

# Employer's duty to 'provide' employee seating

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Under the California wage orders governing most workplaces, all working employees must be “provided with suitable seats when the nature of the work reasonably permits the use of seats.” Where employees are not actively performing their duties and the work requires standing, an employer must place “an adequate number of suitable seats ... in reasonable proximity to the work area” and permit employees to use them when it does not interfere with the employees’ duties. Substantially different seating rules apply in agricultural and construction workplaces.



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On July 19, a Los Angeles-based California Court of Appeal panel concluded that “where an employer has not expressly advised its employees that they may use a seat during their work and has not provided a seat at a workstation,” an employer may face fact-intensive scrutiny in court of its seating policies and practices.

## Background of Meda v. AutoZone, Inc.

Monica Meda was a part-time sales associate at an AutoZone auto parts store, operated by AutoZoners LLC, for about six months. Meda claimed all 40 percent of her time spent working as a cashier and half of the 40 percent of her time spent working at the parts counter responding to customer questions and requests could be done while seated.

The store had two raised chairs onsite. Both were generally located near the manager’s station on the open work floor. The chairs were not visible from the cashier and parts counter workstations, but Meda was aware of them.

Meda used one of the chairs at the cashier workstation for two days as a disability accommodation after an on-the-job foot injury, but she believed those chairs were only available as an accommodation. No one told Meda she was allowed to use or prohibited from using a chair at the parts counter, nor did Meda ever ask.

Under company policy, a stool was available to an employee needing or requesting one. In 2016, AutoZoners sent a company-wide directive to store managers to make two stools available to employees at their stores. The directive said the stools could be placed by the manager’s office, at the commercial desk, or by the cashier’s workstation. AutoZoners offered no training on the seating policy and the policy was not part of the employee handbook.

After Meda resigned, she sued AutoZoners under the California Private Attorneys General Act (PAGA), claiming the company failed to provide suitable seating to employees at the cashier and parts counter workstations. The trial judge summarily dismissed Meda’s claim, ruling that AutoZoners had “provided” employee seating as required. That meant Meda was not an “aggrieved employee” entitled to assert a PAGA claim.

## Court of Appeal ruling

The Court of Appeal reversed, holding that Meda was entitled to a trial on whether AutoZoners provided her with suitable seating. Since the only question was whether Meda had standing to bring the PAGA claim, the court did not consider whether the seating regulation required AutoZoners to supply enough seats to seat every employee all the time.

The court said providing a seat for everyone may not be feasible anyway. “[E]very workplace is different, and a variety of factors may impact how an employer could ‘provide’ suitable seating at a particular workstation. Courts might consider, for example, the nature of an employee’s job responsibilities, how frequently an employee changes tasks, the physical layout of the workspace, the number of employees sharing a workstation, and the extent to which the location of a seat at or near a workstation may obstruct employees’ tasks or cause congestion (and possibly create safety risks) in a specific work area.”

The court noted that at Meda’s workplace, the two raised chairs were present in the store, but were not placed at or in the immediate vicinity of the cashier workstation or the parts counter. The court said it was not suggesting an employer must place a chair within a specific distance of a workstation, only that how close a chair was to an employee’s workstation was relevant to whether a seat had been “provided.” “This is particularly true where, as here, the employer has not advised its employees that seats are available for their use by either directly informing the employees or including the seating policy in its employee handbook.”

Meda was not required to ask if she could use the chairs, said the court, and it was not enough that no AutoZone manager ever prohibited her from using them.

## Best practices

To lower the risk of a claim for failure to provide suitable employee seating, an employer should consider:

- Communicating the company’s seating policy to new employees and in the employee handbook;
- Training managers on the seating policy; and
- Where feasible, placing seating at or near workstations where the seating would be used.

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