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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)

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT; AND JUDGMENT**

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

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

1 Plaintiffs Jed Asis, Kevin Johnson, and Justin Watson (collectively, “Plaintiffs”) and
2 Defendant Foot Locker Retail, Inc. (“Defendant”) (collectively with Plaintiffs, the “Parties”)
3 have entered into the Joint Stipulation of Class Action and PAGA Settlement and Release
4 (“Settlement Agreement”) to settle the above-captioned class action subject to the Court’s
5 approval (the “Settlement”).

6 This matter is now before the Court on Plaintiff’s Motion for Final Approval of Class and
7 Representative Action Settlement, including approval of an Incentive Payment for each Named
8 Plaintiff and Class Counsel’s application for attorneys’ fees and costs. The Court has read, heard,
9 and considered all the pleadings and documents submitted, and the presentations made in
10 connection with the Motion which came on for hearing on January 18, 2024.

11 **I. BACKGROUND**

12 On January 13, 2021, Plaintiff Kevin Johnson filed a putative class action against
13 Defendant in the Superior Court of the State of California, County of San Francisco. On January
14 26, 2023, Plaintiffs Jed Asis and Justin Watson commenced a putative class action against
15 Defendant in the Superior Court of the State of California, County of San Joaquin (the “Action”).
16 On July 25, 2023, Plaintiffs consolidated their claims and filed a First Amended Complaint in
17 the Action. The First Amended Complaint is the operative complaint (“Complaint”). As alleged
18 in the Complaint, Plaintiffs assert class-wide claims for: (1) violation of Labor Code §§ 510 and
19 1194; (2) violation of Labor Code §§ 226.7 and 512; (3) violation of Labor Code § 226; (4)
20 violation of Labor Code §§ 201-203, 204, and 246; (5) violation of Labor Code § 2802; (6)
21 violation of Business and Professions Code § 17200, *et seq.*; and (7) violation of Labor Code §
22 2698, *et seq.*

23 **A. The Class**

24 The “Class” is defined as “all current and former non-exempt employees of Defendant
25 Foot Locker Retail, Inc. who were employed in the State of California at any time during the
26 Class Period.” The Class Period is the time period commencing on October 19, 2018, and
27 ending February 27, 2023.

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1 **B. Operation of the Settlement**

2 Pursuant to the Preliminary Approval Order dated October 5, 2023, this Court
3 conditionally certified the Class and granted preliminary approval to the Settlement. The
4 Preliminary Approval Order also approved of the proposed form of notice and notice plan. The
5 Court entered the Preliminary Approval Order after review and consideration of all of the
6 pleadings filed in connection herewith, and the oral presentations made by counsel at the hearing.

7 In compliance with the Preliminary Approval Order, the Notice of Class Action
8 Settlement (“Class Notice”) was sent to all Class Members via first class mail. Class Notices
9 were sent to 13,725 individuals and re-mailed to 288 individuals with updated addresses. Forty-
10 two (42) Class Notice remain undeliverable. The notice process was timely completed and only
11 one individual requested exclusion.

12 This Court finds that the Settlement appears to be the product of serious, informed, non-
13 collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential
14 treatment to any individuals. The Court finds that the Settlement was entered into in good faith
15 pursuant to California Code of Civil Procedure § 877.6. The Court further finds that the
16 Settlement is fair, reasonable, and adequate and that Plaintiffs have satisfied the standards for
17 final approval of a class action settlement under California law. Under the provisions of
18 California Code of Civil Procedure § 382 and Federal Rule of Civil Procedure 23, as approved
19 for use by the California state court in *Vasquez v. Superior Court*, 4 Cal. 3d 800, 821 (1971), the
20 trial court has discretion to certify a class where:

21 [Q]uestions of law or fact common to the members of the class
22 predominate over any questions affecting only individual members,
23 and that a class action is superior to the available methods for the
24 fair and efficient adjudication of the controversy...Fed. R. Civ.
 Proc. 23.

25 Certification of a settlement class is the appropriate judicial device under these circumstances.

26 Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS
27 FOLLOWS:

- 28 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the

1 Settlement Agreement filed in this case.

2 2. The Court has jurisdiction over the subject matter of the litigation, the Class
3 Representatives, the other members of the Class, PAGA Members, and Defendant.

4 3. The Court finds that the dissemination of the Class Notice as disseminated to the
5 Class Members, constituted the best notice practicable under the circumstances to all persons
6 within the definition of the Class, and fully met the requirements of California law and due
7 process under the United States Constitution.

8 4. The Court approves the settlement of the above-captioned action, as set forth in
9 the Settlement Agreement, as fair, just, reasonable, and adequate as to the Parties. The Parties are
10 directed to perform in accordance with the terms set forth in the Settlement Agreement.

11 5. Except as otherwise provided in the Settlement Agreement, the Parties are to bear
12 their own costs and attorneys' fees.

13 6. The Court hereby certifies the following Class for settlement purposes only:

14 All current and former non-exempt employees of Defendant Foot
15 Locker Retail, Inc. who were employed in the State of California at
16 any time during the Class Period.

17 One of the Class Members submitted a timely and valid Request for Exclusion. The Class
18 Period is the time period commencing on October 19, 2018, and ending February 27, 2023.

19 7. With respect to the Class and for purposes of approving the settlement only and
20 for no other purpose, this Court finds and concludes that: (a) the members of the Class are
21 ascertainable and so numerous that joinder of all members is impracticable; (b) there are
22 questions of law or fact common to the Class, and there is a well-defined community of interest
23 among members of the Class with respect to the subject matter of the claims in the Litigation; (c)
24 the claims of Class Representatives are typical of the claims of the members of the Class; (d) the
25 Class Representatives have fairly and adequately protected the interests of the members of the
26 Class; (e) a class action is superior to other available methods for an efficient adjudication of this
27 controversy; and (f) the counsel of record for the Class Representatives, *i.e.*, Class Counsel, are
28 qualified to serve as counsel for the Plaintiffs in their individual and representative capacities and

1 for the Class.

2 8. Within fourteen (14) business days after the grant of Final Approval of the
3 Settlement, Defendant shall remit to the Qualified Settlement Fund established by the Settlement
4 Administrator the Gross Settlement Amount of Eight Million Nine Hundred Seventy Thousand
5 Dollars (\$8,970,000.00), pursuant to the terms of the Settlement Agreement.

6 9. From the Gross Settlement Amount, the Settlement Administrator shall pay:

7 (a) To Class Counsel attorneys' fees in the amount of Three Million One
8 Hundred Thirty-Nine Thousand Five Hundred Dollars (\$3,139,500.00) and reimbursement of
9 actual litigation costs in the amount of Twenty Six Thousand Seven Hundred and Forty-Three
10 Dollars and Sixty-Two Cents (\$26,743.62);

11 (b) Incentive Payments to Class Representatives Jed Asis, Justin Watson, and
12 Kevin Johnson to reimburse them for their unique services, and as consideration for the
13 execution of a general release, each in the amount of Ten Thousand Dollars (\$10,000.00);

14 (c) The sum of Three Hundred Seventy-Five Thousand Dollars (\$375,000.00)
15 to the California Labor and Workforce Development Agency for its seventy-five percent (75%)
16 share of PAGA penalties;

17 (d) The sum of One Hundred Twenty-Five Thousand Dollars (\$125,000.00) to
18 PAGA Members for their twenty-five percent (25%) share of PAGA penalties; and

19 (e) the sum of Sixty-Five Thousand Dollars (\$65,000.00) to the Settlement
20 Administrator, Phoenix Settlement Administrators, for its fees and costs relating to the settlement
21 administration process.

22 10. The Court finds that these amounts are fair and reasonable. The Settlement
23 Administrator is directed to make such payments in accordance with the terms of the Settlement
24 Agreement.

25 11. The Court approves of the Individual Settlement Payment and Individual PAGA
26 Payment amounts, which will be distributed pursuant to the terms of the Settlement Agreement.

27 12. The Court hereby orders the parties to implement the terms of the Settlement
28 Agreement, including distributing any uncashed settlement payment checks to the designated cy

1 *pres* recipient, Legal Aid at Work.

2 13. All Class Members who did not opt out of the Settlement shall be bound by the
3 releases provided in the Settlement Agreement. The Class Representatives shall be bound by the
4 general releases provided in the Settlement Agreement.

5 14. The Court hereby enters final judgment in this case in accordance with the terms
6 of the Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of
7 the Settlement or Judgment entered, this Court shall retain exclusive and continuing jurisdiction
8 over the action and the Parties, including all Participating Class Members, for purposes of
9 enforcing and interpreting this Order and the Settlement.

10 **IT IS SO ORDERED AND ADJUDGED.**

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12 DATED: _____

13 HON. GEORGE J. ABDALLAH
14 SUPERIOR COURT OF CALIFORNIA
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