

Sheppard Mullin Scores Appeals Court Win For BJ'S Restaurants

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Sheppard Mullin successfully represented BJ's Restaurants in an appeal in the Court of Appeal, Third Appellate District. The court found that BJ's Restaurants did not need to reimburse its employees for the cost of slip-resistant shoes that the company required its employees to wear when performing work duties. The Court of Appeal affirmed the trial court's summary judgment order in its entirety, bringing to conclusion a five-year litigation battle.

In an interesting twist on the oral arguments, this case was selected for participation in the Court of Appeal, Third Appellate District's award-winning community outreach program, in which oral argument was ordered to occur in front of more than 500 high school seniors, faculty, and government officials (and the entire appellate panel) in Red Bluff, CA. (Click here to read the California Courts of Appeal press release about the program.)

The Sheppard Mullin team, led by partner Matt Sonne, included partner Justine Phillips; and associate Jason Guyser.

Background on the Case

From approximately April 2011 to April 2013, plaintiff Kristina Townley worked as a server at one of BJ's Restaurants' locations. To avoid slip and fall accidents, BJ's required its restaurant employees to wear black, slip-resistant, closed-toe shoes. Employees were not required to wear a specific brand, style or design of shoes. Employees were permitted to wear their shoes outside of work. During her employment, Townley purchased a pair of shoes in compliance with BJ's policy. Pursuant to its policy and practice, BJ's did not reimburse Townley for the cost of the shoes.

In April 2014, Townley filed a class and representative action against BJ's seeking reimbursement for the cost of the shoes as well as penalties under PAGA. In October 2015, Townley amended her complaint removing the class claims and solely sought PAGA penalties based on BJ's failure to reimburse for the cost of the shoes. Townley alleged BJ's was required to reimburse employees for the cost of a required safety item under Labor Code sections 6401 and 6403. Townley also alleged BJ's was required to reimburse employees under Labor Code section 2802 because the shoes were a necessary business expense.

BJ's filed a motion for summary judgment on the grounds that it was not required to reimburse employees for the costs of such shoes under the Labor Code. In opposing the motion, Townley abandoned her theory that she was entitled to reimbursement under Labor Code sections 6401 and 6403 and solely argued that she was entitled to reimbursement under Labor Code section 2802. BJ's argued that it was not required to reimburse employees for the costs of non-uniform work clothing under California law. The trial court granted BJ's motion for summary judgment. The Court of Appeal affirmed the order concluding that the shoes were not a "necessary expenditure" within the meaning of Labor Code section 2802. The shoes were not part of a "uniform" as that

term is defined under California law and were generally usable in the restaurant occupation. Accordingly, BJ's was not required to pay for the costs of such shoes.

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Practice Areas

Appellate