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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
PRELIMINARY APPROVAL OF CLASS
AND REPRESENTATIVE ACTION
SETTLEMENT**

Date: October 3, 4, 5, 10, or 11, 2023
Time: 9:00 a.m
Dept.: 10A

Complaint Filed: January 26, 2023
FAC Filed: July 25, 2023
Trial Date: Not Set

1 Plaintiffs Jed Asis, Kevin Johnson, and Justin Watson’s (collectively, “Plaintiffs”)
2 application for an Order Granting Preliminary Approval of Class and Representative Action
3 Settlement was filed with the Court on September 5, 2023, and a hearing was held before this
4 Court on _____, 2023. Appearances for Plaintiffs’ Counsel and counsel for
5 Defendant Foot Locker Retail, Inc. (“Defendant”) were noted on the record.

6 The Court has considered the Joint Stipulation of Class Action and PAGA Settlement and
7 Release (“Agreement” or “Settlement Agreement”) and all other papers filed in this action.

8 NOW THEREFORE, IT IS HEREBY ORDERED:

9 1. This Court grants preliminary approval of the Settlement Agreement between
10 Plaintiffs and Defendant filed herewith. The Settlement Agreement appears to be fair, adequate,
11 and reasonable to the Class.

12 2. The Class Representatives and Defendant (hereafter, “Settling Parties”), through
13 their counsel of record in the Litigation, have reached an agreement to settle the class and PAGA
14 claims in the Litigation as set forth in the Settlement Agreement, on behalf of the Class (as
15 defined below and in the Settlement Agreement).

16 3. The Court hereby conditionally certifies the following Class for settlement
17 purposes only:

18 all current and former non-exempt employees of Defendant Foot
19 Locker Retail, Inc. who were employed in the State of California at
20 any time during the Class Period.

21 Should for whatever reason the Settlement Agreement not become Final, the fact that the
22 Parties were willing to stipulate to certification of a class as part of the Settlement Agreement
23 shall have no bearing on, or be admissible in connection with, the Litigation or the issue of
24 whether a class should be certified in a non-settlement context.

25 4. The Court appoints and designates: (a) Plaintiffs Jed Asis, Kevin Johnson, and
26 Justin Watson as the Class Representatives and (b) Larry W. Lee, Kristen M. Agnew, Nicholas
27 Rosenthal, and Max W. Gavron of Diversity Law Group, P.C., Emil Davtyan of D. Law, Inc.,
28 and David J. Lee of David Lee Law, APC as Class Counsel for the Class. Class Counsel is

1 authorized to act on behalf of the Class with respect to all acts or consents required by, or which
2 may be given, pursuant to the Settlement Agreement, and such other acts reasonably necessary to
3 finalize the Settlement Agreement and its terms. Any Class Member may enter an appearance
4 through his or her own counsel at such Class Member's own expense. Any Class Member who
5 does not enter an appearance or appear on his or her own behalf will be represented by Class
6 Counsel.

7 5. The Court hereby approves the terms and conditions provided for in the
8 Settlement Agreement. The Court finds that on a preliminary basis the Settlement Agreement
9 falls within the range of reasonableness of a settlement, including the amount of the PAGA
10 penalties, and appears to be presumptively valid, subject only to any objections that may be
11 raised at the final fairness hearing and final approval by the Court. It appears to the Court on a
12 preliminary basis that the settlement is fair, adequate, and reasonable as to all potential Class
13 Members when balanced against the probable outcome of further litigation relating to liability
14 and damages issues. It also appears that investigation, research, and court proceedings have been
15 conducted so that counsel for the Settling Parties are able to reasonably evaluate their respective
16 positions. It appears to the Court that settlement at this time will avoid substantial additional
17 costs by all Settling Parties, as well as avoid the delay and risks that would be presented by the
18 further prosecution of the Litigation. It also appears that settlement has been reached as a result
19 of intensive, serious, and non-collusive arm's length negotiations.

20 6. A final fairness hearing on the question of whether the proposed Settlement
21 Agreement, the allocation of payments to Participating Class Members, attorneys' fees and costs
22 to Class Counsel, the payment to the Settlement Administrator, the payment to the Labor
23 Workforce & Development Agency, and the Class Representative Incentive Payment should be
24 finally approved as fair, reasonable, and adequate as to the members of the Class is hereby set for
25 _____ at _____ in this Court.

26 7. The Court hereby approves, as to form and content, the Notice of Class Action
27 Settlement ("Class Notice") to be sent to Class Members, which is attached as **Exhibit A** to the
28 Settlement Agreement. The Court finds that distribution of the Class Notice to Class Members

1 substantially in the manner and form set forth in the Settlement Agreement and this Order meets
2 the requirements of due process and shall constitute due and sufficient notice to all parties
3 entitled thereto.

4 8. The Court appoints and designates Phoenix Settlement Administrators as the
5 Settlement Administrator. The Court hereby directs the Settlement Administrator to provide the
6 approved Class Notice to Class Members using the procedures set forth in the Settlement
7 Agreement.

8 9. Any Class Member may choose to opt out of and be excluded from the Settlement
9 as provided in the Settlement Agreement and Class Notice, and by following the instructions for
10 requesting exclusion. Any person who timely and properly opts out of the Settlement will not be
11 bound by the Settlement Agreement or have any right to object, appeal, or comment thereon.
12 Any requests for exclusion must be in writing and signed by each such Class Member opting out
13 and must otherwise comply with the requirements delineated in the Class Notice. Class Members
14 who have not requested exclusion by submitting a valid and timely request by the deadline shall
15 be bound by all determinations of the Court, the Settlement Agreement, and Judgment. Class
16 Members who request exclusion but are also PAGA Members will still receive their Individual
17 PAGA Payment and release the PAGA Released Claims, to the extent the Court grants final
18 approval.

19 10. Any Class Member may object to the Settlement Agreement or express his or her
20 views regarding the Settlement Agreement and may present evidence and file briefs or other
21 papers that may be proper and relevant to the issues to be heard and determined by the Court as
22 provided in the Class Notice.

23 11. The Motion for Final Approval shall be filed by the Class Representatives no later
24 than sixteen (16) court days before the Settlement Fairness Hearing.

25 12. The Court reserves the right to adjourn or continue the date of the Settlement
26 Fairness Hearing and all dates provided for in the Settlement Agreement without further notice to
27 the Class, and retains jurisdiction to consider all further applications arising out of or connected
28 with the Class Settlement Agreement.

1 IT IS SO ORDERED.

2 DATED: _____

3 _____
4 HON. GEORGE J. ABDALLAH
5 SUPERIOR COURT OF CALIFORNIA
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