 17 and 18, the Court will hold a hearing on \_\_\_\_\_ at \_\_\_\_\_, to decide whether to approve the Settlement. If the Court approves the Settlement, after that, there may be appeals. It's always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. You can check on the progress of the case on the website dedicated to the Settlement at \_\_\_\_\_. *Please be patient.*

## **THE LAWYERS IN THIS CASE AND THE REPRESENTATIVE PLAINTIFFS**

### ***10. Do I have a lawyer in this case?***

The Court has ordered that the law firm of DeNittis Osefchen Prince, P.C., and the law firm of Hattis & Lukacs ("Class Counsel") will represent the interests of all Class Members. You will not be separately charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

### ***11. How will the lawyers be paid?***

Old Navy has agreed to pay Class Counsel's attorneys' fees and costs up to \$2,715,000 subject to approval by the Court. You will not be required to pay any attorneys' fees or costs. Please see Section 2.5 of the Settlement Agreement, available [HERE](#), for additional details.

**12. *Will the Representative Plaintiffs receive any compensation for their efforts in bringing this Action?***

The Representative Plaintiffs will request a service award of up to \$2,500 each for their services as class representatives and their efforts in bringing the Action. The Court will make the final decision as to the amount to be paid to the class representatives.

**DISMISSAL OF ACTION AND RELEASE OF ALL CLAIMS**

**13. *What am I giving up to obtain relief under the Settlement?***

If the Court approves the proposed Settlement, unless you exclude yourself from the Settlement, you will be releasing your claims against Old Navy. This generally means that you will not be able to file a lawsuit, continue prosecuting a lawsuit, or be part of any other lawsuit against Old Navy regarding the claims in the Action. The Settlement Agreement, available on the Internet at the website \_\_\_\_\_ contains the full terms of the release.

**HOW TO EXCLUDE YOURSELF FROM THE SETTLEMENT**

**14. *How do I exclude myself from the Settlement?***

You may exclude yourself from the Class and the Settlement. If you want to be excluded, you must send a letter, email, fax or postcard to the Claims Administrator stating: (a) the name and case number of the Action; (b) the full name, address, and telephone number of the person requesting exclusion; and (c) a statement that he/she does not wish to participate in the Settlement. The request for exclusion must be postmarked, emailed or faxed no later than \_\_\_\_\_ to the Claims Administrator at:

OLD NAVY PRICING LITIGATION

c/o \_\_\_\_\_

\_\_\_\_\_

Email: [email address]

Fax number: [fax number]

If you timely request exclusion from the Class, you will be excluded from the Class, you will not receive a Settlement Purchase Certificate or Settlement purchase Certificates under the Settlement, you will not be bound by the judgment entered in the Action, and you will not be precluded from prosecuting any timely, individual claim against Old Navy based on the conduct complained of in the Action.

**HOW TO OBJECT TO THE SETTLEMENT**

**15. *How do I tell the Court that I disagree with the Settlement?***

At the date, time, and location stated in Section 18 below, the Court will hold a Fairness Hearing to determine if the Settlement is fair, reasonable, and adequate, and to also

consider Class Counsel's request for an award of attorneys' fees and costs, and service awards to the Representative Plaintiffs.

If you wish to object to the fairness, reasonableness, or adequacy of the Settlement Agreement or the proposed Settlement, you must file with the Court and send to Class Counsel and Defendants' Counsel a written objection which includes the following:

**(1)** the name and case number of the Action; **(2)** the Class Member's full name, address, and telephone number; **(3)** the words "Notice of Objection" or "Formal Objection"; **(4)** in clear and concise terms, the legal and factual arguments supporting the objection; **(5)** facts supporting the person's status as a Class Member (e.g., either any unique identifier included by the Claims Administrator in his/her notice, or the date and location of his/her relevant purchases); **(6)** the Class Member's signature and the date; and **(7)** the following language immediately above the Class Member's signature and date: "I declare under penalty of perjury under the laws of the State of California that the foregoing statements regarding class membership are true and correct to the best of my knowledge." You may, but need not, submit your objection through counsel of your choice. If you do make your objection through an attorney, you will be responsible for your personal attorney's fees and costs.

To be considered by the Court, your objection must be filed with the Clerk of the Court by \_\_\_\_\_, and also must be sent to Class Counsel and Defendants' Counsel postmarked, emailed or faxed no later than \_\_\_\_\_ at the following addresses:

THE COURT	
Clerk of the Court San Francisco County Superior Court 400 McAllister Street San Francisco, California 94102	
PLAINTIFFS' COUNSEL	DEFENDANTS' COUNSEL
Stephen P. DeNittis, Esq. DeNittis Osefchen Prince, P.C. 5 Greentree Centre, Suite 410 525 Route 73 N. Marlton, New Jersey 08057 Email: sdenittis@denittislaw.com Fax: (856) 797-9978	Joseph Duffy, Esq. Morgan, Lewis & Bockius LLP 300 South Grand Avenue Twenty-Second Floor Los Angeles, CA 90071-3132 Email: joseph.duffy@morganlewis.com Fax: (213) 612-2501

Class Members have the option to appear at the Fairness Hearing, either in person or through personal counsel hired at the Class Member's expense, to object to the fairness, reasonableness, or adequacy of the Settlement Agreement or the proposed Settlement, or to the award of attorneys' fees. However, Class Members (with or without their attorneys) intending to make an appearance at the Fairness Hearing must so-inform the Parties and

the Court on or before \_\_\_\_\_ by providing a “Notice of Intention to Appear” to the Claims Administrator.

**16. *What is the difference between excluding myself and objecting to the Settlement?***

Objecting is simply telling the Court that you disagree with something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you don’t want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the Settlement no longer affects you.

**FAIRNESS HEARING**

**17. *What is the Fairness Hearing?***

The Court has preliminarily approved the Settlement and will hold a hearing to decide whether to give final approval to the Settlement. The purpose of the Fairness Hearing will be for the Court to determine whether the Settlement should be approved as fair, reasonable, adequate, and in the best interests of the Settlement Class; to consider the award of attorneys’ fees and expenses to Class Counsel; and to consider the request for service awards to the Representative Plaintiffs. You may attend, but you do not have to.

**18. *When and where is the Fairness Hearing?***

On \_\_\_\_\_, \_\_\_\_ at \_\_\_\_\_ pacific, a hearing will be held on the fairness of the proposed Settlement. At the hearing, the Court will be available to hear any objections and arguments concerning the proposed Settlement’s fairness. The hearing will take place before the Honorable [JUDGE] in Department [NO] of the [COURTHOUSE] of the San Francisco County Superior Court, located at 400 McAllister St, San Francisco, CA 94102. The hearing may be postponed to a different date or time or location without notice. Please check \_\_\_\_\_ .com for any updates about the Settlement generally or the Fairness Hearing specifically. If the date or time of the Fairness Hearing changes, an update to the Settlement website will be the only way you will be informed of the change.

**19. *May I speak at the hearing?***

At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the Settlement. As described above in Section 15, you may speak at the Fairness Hearing only if you have timely and validly provided a Notice of Intention to Appear.

If you have requested exclusion from the Settlement, you may not speak at the hearing.

## ADDITIONAL INFORMATION

### **20. *How do I get more information?***

To see a copy of the Settlement Agreement, the Court's Preliminary Approval Order, Class Counsel's application for attorneys' fees and costs, and the operative complaint filed in the Action, please visit the Settlement website located at: \_\_\_\_\_. Alternatively, you may contact the Claims Administrator at the email address \_\_\_\_\_ or the U.S. postal (mailing) address: \_\_\_\_\_.

This description of this Action is general and does not cover all of the issues and proceedings that have occurred. In order to see the complete file you should visit the Clerk's office at 400 McAllister Street, San Francisco, CA 94102. The Clerk will tell you how to obtain the file for inspection and copying at your own expense.

### **21. *What if my address or other information has changed or changes after I submit a Claim Form?***

It is your responsibility to inform the Claims Administrator of your updated information. You may do so at the address below:

OLD NAVY PRICING LITIGATION

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*

**DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE LITIGATION TO THE CLERK OF THE COURT OR THE JUDGE.**

Dated: \_\_\_\_\_

By: Order of  
HONORABLE [JUDGE]  
JUDGE OF THE SUPERIOR COURT

**EXHIBIT C**  
**EMAIL NOTICE**



To: \_\_\_\_\_

From: \_\_\_\_\_

Re: LEGAL NOTICE OF SETTLEMENT OF CLASS ACTION

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**IF YOU MADE ONE OR MORE PURCHASES AT AN OLD NAVY OR OLD NAVY OUTLET STORE OR FROM THE OLD NAVY WEBSITE BETWEEN NOVEMBER 12, 2015 AND [MONTH], [DAY], [YEAR] (EXCLUDING PURCHASES MADE WHILE IN THE STATE OF MISSOURI) YOU MAY BE ELIGIBLE TO RECEIVE AN AWARD TO USE IN-STORE OR ONLINE AT OLD NAVY FOR FUTURE PURCHASES.**

**Why did I get this notice?** A settlement ("Settlement") has been proposed in a class action lawsuit pending in the San Francisco County Superior Court ("Court") titled *Anastasha Barba et al., on behalf of themselves and all others similarly situated v. Old Navy, LLC, Old Navy (Apparel), LLC, Old Navy Holdings, LLC, GPS Services, Inc., and The Gap, Inc.* ("Action"). According to available records, you might be a "Class Member." The purpose of this Email Notice is to inform you of the Action and the Settlement so that you may decide what steps to take in relation to it.

**What is the Action about?** Plaintiffs Anastasha Barba, James Andrews, Anna Nemykina and Brenda Tripicchio, on behalf of themselves and all others similarly allege that Old Navy, LLC, Old Navy (Apparel), LLC, Old Navy Holdings, LLC, GPS Services, Inc., and The Gap, Inc. ("Old Navy" or "Defendants") engaged in deceptive advertising by advertising purportedly improper reference prices on merchandise. Old Navy denies wrongdoing and liability and both sides disagree on how much, if anything, the Class could have recovered after trial. **No court has decided which side is right. But both sides agreed to provide benefits to Old Navy Store and Old Navy Outlet Store customers and resolve the case.**

**Am I a Class Member?** You are a "Class Member" if you are a United States citizen who made one or more purchases at an Old Navy Store or Old Navy Outlet Store or from the Old Navy website, excluding purchases made while in Missouri, between November 12, 2015 and [Month] [Day], [Year], (the "Class Period").

**What relief does the Settlement provide?** If you are a Class Member, you are eligible to receive a Settlement Purchase Certificate or Settlement Purchase Certificates good for purchase in an Old Navy Store or Old Navy Outlet Store or online at the Old Navy website.

If you received this Email Notice and timely complete and submit a valid Claim Form, you shall receive one (1) Settlement Purchase Certificate for \$5 for any purchase or off any purchase (no minimum purchase required). Class Members with purchases in-store from an Old Navy Store or Old Navy Outlet Store or online from the Old Navy website of \$90 or more during the Class Period may receive an additional \$5 Settlement Purchase Certificate. To receive a second Settlement Purchase Certificate, you must timely complete and submit a valid Claim Form, and submit proof of such purchase(s). A Claim Form is available by clicking HERE. The deadline to submit a Claim Form is \_\_\_\_\_. If you wish to submit a Claim Form, your Class Member ID is \_\_\_\_\_.

**What are my other options?** If you don't want to be legally bound by the Settlement, you must exclude yourself by \_\_\_\_\_, or you won't be able to sue Old Navy about the legal claims in the Action ever again. If you exclude yourself, you cannot receive a Settlement Purchase Certificate from this Settlement. If you stay in the Settlement, you may object to it by \_\_\_\_\_. The detailed notice available at \_\_\_\_\_ explains how to request exclusion or object. The Court will hold a hearing on \_\_\_\_\_ at \_\_\_\_\_ to consider whether to approve the Settlement and a request by the lawyers representing all Class Members (DeNittis Osefchen Prince, P.C., and the law firm of Hattis & Lukacs) for \$2,715,000 in attorneys' fees and costs, and for the class representatives' (Anastasha Barba, James Andrews, Anna Nemykina and Brenda Tripicchio) request for \$2,500 each for their services. You may ask to appear at the hearing, but you don't have to.

**More information?** For complete information about the Settlement, to view the Settlement Agreement, related Court documents and Claim Form, and to learn more about how to exercise your various options under the Settlement, visit \_\_\_\_\_. You may also write to the Claims Administrator at the email address \_\_\_\_\_ or the postal address \_\_\_\_\_.

**EXHIBIT D**  
**PUBLICATION NOTICE**

**IF YOU MADE ONE OR MORE PURCHASES AT AN OLD NAVY OR OLD NAVY OUTLET STORE OR FROM THE OLD NAVY WEBSITE BETWEEN NOVEMBER 12, 2015 AND [MONTH], [DAY], [YEAR] (EXCLUDING PURCHASES MADE WHILE IN THE STATE OF MISSOURI) YOU MAY BE ELIGIBLE TO RECEIVE AN AWARD TO USE IN-STORE OR ONLINE AT OLD NAVY FOR FUTURE PURCHASES.**

**For more information, including the detailed Notice and Settlement Agreement, visit**

\_\_\_\_\_.

A settlement (“Settlement”) has been reached in a class action lawsuit involving allegations that Old Navy used false or misleading reference prices in its stores and on its website. Old Navy vigorously denies the allegations, and the court has not decided who is right. If you are a United States citizen who made one or more purchases at an Old Navy Store or Old Navy Outlet Store or from the Old Navy website, excluding purchases made while in Missouri, between November 12, 2015 and \_\_\_\_\_, you may be able to receive one or more \$5 Settlement Purchase Certificates if you submit a Claim Form.

If you did not receive direct notice of this Settlement via email, or did receive direct notice and want to obtain a Settlement Purchase Certificate(s), you must submit a Claim Form. To receive a Settlement Purchase Certificate, you must file a qualifying claim. Claim Forms are available at the website above and must be filed by \_\_\_\_\_. If you don’t want to be legally bound by the Settlement, you must exclude yourself by \_\_\_\_\_, or you won’t be able to sue Old Navy about the legal claims in the action ever again. If you exclude yourself, you cannot receive a Settlement Purchase Certificate from this Settlement. If you stay in the Settlement, you may object to it by \_\_\_\_\_. The detailed notice available at the website above explains how to request exclusion or object. The Court will hold a hearing on \_\_\_\_\_ to consider whether to approve the Settlement.

**EXHIBIT E**  
**CLAIM FORM**

## **Old Navy Pricing Litigation CLAIM FORM**

**YOU MUST SUBMIT YOUR CLAIM FORM NO LATER THAN \_\_\_\_\_.**

**PERSONAL INFORMATION.** Please legibly print or type the following information requested below. *This information will be used to deliver your Settlement Purchase Certificate or Settlement Purchase Certificates and communicate with you if any problems arise with your claim.*

Class Member Number (if available): \_\_\_\_\_

Name (first, middle, and last): \_\_\_\_\_

Residential Street Address: \_\_\_\_\_

City, State, and ZIP code: \_\_\_\_\_

Email Address: \_\_\_\_\_

Telephone Number: (\_\_\_\_\_) \_\_\_\_\_

**CONFIRMATION OF CLASS MEMBERSHIP.** I declare that I am a United States Citizen and believe that I made purchases between November 12, 2015 and [Date] at an Old Navy Store or Old Navy Outlet Store or on the Old Navy website (excluding purchases made while in Missouri) and that my purchases during this period totaled (*select one*):

- ☐ less than \$90.00 (Tier 1).
- ☐ \$90.00 or more, and I have attached proof of my purchase(s) (Tier 2).

[Note for Claims Administrator: the following data entry form should be shown to all Claimants. Claimants should be able to add rows as needed.]

Please provide information about the purchases that you are claiming above:

Approximate Month and Year of Purchase	Approximate Location (City) of Purchase	Approximation of Total Spent on Claimed Items

- ☐ Click here to add an additional row.

[Note for Claims Administrator: after the Class Member elects the relevant tier, regardless of whether the Class Member provides a Class Member Number, the online Claim Form should provide a means for the Class Member to upload pictures of receipts. If the Class Member does not upload receipts, but has elected Tier 2, the following disclosure should be provided.]

You have not uploaded any proofs of purchase or receipts. If you would like to mail them to the Claims Administrator so as to support your claim, please send them to \_\_\_\_\_.

*The Claims Administrator and/or Old Navy may verify your claim.*

**SELECTION OF FORM OF SETTLEMENT PURCHASE CERTIFICATE.** If, under the terms of the Settlement Agreement, I may select the form of Settlement Purchase Certificate(s) I am to receive, I choose:

Tier 1

- ☐ 1 Settlement Purchase Certificate good for \$5 for any purchase or off any purchase (no minimum purchase required), or

Tier 2

- ☐ 2 Settlement Purchase Certificates good for a total value of \$10 for any purchase or off any purchase (no minimum purchase required)

*The full terms and conditions for each type of Settlement Purchase Certificate are in Section 1.31 of the Settlement Agreement.*

**EMAIL ADDRESS FOR SETTLEMENT PURCHASE CERTIFICATE DELIVERY.** Please confirm the email address to which you would like the Settlement Purchase Certificate(s) delivered.

[Note to the Claims Administrator: insert the email address that was provided earlier in the form, for reference, in the blank space below.]

Would you like your Settlement Purchase Certificate delivered to \_\_\_\_? ☐ Yes ☐ No

If “no,” please provide the email address to which you would like the Settlement Purchase Certificate(s) delivered: \_\_\_\_\_.

**ACKNOWLEDGEMENT.** I have received notice of the class action Settlement in this case and I am a member of the class of persons described in the notice. I agree to release all the claims, known and unknown, stated in Section 2.9 of the Settlement Agreement. I submit to the jurisdiction of the Superior Court of the State of California, County of San Francisco with regard to my claim and for purposes of enforcing the release of claims stated in the Settlement Agreement. I am aware that I can obtain a copy of the full notice and Settlement Agreement at \_\_\_\_\_ or by writing the Claims Administrator at the email address \_\_\_\_\_ or the postal address \_\_\_\_\_. I agree to furnish additional information to support this claim if required to do so.

IF SUBMITTED ELECTRONICALLY:

☐ **I agree that by submitting this Claim Form I certify under the penalty of perjury of the laws of the State of California that the foregoing is true and correct to the best of my knowledge and that checking this box constitutes my electronic signature on the date of its submission.**

IF SUBMITTED BY U.S. MAIL:

**I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.**

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

**EXHIBIT F**  
**EXEMPLAR PURCHASE CERTIFICATE**



<b>Barba v. Old Navy, LLC et al. Settlement</b>	<b>\$_ Settlement Purchase Certificate</b>
---	--

**CODE]**

**[BAR**

**Issue Date:** (Date) \_, 2021

**Certificate Serial Number:**

**[Number]**

You are receiving this Settlement Purchase Certificate (the “Certificate”) because you submitted a valid Claim in the Barba v. Old Navy, LLC Settlement.

This Certificate is valid for one year from the issue date above and may only be redeemed at an Old Navy Store or Old Navy Outlet Store located in the United States or online at the Old Navy website.

The Certificate may be used with any other discounts and promotions, and on items that are on sale or otherwise discounted. The Certificate shall not be redeemable for cash (including no cash back), may not be applied to past purchases, may not be used to purchase gift cards, and will not be replaced if lost, stolen, damaged, or expired. The Certificates are fully transferable and may be used toward a single purchase. There is no minimum purchase required to use a Certificate.

Additional information related to the settlement and this certificate is available at [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

**EXHIBIT G**  
**[PROPOSED] FINAL ORDER AND JUDGMENT**

1 Stephen P. DeNittis, Esq. (admitted *pro hac vice*)  
2 DENITTIS OSEFCHEN PRINCE, P.C.  
3 5 Greentree Centre, Suite 410  
4 525 Route 73 N.  
5 Marlton, New Jersey 08057  
6 Telephone: (856) 797-9951  
7 Facsimile: (856) 797-9978  
8 Email: sdenittis@denittislaw.com

9 Daniel M. Hattis, Esq. (SBN 232141)  
10 Paul Karl Lukacs, Esq. (SBN 197007)  
11 HATTIS & LUKACS  
12 400 108<sup>th</sup> Avenue NE, Suite 400  
13 Bellevue, Washington 98004  
14 Tel.: (425) 233-8628  
15 Fax: (425) 412-7171  
16 Email: dan@hattislaw.com  
17 Email: pkl@hattislaw.com

18 *Attorneys for Plaintiffs*  
19 *and the Proposed Class*

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA

21 COUNTY OF SAN FRANCISCO

22 ANASTASHA BARBA,  
23 JAMES ANDREWS,  
24 ANNA NEMYKINA and  
25 BRENDA TRIPICCHIO,  
26 for Themselves,  
27 as Private Attorneys General, and/or  
28 On Behalf Of All Others Similarly Situated,

Plaintiffs,

vs.

OLD NAVY, LLC,  
OLD NAVY (APPAREL), LLC,  
OLD NAVY HOLDINGS, LLC,  
GPS SERVICES, INC., and  
THE GAP, INC., inclusive,

Defendants.

Case No. CGC-19-581937

**[PROPOSED] FINAL APPROVAL  
ORDER AND JUDGMENT**

1 On \_\_\_\_\_ (month) \_\_\_\_ (day), 2021, this Court heard Plaintiffs Anastasha Barba,  
2 James Andrews, Anna Nemykina and Brenda Tripicchio's ("Plaintiffs") motion for final approval  
3 of the class action settlement (the "Settlement"). This Court reviewed: (a) the motion, including  
4 the Settlement Agreement and Release and the Amendment to the Agreement of Settlement and  
5 Release (collectively, the "Agreement" or "Settlement"); (b) any objections filed with or  
6 presented to the Court; (c) the Parties' responses to any objections; and (d) counsels' arguments.  
7 Based on this review and the findings below, the Court finds good cause to GRANT the motion.

8 **FINDINGS:**

9 1. Unless otherwise specified, defined terms in this Final Approval Order have the  
10 same definitions as the terms in the Agreement.

11 2. The Court finds the Settlement was entered into in good faith, that it is fair,  
12 reasonable and adequate, and that it satisfies the standards and applicable requirements for final  
13 approval of this class action settlement under California law, including the provisions of  
14 California Code of Civil Procedure section 382 and California Rules of Court, Rule 3.769.

15 3. Plaintiffs and Defendants Old Navy, LLC, Old Navy (Apparel), LLC, Old Navy  
16 Holdings, LLC, GPS Services, Inc., and The Gap, Inc. (collectively "Defendants" or "Old Navy")  
17 (hereinafter, together with Plaintiffs, the "Parties"), adequately performed their obligations under  
18 the Agreement.

19 4. Defendants provided notice to Class Members in compliance with Section 3.3 of  
20 the Agreement, California Code of Civil Procedure section 382, California Rules of Court 3.766  
21 and 3.769, the California and United States Constitutions, and any other applicable law. The  
22 notice: (i) fully and accurately informed Class Members about the lawsuit and Settlement;  
23 (ii) provided sufficient information so that Class Members were able to decide whether to accept  
24 the benefits offered, opt-out and pursue their own remedies, or object to the proposed Settlement;  
25 (iii) provided procedures for Class Members to file written objections to the proposed Settlement,  
26 to appear at the hearing, and to state objections to the proposed Settlement; and (iv) provided the  
27 time, date and place of the final fairness hearing.  
28

1           5.       An award of \$2,715,000.00 in attorneys' fees and costs to Class Counsel is fair and  
2 reasonable in light of the nature of this case, Class Counsel's experience and efforts in  
3 prosecuting this Action, and the benefits obtained for the Class.

4           6.       An incentive award of \$2,500 each to Plaintiffs Anastasha Barba, James Andrews,  
5 Anna Nemykina and Brenda Tripicchio is fair and reasonable in light of: (a) Plaintiffs' risks  
6 (including financial, professional, and emotional) in commencing this action as the class  
7 representative; (b) the time and effort spent by Plaintiffs in litigating this action as a class  
8 representative; and (c) Plaintiffs' public interest service.

9 **IT IS ORDERED THAT:**

10           1.       **Class Members.** For Settlement purposes, the Class Members are defined as:

11                   All United States citizens who made one or more purchases at an  
12                   Old Navy Store or Old Navy Outlet Store or from the Old Navy  
13                   website, excluding purchases made while in Missouri, between  
14                   November 12, 2015 and [the date of entry of the Preliminary  
15                   Approval Order].

16           2.       **Binding Effect of Order.** This order applies to all claims or causes of action  
17 settled under the Agreement, and binds all class members, including those who did not properly  
18 request exclusion under paragraph 7 of the Preliminary Approval and Provisional Class  
19 Certification Order. This order does not bind persons who filed timely and valid requests for  
20 exclusion. Attached as Exhibit A is a list of persons who properly requested to be excluded from  
21 the Settlement.

22           3.       **Release.** For clarity, and to avoid any ambiguity, it is the intent of the Parties that  
23 the Agreement of Settlement, as amended, and the Settlement (including its definition of "Class  
24 Released Claims") do not and will not release any claims asserted by, or on behalf, consumers  
25 (whether individually or as members of a proposed class), concerning purchases they made in-  
26 store or online while in Missouri, and which are the subject of the separate lawsuit *Hennessey v.*  
27 *The Gap, Inc. and Old Navy, LLC*, Case No. 4:19-cv-1867-SEP, pending in the United States  
28 District Court of Missouri, Eastern Division. Plaintiffs and all Class Members who did not  
properly request exclusion are: (1) deemed to have released and discharged Defendants from all  
claims arising out of or asserted in this Action and claims released under the Agreement; and (2)

1 barred and permanently enjoined from asserting, instituting, or prosecuting, either directly or  
2 indirectly, these claims.

3 4. **Class Relief.** Defendants will issue the appropriate Settlement Purchase  
4 Certificate(s) to each Class Member who is an Authorized Claimant or is otherwise entitled to a  
5 Settlement Purchase Certificate under Sections 2.1 and 2.2 of the Agreement, according to the  
6 timeline set forth in Section 2.3 of the Agreement.

7 5. **Attorney's Fees and Costs.** Class Counsel is awarded \$2,715,000 total in fees  
8 and costs. Old Navy must pay Class Counsel this amount according to the timeline set forth in  
9 Section 2.5 of the Agreement.

10 6. **Incentive Awards.** Plaintiffs Anastasha Barba, James Andrews, Anna Nemykina  
11 and Brenda Tripicchio are each awarded \$2,500.00 (\$10,000 total), as an incentive award. Old  
12 Navy must pay Plaintiffs this amount according to the timeline set forth in Section 2.4 of the  
13 Agreement.

14 7. **Claims Administrator Costs.** The Claims Administrator Angeion Group is  
15 awarded \$825,000.00 total in costs. Old Navy must pay the Claims Administrator this amount  
16 according to the timeline set forth in Section 2.5 of the Agreement.

17 8. **Judgment.** The Court finds that there is no reason for delay and directs the Clerk  
18 to enter judgment in accordance with the terms of this Order as of the date of this Order.

19 9. **Court's Jurisdiction.** Pursuant to the Parties' request, California Code of Civil  
20 Procedure section 664.6, and California Rule of Court 3.769(h), the Court retains jurisdiction over  
21 this action and the parties until final performance of the Agreement.

22 **IT IS SO ORDERED.**

23  
24  
25 Dated: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT