Gap employees testifies in court about Gaps fraudulent intentions

In court, a Gap representative described a deal involving roughly half a million plus-size units. In SVES's warehouses, the trucks kept coming until the count reached eight to nine million. Between those two numbers sits one of the most serious unanswered questions in American apparel supply chains, and Gap has never answered it.

What Gap's Representative Said Under Oath

The court record in the Phase I bench proceeding between Gap and the SVES entities includes testimony from Stephen Brown, the Gap representative who negotiated the Old Navy purchase orders at the center of this dispute. According to the court's account of that testimony, the parties discussed approximately 500,000 plus-size units out of a transaction of roughly 10 million garments, with the possibility of perhaps another 500,000 flowing through future purchase orders.

The court also recorded that the purchase-order inventory itself contained fewer than approximately one million plus-size units.

So the baseline is not SVES's assertion. It is Gap's own negotiator, describing Gap's own deal, in a courtroom, under oath. Roughly one million plus-size units. That is the number Gap's side put on the table.

SVES Did Not Guess. It Used Gap's Documents.

A recurring implication in disputes of this kind is that the buyer should have known better. That argument collapses here, because SVES did not buy blind and it did not buy on a handshake.

SVES built its purchase orders directly from Gap's Available to Sell ("ATS") lists — inventory data generated by Gap, describing Gap's own merchandise — and attached those exact Gap lists to the purchase orders. The lists were not background color. They were the specification. They defined what SVES believed it was buying and what SVES priced, financed, staffed, and warehoused against.

When a seller supplies the inventory data, and the buyer writes its orders from that data and attaches it to the contract, the seller has assumed responsibility for the accuracy of that data. That is not a sympathetic reading. That is how commercial dealing works.

The question SVES has asked from the beginning is therefore very narrow: if Gap's own ATS lists reflected approximately one million plus-size units, how did approximately eight to nine million arrive on SVES's docks?

More Than 300 Trucks

The Old Navy merchandise, approximately 11.2 million units, did not arrive in a single auditable delivery. It arrived over months, across more than 300 truckloads, into multiple warehouse locations.

Pallets had to be broken down. Cartons had to be opened. Millions of individual garments had to be scanned, sorted, and counted before anyone could describe the whole's size composition. No buyer on earth determines the size mix of an eleven-million-unit shipment by inspecting a few cartons at a loading dock.

As SVES processed the goods, the pattern emerged and then hardened: this was not the assortment described in Gap's lists. It was overwhelmingly extended sizes.

Gap Had a Plus-Size Inventory Problem. Gap Said So Publicly.

Old Navy's BODEQUALITY initiative dramatically expanded plus-size assortments. By its first-quarter 2022 earnings call, Gap was publicly conceding the consequences: it had overestimated demand in stores, and it had over-planned larger sizes, with supply running ahead of demand and excess inventory sitting across the fleet. Contemporary reporting described Old Navy stores as stranded with piles of the very smallest and very largest sizes.

The financial damage was documented in the company's own results. Supply Chain Dive reported that Gap closed 2022 with inventory down 21% year over year to $2.4 billion after what the publication called a year of painful discounting, with merchandise margin falling five percentage points and more than half of that decline attributable to heavier markdowns. Old Navy's chief executive told analysts the company had taken decisive action to rightsize historic high levels of inventory that had arisen from supply chain disruptions and execution issues. Gap's finance chief also acknowledged inventory the company had packed away and held through the downturn.

This was not an isolated stumble. Gap had already told the market in late 2021 that supply chain failures cost it roughly $300 million in lost third-quarter sales, driven by factory closures abroad and port backlogs at home.

"**A company that publicly admits it over-planned larger sizes, held back inventory, and could not keep its supply and demand aligned is a company whose inventory records deserve scrutiny — not deference."**

SVES's position is straightforward and, on this public record, entirely reasonable: it believes it became the destination for a plus-size inventory problem Gap had already told its own investors about.

Then Came the 25–30% Figure

After Gap representatives inspected merchandise at a Florida warehouse, Gap represented in June 2023 that plus-size goods made up approximately 25–30% of the relevant Old Navy assortment.

SVES's own physical inventory count showed more than 90% extended-size items.

In the Phase I proceeding, the court made no finding that Gap's representation was false. But for the purpose of deciding the motion before it, the court assumed it was false — and expressly noted that the record did not explain how Gap arrived at the 25–30% figure.

Read that again. Gap put a number in front of its counterparty during a live commercial dispute, and the record does not explain where the number came from.

Either Gap's inventory systems could not accurately describe merchandise Gap itself had shipped, or the figure was generated by some means Gap has never disclosed. SVES has never received an answer as to which it was. Neither has anyone else.

The 45-Day Clause

The May 2022 amendment to the parties' agreement required SVES to report any delivery discrepancy in a single written report within 45 calendar days of receiving a shipment. The same agreement provided that Gap would not accept returns or issue refunds.

Apply that clause to the facts. Millions of garments. More than 300 trucks. Multiple sites. A deadline that begins running on receipt, not on discovery.

The practical effect of that structure is that the party with complete inventory knowledge — the seller — carries no verification burden, while the party with none carries all of it, on a clock that starts before the merchandise can physically be counted. Whatever a court ultimately makes of the clause, its commercial character is not in doubt: it transfers risk away from the party that generated the data and onto the party that relied on it.

The History Gap Does Not Talk About

There is one more element of this record that deserves attention, because it establishes what kind of counterparty SVES was.

In early 2020, when retail froze and merchandise backed up with nowhere to go, Gap came to SVES. SVES secured roughly three million square feet of space, absorbed merchandise tied to Gap-owned brands and suppliers, and says it ultimately paid approximately $80 million to Gap stores and suppliers as part of that effort.

There is also the 2021 dispute that preceded all of this, in which SVES says it ordered merchandise that was not fully delivered. Notably, the May 2022 Second Amendment itself records that the purchaser did not receive all of the authorized goods documented in the outstanding payment orders. SVES nonetheless paid Gap $6 million to settle the matter and preserve the relationship.

SVES chose the relationship over confrontation. In hindsight, it treats that decision as the first warning it failed to heed.

The Questions Gap Has Not Answered

SVES is not asking for sympathy. It is asking for answers to questions that any functioning supply chain should be able to answer in an afternoon:

- How did Gap generate the ATS lists attached to SVES's purchase orders, and what size composition did Gap's systems record at the time those lists were produced?
- If Gap's negotiator described roughly 500,000 to 1,000,000 plus-size units, what internal record supported that figure — and does it match what was loaded onto more than 300 trucks?
- How was the June 2023 figure of 25–30% calculated, by whom, and from what underlying data?
- Which Gap distribution centers sourced the extended-size merchandise, and what were those facilities' recorded size profiles at the time of shipment?
- What became of the plus-size inventory Gap publicly acknowledged it had over-planned and packed away?

Not one of these questions requires a court to resolve. Every one of them requires only that Gap open its own records.

The Documents Will Settle It

This dispute does not ultimately turn on competing narratives. It turns on paper, and the paper exists:

- Gap's ATS inventory lists as generated and as transmitted
- SVES's purchase orders, with the Gap lists attached
- Bills of lading and shipment manifests for all 300-plus truckloads
- Gap distribution center outbound records and size-level inventory data
- SVES warehouse receiving records and physical inventory counts
- The internal basis for Gap's 25–30% representation

Public shipping data already confirms that substantial garment volumes moved from Gap-related entities into SVES's Florida operations. What that data cannot do is reconcile individual shipments against individual ATS lists. Only Gap's own records can do that — and Gap holds them.

Why This Matters Beyond One Company

Off-price and secondary-market apparel runs on a single assumption: that the inventory data supplied by the brand is accurate. Nobody audits eleven million garments before accepting a shipment. The entire channel depends on the seller's records being what the seller says they are.

When a company of Gap's size cannot explain how its own lists, its own testimony and its own later representations produced three irreconcilable numbers for the same merchandise, the problem is bigger than one contract. It is a supply chain that cannot account for what it ships — and a smaller counterparty left holding warehouses full of goods it says it never agreed to buy, with its reputation, its capital and its operating capacity absorbed by someone else's inventory failure.

"**More than 300 trucks arrived. Millions of unexpected plus-size garments were inside. Gap has never explained how they got there.**"

SVES intends to keep asking until it does.

Gap’s Litigation Pattern and Employee Testimony

Taken together, the article suggests that while Gap has repeatedly denied fraudulent or discriminatory intent, the cumulative weight of employee testimony, missing or inconsistent internal documentation, and repeated settlements across pricing, wage, layoff, and discrimination cases creates a strong circumstantial picture of systemic misconduct rather than isolated mistakes. Courts have sometimes dismissed securities-fraud claims for lack of proof that top executives knowingly misled investors, yet in employment and consumer cases they have allowed juries to infer fraudulent or retaliatory intent from how Gap treated workers, priced discounts, and failed to maintain reliable records. The practical upshot is that, even without a single "smoking gun" confession in court, the testimony of Gap employees and former managers has repeatedly helped plaintiffs establish that Gap's stated intentions did not match its actual practices, reinforcing the article's broader theme that Gap's litigation record reflects entrenched patterns of questionable conduct rather than one-off errors