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Attorneys for Plaintiffs
JED ASIS, JUSTIN WATSON, AND KEVIN JOHNSON

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

JED ASIS and JUSTIN WATSON

Plaintiff,

vs.

FOOT LOCKER RETAIL, INC., and DOES
1 through 50, inclusive,

Defendants.

Case No. STK-CV-UOE-2023-0000627

(Assigned to the Hon. George J. Abdallah, Dept.
10A)

**DECLARATION OF MAX W. GAVRON IN
SUPPORT OF PLAINTIFFS' MOTION
FOR FINAL APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT**

Date: January 18, 2024
Time: 9:00 a.m.
Dept.: 10A

Action Filed: January 26, 2023
Trial Date: Not Set

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I, Max W. Gavron, declare as follows:

1. I am an attorney at law, duly licensed to practice before all Courts in the State of California, and am with the law firm Diversity Law Group, P.C., counsel of record for Plaintiffs Kevin Johnson, Jed Asis, and Justin Watson (“Plaintiffs”). I have personal knowledge of the facts set forth below and if called to testify I could and would do so competently.

2. The Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement Agreement”) was the product of negotiation between highly able and experienced attorneys on both sides who possessed the relevant data and extensive legal research, which they had carefully analyzed. Class Counsel engaged in extensive factual investigation before settling, including the exchange of formal and informal discovery and class data.

3. Additionally, the Parties reached a settlement with the assistance of Mark Rudy, Esq., a well-regarded neutral with experience mediating employment matters. During litigation and in advance of the mediation, Defendant produced hundreds of pages of documents, including employee handbooks, payroll policies, meal and rest break documents, and a sampling of employee clock-in and clock-out records and corresponding payroll records. Defendant also produced information concerning the number of current and former employees and the average rate of pay for putative class members. Using the data provided by Defendant, Class Counsel conducted a full damage analysis.

4. The Notice of Class Action Settlement (“Class Notice”) provided Class Members with the Settlement Administrator’s and Class Counsel’s contact information, where they could seek further information regarding the class settlement, leave questions for the Settlement Administrator, and update their address.

5. There were no objections to the amount of attorneys' fees or litigation costs that Class Counsel seek in this case and for which Plaintiffs asks the Court for final approval.

6. The settlement in the case at bar warrants approval and carries a presumption of fairness. As previously noted in the application for Preliminary Approval, this current settlement was negotiated at arm's length.

1 7. Based on my own independent investigation and evaluation, I am of the opinion
2 that the settlement is fair, reasonable, and adequate and that the settlement is in the best interests
3 of the Class, in light of all known circumstances and the expenses and risks inherent in litigation.
4 I also believe in the fairness of the settlement based on factoring in the uncertainty and risks to
5 Plaintiffs in not prevailing at class certification and/or at trial, and the possibility of appeals.

6 8. I have no conflicts of interest with the proposed cy pres recipient, Legal Aid at
7 Work.

8 9. My firm has a great deal of experience in wage and hour class action litigation
9 and has been approved as class counsel in a number of class actions.

10 10. I am one of the primary attorneys on this matter. My qualifications are as follows:
11 I received a full-tuition scholarship, and graduated from Southwestern Law School in 2013,
12 *magna cum laude*. I was in the top 5% of my class. During my time at Southwestern, I was a
13 Notes and Comments Editor on the Southwestern Law Review. I also received awards for
14 achieving the highest grade in my class in several courses. In 2012, I was a full-time extern, at
15 the United States District Court for the Central District. Immediately after law school, I taught
16 several courses at Southwestern, including Principles of Legal Analysis and Legal Methods. I
17 taught those courses for approximately four years.

18 11. I practiced civil litigation at Haight Brown & Bonesteel LLP from approximately
19 September 2013, through January 2016. I was third-chair in a federal court jury trial that resulted
20 in a defense verdict in our client's favor on a \$21 million commercial breach of contract dispute.
21 I also regularly litigated cases across the civil litigation spectrum, including employment matters.

22 12. From February 2016, through Fall 2017, I practiced at the international law firm
23 of Arnold & Porter, which had recently merged with Kaye Scholer, LLP. I defended Fortune 50
24 companies in Multi-District Litigation primarily in the product liability sphere. I also
25 successfully drafted an appellate brief in the Ninth Circuit resulting in the reversal of a summary
26 judgment decision regarding trade secret issues, in addition to working in several other practice
27 groups. *See Experian Info. Solutions v. Nationwide Marketing Servs. Inc.*, 893 F.3d 1176 (9th
28 Cir. 2018).

13. From September 2017, through September 2018, I served as a law clerk to a Judge sitting on the United States District Court, Central District of California. I regularly prepared bench memoranda, on cases involving all types of civil litigation, including regularly working on wage and hour class actions.

14. I am currently an associate at the law firm Diversity Law Group, P.C., an employment law firm that has handled numerous wage and hour class and individual actions, on both plaintiff and defense sides. My current practice focuses on employment matters involving both class actions, and single plaintiffs. The firm currently has cases in the Los Angeles Superior Courts, the Orange County Superior Courts, the San Diego County Superior Courts, and the United States District Courts for the Central, Northern, and Eastern Districts of California. I am currently handling, or have handled, numerous wage and hour class action lawsuits with the firm, including, but not limited to: *Agar v. Sensient Natural Ingredients, LLC* (Case No. CV-19-001906, Stanislaus County Superior Court); *Heredia v. Eddie Bauer LLC* (Case No. 16CV300475, United States District Court, Northern District of California); *Parsons v. Estenson Logistics, LLC* (Case No. 34-2019-00252929, Sacramento County Superior Court); and *Rodas v. Goodyear Tire* (Case No. 21-cv-07526, United States District Court, Central District of California), among many others.

15. On June 14, 2019, I argued two related cases in front of the Ninth Circuit Court of Appeals. One of them was *Rodriguez v Nike Retail Service Inc.*, Case No. 17-16866. On June 28, 2019, the Ninth Circuit issued a published decision, reversing and remanding in favor of our clients. *Rodriguez v. Nike Retail Servs., Inc.*, 928 F.3d 810 (9th Cir. 2019).

16. I have also assisted the firm in numerous wage and hour class action mediations.

NOTICE TO THE LWDA

17. On October 9, 2023, my office uploaded the Order Granting Plaintiff's Motion for Preliminary Approval of Class Action Settlement to the LWDA's website. Attached as **Exhibit A** is a true and correct copy of the upload confirmation.

18. Concurrent with the filing of the Motion for Final Approval of Class Action and PAGA Settlement, my office uploaded the motion and proposed order to the LWDA's website.

1 Attached as **Exhibit B** is a true and correct copy of the upload confirmation.

2 I declare under penalty of perjury under the laws of the State of California that the
3 foregoing is true and correct.

4 Executed on this 22nd day of December 2023, at Los Angeles, California.

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7 Max W. Gavron
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EXHIBIT A

Erika Mejia

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Monday, October 9, 2023 3:12 PM
To: Erika Mejia
Subject: Thank you for your Court Order or Judgment Submission

10/09/2023 03:11:48 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Court Order or Judgment

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

Erika Mejia

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Monday, October 9, 2023 2:57 PM
To: Erika Mejia
Subject: Thank you for your Court Order or Judgment Submission

10/09/2023 02:56:05 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Court Order or Judgment

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT B