

CITY OF NEW YORK  
COMMISSION ON HUMAN RIGHTS

In the Matter of the Complaint of:

THE NEW YORK CITY COMMISSION  
ON HUMAN RIGHTS,

Complaint No. M-E-9TV-24-134160

Complainant, **VERIFIED COMPLAINT**

— against —

GAP INC., and OLD NAVY INC.,

Respondents.

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**NATURE OF THE ACTION**

The New York City Commission on Human Rights (“Commission”) brings this action against Respondents Gap Inc. (“Gap”) and Old Navy Inc., (“Old Navy”) (collectively “Respondents”) for violating §§ 8-107 (11-a) and (17) of the Administrative Code of the City of New York (“Code” or “NYCHRL”).

Since 2015, § 8-107(11-a), otherwise known as the Fair Chance Act, has outlawed inquiries into, and statements about, job applicants’ criminal conviction histories until after making a conditional offer of employment. The Commission alleges Respondents posted an advertisement for employment that informed applicants that Respondent use “background screenings” prior to a conditional offer to an applicant. The Commission further alleges that maintaining barriers to hiring people with criminal records has a disparate impact on race and national origin in violation of the NYCHRL and Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* (“Title VII”).

The Commission alleges as follows:

## **JURISDICTION AND VENUE**

The Commission initiates this Complaint pursuant to § 8-109(c) of the NYCHRL. The effects of the alleged unlawful policies and practices described in this Complaint occurred in the City of New York.

## **PARTIES**

1. The Commission's address is 22 Reade Street, New York, NY 10007.
2. Respondent Gap is an employer as defined by § 8-102 of the NYCHRL and, employs twenty-five (25) or more employees. Respondent Gap's address for service of process is c/o Corporation Service Company, 80 State Street, Albany, New York, NY 12207, and/ or Julie Gruber, Esq. Chief Legal and Compliance Officer, 2 Folsam Street, San Francisco, CA 94105.
3. Respondent Old Navy is an employer as defined by § 8-102 of the NYCHRL and, employs twenty-five (25) or more employees. Respondent Old Navy's address for service of process is c/o Corporation Service Company, 80 State Street, Albany, New York, NY 12207, and/ or Haio Barbeito, CEO, 2 Folsam Street, San Francisco CA 94105.

## **FACTS**

1. Respondent Gap is a corporation that owns Respondent Old Navy.
2. Respondent Old Navy is a corporation that solicits and accepts resumes and applications from individuals seeking to work for it in a variety of roles, including, but not limited to, in New York City.
3. As of February 1, 2024, Respondent Old Navy's website <https://oldnavy.gap.com/> posted a position for Assistant Manager, Merchandising at 610 6th Ave, New York, NY 10011.
4. In the application, under the *Voluntary Disclosures* page, in the section *Terms and Conditions*, applicants were required to sign off on the statement "I agree that Gap Inc., and any of its affiliates or service providers ("Gap Inc."), may contact me at any phone number I have

provided in order to communicate information relating to my application for employment, background screenings . . .” It also stated, “Notice to applicants in New York: New York has legislation that requires employers to provide a copy of New York Correction Law Article 23-A to any individual whose background check reveals a criminal conviction, even if no adverse action is planned based on the conviction. Accordingly, below is a copy of Article 23-A:”

5. Upon information and belief, Respondent Old Navy’s employment application requires the use of this website.

6. Upon information and belief, each employment application contains a link to apply for the relevant position. Upon clicking that link, job seekers are required to agree to the “Voluntary Disclosures” and the “Terms and Conditions.”

7. Upon information and belief, applicants for positions at Respondent Old Navy, applicants who applied through the website prior to on or about February 1, 2024, but within at least the prior year, had to acknowledge statement(s) similar in substance to the ones alleged in Paragraph 4 above, before applying for any position listed by Respondent Old Navy.

8. Upon information and belief, Respondents Gap and its subsidiaries such as Old Navy maintain policies and practices to the detriment of job applicants with criminal records and negative credit histories. These policies and practices have a disparate impact on African American and Latino applicants in violation of Title VII of the Civil Rights Act of 1964.

9. Upon information and belief, Respondents maintain policies and practices to the detriment of job applicants with criminal records. These policies and practices have a disparate impact upon applicants who are African American and Latino.

**CHARGE I**  
**Employment Discrimination Based on Criminal History in Violation of**  
**§ 8-107(11-a) of the NYCHRL**

10. Complainant incorporates and realleges paragraphs 1 through 9 of this Complaint as though fully set forth herein.

11. For each solicitation, advertisement, or publication for employment at Respondents that was posted in the last year that required an applicant to reveal information about their conviction history, the Commission charges that Respondents caused to be circulated an employment application that expresses, directly or indirectly, a limitation or specification based on criminal conviction in violation of § 8-107(11-a)(a)(1) of the NYCHRL.

**CHARGE II**  
**Race and National Origin Discrimination in Employment in Violation of**  
**§ 8-107(17) of the NYCHRL**

12. Complainant incorporates and realleges Paragraphs 1 through 9 of this Complaint as though fully set forth herein.

13. The Commission charges that Respondents have policies and practices creating a disparate impact on race and national origin, in violation of § 8-107(17) of the NYCHRL.

**CHARGE III**  
**Race, Color, National Origin, and Sex Discrimination in Employment**  
**in Violation of Title VII of the Civil Rights Act of 1964**

14. Complainant incorporates and realleges paragraphs 1 through 9 of this Complaint as though fully set forth herein.

15. The Commission charges that Respondents have violated Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*, on the basis of race, color, national origin, and sex, and accepts this Verified Complaint on behalf of the Equal Employment Opportunity Commission, subject to the statutory limitations contained in Title VII.

**PRAYER FOR RELIEF**

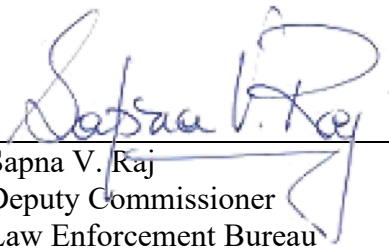
WHEREFORE, the Commission respectfully requests judgment against Respondents as follows:

- a) Declaring that Respondents' acts, practices, and omissions complained of herein violate the NYCHRL;
- b) Enjoining Respondents and their agents, employees, successors, and all other persons in active concert or participation from further violating the NYCHRL;
- c) Enjoining Respondents and their agents, employees, successors, and all other persons in active concert or participation from coercing, intimidating, threatening, or interfering with, or attempting to coerce, intimidate, threaten, or interfere with a person in the exercise or enjoyment of rights granted and/or protected under the NYCHRL;
- d) Directing Respondents to pay civil penalties; and
- e) Awarding such other and further relief as the Commission deems just and proper.

**[NO FURTHER TEXT ON THIS PAGE]**

Sapna V. Raj, being duly sworn, deposes and says: I am Deputy Commissioner at the Law Enforcement Bureau of the New York City Commission on Human Rights, the Complainant herein; I have read the foregoing Complaint and know the content thereof; the same is true of my own knowledge, except as to the matters therein stated on information and belief; and, as to those matters, I believe the same to be true.

Dated: New York, New York  
February 13, 2024



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Sapna V. Raj  
Deputy Commissioner  
Law Enforcement Bureau  
New York City Commission on Human Rights