

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

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HAYWARD WOODS, derivatively on behalf of)
 FOOT LOCKER, INC.,)
) Index No. _____
 Plaintiff,)
)
 v.)
 RICHARD A. JOHNSON, MAXINE CLARK,) **SUMMONS**
 ALAN D. FELDMAN, GUILLERMO G.)
 MARMOL, MATTHEW M. MCKENNA,)
 STEVEN OAKLAND, ULICE PAYNE, JR.,) Date Index No. Purchased:
 CHERYL NIDO TURPIN, KIMBERLY)
 UNDERHILL, DONA D. YOUNG, JAROBIN)
 GILBERT, JR., NICHOLAS DIPAOLO, AND)
 LAUREN B. PETERS,)
 Defendants,)
 and)
 FOOT LOCKER, INC.,)
)
 Nominal Defendant.)
 _____ X

TO THE ABOVE-NAMED DEFENDANT(S)

(See attached List of Defendants with Addresses)

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue designated is CPLR § 503(a). Plaintiff designates New York county as the place of trial.

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Dated: October 18, 2018

LEVI & KORSINSKY, LLP

/s/ William J. Fields

William J. Fields

Joseph Levi

Samir Shukurov

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New York, New York 10006

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DEFENDANT SERVICE LIST

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New York, NY 10001

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New York, NY 10001

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Defendants,)
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FOOT LOCKER, INC.,)
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Nominal Defendant.)
_____ X

Index No. _____

**STOCKHOLDER DERIVATIVE
COMPLAINT**

Dated: October 18, 2018

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Attorneys for Plaintiff

VERIFIED STOCKHOLDER DERIVATIVE COMPLAINT

Plaintiff Hayward Woods (“Plaintiff”), by and through his attorneys, alleges, upon information and belief based upon, *inter alia*, the investigation made by and through his attorneys, which included, among other things, a review of news articles, press releases, public filings made by Foot Locker, Inc. (“Foot Locker” or the “Company”) with the U.S. Securities and Exchange Commission (the “SEC”), documents filed in the related securities class action and other publicly available information, except as to those allegations that pertain to Plaintiff himself, which are alleged upon knowledge, as follows:

1. This is a stockholder derivative action brought for the benefit of nominal defendant Foot Locker against certain of its officers and members of its Board of Directors (the “Board”) seeking to remedy defendants’ breaches of fiduciary duties, corporate waste and unjust enrichment occurring since at least August 19, 2016 (the “Relevant Period”). These wrongs resulted in millions of dollars in damages to Foot Locker’s reputation, goodwill, and standing in the business community, and, exposed the Company to millions of dollars in potential liability for violations of state and federal laws.

2. Foot Locker is a retailer of athletically inspired footwear and apparel. As a retailer, Foot Locker purchases the merchandise sold in its stores from vendors. Foot Locker’s business is heavily dependent on a small number of vendors, with its largest vendor Nike Inc. (“Nike”) supplying 68% of the Company’s merchandise in fiscal 2016. The willingness of the Company’s top vendors to allocate high-demand merchandise, including limited release sneaker models, is critical to the success of Foot Locker’s business model of selling premium, full-priced merchandise to its core constituency of young male sneaker aficionados.

3. During the Relevant Period, many conventional retailers were struggling, as vendors increasingly sold their merchandise online through third-party websites such as Amazon.com, Inc. (“Amazon”). In addition, the Company’s vendors had effectively become competitors, with Foot Locker’s selling their products directly to consumers.

4. As Company fiduciaries, Defendants knew, or should have known, the risks associated with customers making purchases from online retailers or the vendors themselves. However, rather than admit the truth that online and direct vendor sales were having, and would continue to have, adverse impacts on the Company, Defendants misled investors to believe that Foot Locker was not being adversely impacted by these market forces. For example, Defendants highlighted Foot Locker’s “strong vendor relationships,” and stated that Foot Locker was a “lead[ing] partner for [its] world-class vendors,” was “partner[ing]” with its “key vendors . . . to deliver trend-right, premium footwear,” and had “great partnerships” with its vendors “that continue[d] to fuel sneaker culture” and “bring heat . . . to [the Company’s] stores[.]”

5. Indeed, even when the Company was forced to lower its guidance 1Q17 and 2017 full year guidance on April 20, 2017, Defendants still falsely attributed the revision to “the delay in the issuance of the vast majority of income tax refund checks until after the NBA All-Star Game,” and assured investors that “the customer’s appetite for [Foot Locker’s] exciting product assortments ha[d] not changed” and the Company’s “banners remain[ed] at the center of sneaker culture[.]”

6. Despite the misleading statements, eventually the truth did emerge. On August 18, 2017, Foot Locker announced its financial results for 2Q17, reporting negative comparable metrics for the first time in 29 quarters. Foot Locker also reported that its 2Q17 total sales had declined 4.4% year-over-year, comparable-store sales had fallen 6% year-over-year, and gross margins had

deteriorated 340 basis points, to 29.6% of sales, compared to 33% of sales in 2Q16. As a result, Foot Locker reported that its 2Q17 net income had fallen to just \$51 million, compared to net income of \$127 million in 2Q16, and EPS had fallen to \$0.39 per share, drastically below both the \$0.90 per share that analysts were expecting, and the \$0.94 per share that the Company had reported for 2Q16.

7. In response to this news, the price of Foot Locker common stock declined nearly 28%, from a closing price of \$47.70 per share on August 17, 2017, to close at \$34.38 per share on August 18, 2017. The price of Foot Locker common stock continued to decline the following trading day, closing at \$31.82 per share on Monday, August 21, 2017 – a total decline of more than 33%.

8. Further, as a direct result of Defendants' unlawful conduct, the Company is now the subject of a federal securities class action lawsuit filed on March 9, 2018, in the United States District Court for the Eastern District of New York (the "Securities Class Action"), alleging federal securities law violations under and pursuant to Sections 10(b) and 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. § 240.10b-5) under the caption *City of Warren Police and Fire Retirement System v. Foot Locker, Inc., et al.*, No. 18-cv-01492.

9. Defendants (defined herein) breached their fiduciary duties by making false and/or misleading statements and/or failing to disclose adverse facts pertaining to the Company's business, operations, and prospects, which were known to Defendants or recklessly disregarded by them. Specifically, Defendants failed to disclose, *inter alia*, that: (i) Foot Locker's vendors were increasingly selling their products directly to consumers, as well as through online retailers; (ii) Foot Locker was no longer receiving sufficient quantities of its vendors' premier products, as the

Company's vendors were selling more of their premier products directly to consumers; and (iii) Foot Locker's vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products.

10. As a result of Defendants' misconduct, Foot Locker sustained damages, including, but not limited to, costs and expenses incurred in connection with the legal action taken against the Company.

STATEMENT OF JURISDICTION AND VENUE

11. This Court has personal jurisdiction over each of the defendants named herein pursuant to New York Civil Practice Law and Rules ("C.P.L.R.") §§ 301 and 302 because each defendant is located in New York, resides in New York, or is licensed to do business in New York and is actually transacting business in New York, or has engaged in activities in New York relating to the events described in this Complaint.

12. Venue is proper pursuant to C.P.L.R. § 503(a), as Foot Locker's headquarters is located at 330 West 34th Street, New York, New York 10001.

PARTIES

13. Plaintiff is a current stockholder of nominal defendant Foot Locker and has continually held shares since 2007. Plaintiff was, therefore, a stockholder at the time of the wrongdoing alleged herein.

14. Nominal Defendant Foot Locker is incorporated under the laws of the State of New York and maintains its principal executive offices at 330 West 34th Street, New York, New York 10001. The Company's stock is listed on the NASDAQ under the ticker symbol "FL." As of June 1, 2018, Foot Locker had 116,909,047 shares of common stock outstanding.

15. Defendant Richard A. Johnson (“Johnson”) has been Foot Locker’s President and Chief Executive Officer, as well as a director, since December 2014, and has served as Foot Locker’s Chairman since May 2016. Johnson knowingly, recklessly, or with gross negligence: (i) caused or allowed Foot Locker not to disclose that its vendors were increasingly selling their products directly to consumers, as well as through online retailers; (ii) caused or allowed Foot Locker not to disclose that it was no longer receiving sufficient quantities of its vendors’ premier products, as the Company’s vendors were selling more of their premier products directly to consumers; (iii) caused or allowed Foot Locker not to disclose that its vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products; and (iv) failed to maintain adequate disclosure controls and procedures with respect to Foot Locker’s operations and financial standing. Foot Locker paid Johnson the following:

Year	Salary	Stock Awards	Option Awards	Non-Equity Incentive Plan Compensation	Change in Pension Value and Non-qualified Deferred Compensation Earnings	All Other Compensation	Total
2016	\$1,087,500	\$2,062,522	\$2,200,016	\$2,599,932	\$403,443	\$572,455	\$8,925,868
2017	\$1,100,000	\$2,750,061	\$2,200,005	--	\$294,161	\$48,995	\$6,393,222

16. Defendant Maxine Clark (“Clark”) has been a director of Foot Locker since 2013. She served on the Audit Committee in 2016 and 2017. Clark knowingly, recklessly, or with gross negligence: (i) caused or allowed Foot Locker not to disclose that its vendors were increasingly selling their products directly to consumers, as well as through online retailers; (ii) caused or allowed Foot Locker not to disclose that it was no longer receiving sufficient quantities of its vendors’ premier products, as the Company’s vendors were selling more of their premier products

directly to consumers; (iii) caused or allowed Foot Locker not to disclose that its vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products; and (iv) failed to maintain adequate disclosure controls and procedures with respect to Foot Locker's operations and financial standing. Foot Locker paid Clark the following:

Year	Cash	Stock	Total
2016	\$101,462	\$129,957	\$231,419
2017	\$98,189	\$139,988	\$238,177

17. Defendant Alan D. Feldman ("Feldman") has been a director of Foot Locker since 2015. Feldman knowingly, recklessly, or with gross negligence: (i) caused or allowed Foot Locker not to disclose that its vendors were increasingly selling their products directly to consumers, as well as through online retailers; (ii) caused or allowed Foot Locker not to disclose that it was no longer receiving sufficient quantities of its vendors' premier products, as the Company's vendors were selling more of their premier products directly to consumers; (iii) caused or allowed Foot Locker not to disclose that its vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products; and (iv) failed to maintain adequate disclosure controls and procedures with respect to Foot Locker's operations and financial standing. Foot Locker paid Feldman the following:

Year	Cash	Stock	Total
2016	\$103,954	\$171,579	\$275,533
2017	\$105,630	\$185,965	\$291,595

18. Defendant Guillermo G. Marmol ("Marmol") has been a director of Foot Locker since 2011. He served as the Chair of the Audit Committee in 2016, 2017, and 2018. Marmol knowingly, recklessly, or with gross negligence: (i) caused or allowed Foot Locker not to disclose that its vendors were increasingly selling their products directly to consumers, as well as through

online retailers; (ii) caused or allowed Foot Locker not to disclose that it was no longer receiving sufficient quantities of its vendors' premier products, as the Company's vendors were selling more of their premier products directly to consumers; (iii) caused or allowed Foot Locker not to disclose that its vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products; and (iv) failed to maintain adequate disclosure controls and procedures with respect to Foot Locker's operations and financial standing. Foot Locker paid Marmol the following:

Year	Cash	Stock	Total
2016	\$113,954	\$142,465	\$256,419
2017	\$113,630	\$152,505	\$266,135

19. Defendant Matthew M. McKenna ("McKenna") has been a director of Foot Locker since 2006. He served on the Audit Committee in 2017 and 2018. McKenna knowingly, recklessly, or with gross negligence: (i) caused or allowed Foot Locker not to disclose that its vendors were increasingly selling their products directly to consumers, as well as through online retailers; (ii) caused or allowed Foot Locker not to disclose that it was no longer receiving sufficient quantities of its vendors' premier products, as the Company's vendors were selling more of their premier products directly to consumers; (iii) caused or allowed Foot Locker not to disclose that its vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products; and (iv) failed to maintain adequate disclosure controls and procedures with respect to Foot Locker's operations and financial standing. Foot Locker paid McKenna the following:

Year	Cash	Stock	Total
2016	\$108,942	\$137,473	\$246,415
2017	\$109,074	\$147,478	\$256,552

20. Defendant Steven Oakland (“Oakland”) has been a director of Foot Locker since 2014. Oakland knowingly, recklessly, or with gross negligence: (i) caused or allowed Foot Locker not to disclose that its vendors were increasingly selling their products directly to consumers, as well as through online retailers; (ii) caused or allowed Foot Locker not to disclose that it was no longer receiving sufficient quantities of its vendors’ premier products, as the Company’s vendors were selling more of their premier products directly to consumers; (iii) caused or allowed Foot Locker not to disclose that its vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products; and (iv) failed to maintain adequate disclosure controls and procedures with respect to Foot Locker’s operations and financial standing. Foot Locker paid Oakland the following:

Year	Cash	Stock	Total
2016	\$61,535	\$164,118	\$225,653
2017	\$65,569	\$188,084	\$253,653

21. Defendant Ulice Payne, Jr. (“Payne”) has been a director of Foot Locker since 2016. He served on the Audit Committee in 2017 and 2018. Payne knowingly, recklessly, or with gross negligence: (i) caused or allowed Foot Locker not to disclose that its vendors were increasingly selling their products directly to consumers, as well as through online retailers; (ii) caused or allowed Foot Locker not to disclose that it was no longer receiving sufficient quantities of its vendors’ premier products, as the Company’s vendors were selling more of their premier products directly to consumers; (iii) caused or allowed Foot Locker not to disclose that its vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products; and (iv) failed to maintain adequate disclosure controls and procedures with respect to Foot Locker’s operations and financial standing. Foot Locker paid Payne the following:

Year	Cash	Stock	Total
2016	\$20,666	--	\$20,666
2017	\$102,190	\$139,988	\$242,178

22. Defendant Cheryl Nido Turpin (“Turpin”) has been a director of Foot Locker since 2001. Turpin knowingly, recklessly, or with gross negligence: (i) caused or allowed Foot Locker not to disclose that its vendors were increasingly selling their products directly to consumers, as well as through online retailers; (ii) caused or allowed Foot Locker not to disclose that it was no longer receiving sufficient quantities of its vendors’ premier products, as the Company’s vendors were selling more of their premier products directly to consumers; (iii) caused or allowed Foot Locker not to disclose that its vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products; and (iv) failed to maintain adequate disclosure controls and procedures with respect to Foot Locker’s operations and financial standing. Foot Locker paid Turpin the following:

Year	Cash	Stock	Total
2016	\$83,712	\$176,605	\$260,317
2017	\$96,190	\$193,600	\$289,790

23. Defendant Kimberly Underhill (“Underhill”) has been a director of Foot Locker since 2016. Underhill knowingly, recklessly, or with gross negligence: (i) caused or allowed Foot Locker not to disclose that its vendors were increasingly selling their products directly to consumers, as well as through online retailers; (ii) caused or allowed Foot Locker not to disclose that it was no longer receiving sufficient quantities of its vendors’ premier products, as the Company’s vendors were selling more of their premier products directly to consumers; (iii) caused or allowed Foot Locker not to disclose that its vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products; and (iv) failed to maintain adequate disclosure controls and procedures with

respect to Foot Locker's operations and financial standing. Foot Locker paid Underhill the following:

Year	Cash	Stock	Total
2016	\$18,666	--	\$18,666
2017	\$92,189	\$139,988	\$232,177

24. Defendant Dona D. Young ("Young") has been a director of Foot Locker since 2001. He served on the Audit Committee in 2018. Young knowingly, recklessly, or with gross negligence: (i) caused or allowed Foot Locker not to disclose that its vendors were increasingly selling their products directly to consumers, as well as through online retailers; (ii) caused or allowed Foot Locker not to disclose that it was no longer receiving sufficient quantities of its vendors' premier products, as the Company's vendors were selling more of their premier products directly to consumers; (iii) caused or allowed Foot Locker not to disclose that its vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products; and (iv) failed to maintain adequate disclosure controls and procedures with respect to Foot Locker's operations and financial standing. Foot Locker paid Young the following:

Year	Cash	Stock	Total
2016	\$126,712	\$207,407	\$334,119
2017	\$141,088	\$224,271	\$365,359

25. Defendant Jarobin Gilbert, Jr. ("Gilbert") was a director of Foot Locker between 1981 and 2018. He served on the Audit Committee in 2016 and 2017. Gilbert knowingly, recklessly, or with gross negligence: (i) caused or allowed Foot Locker not to disclose that its vendors were increasingly selling their products directly to consumers, as well as through online retailers; (ii) caused or allowed Foot Locker not to disclose that it was no longer receiving sufficient quantities of its vendors' premier products, as the Company's vendors were selling more

of their premier products directly to consumers; (iii) caused or allowed Foot Locker not to disclose that its vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products; and (iv) failed to maintain adequate disclosure controls and procedures with respect to Foot Locker's operations and financial standing. Foot Locker paid Gilbert the following:

Year	Cash	Stock	Total
2016	\$103,462	\$129,957	\$233,419
2017	\$104,189	\$139,988	\$244,177

26. Defendant Nicholas DiPaolo ("DiPaolo") was a director of Foot Locker between 2002 and May 2017. DiPaolo knowingly, recklessly, or with gross negligence: (i) caused or allowed Foot Locker not to disclose that its vendors were increasingly selling their products directly to consumers, as well as through online retailers; (ii) caused or allowed Foot Locker not to disclose that it was no longer receiving sufficient quantities of its vendors' premier products, as the Company's vendors were selling more of their premier products directly to consumers; (iii) caused or allowed Foot Locker not to disclose that its vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products; and (iv) failed to maintain adequate disclosure controls and procedures with respect to Foot Locker's operations and financial standing. Foot Locker paid DiPaolo the following:

Year	Cash	Stock	Total
2016	\$143,546	\$129,957	\$273,503
2017	\$39,375	\$29,124	\$68,499

27. Defendant Lauren B. Peters ("Peters") has been Foot Locker's Executive Vice President and Chief Financial Officer since July 2011. Peters knowingly, recklessly, or with gross negligence: (i) caused or allowed Foot Locker not to disclose that its vendors were increasingly

selling their products directly to consumers, as well as through online retailers; (ii) caused or allowed Foot Locker not to disclose that it was no longer receiving sufficient quantities of its vendors' premier products, as the Company's vendors were selling more of their premier products directly to consumers; (iii) caused or allowed Foot Locker not to disclose that its vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products; and (iv) failed to maintain adequate disclosure controls and procedures with respect to Foot Locker's operations and financial standing. Foot Locker paid Peters the following:

Year	Salary	Stock Awards	Option Awards	Non-Equity Incentive Plan Compensation	Change in Pension Value and Non-qualified Deferred Compensation Earnings	All Other Compensation	Total
2016	\$657,500	\$1,579,759	\$450,010	\$714,088	\$205,626	\$84,011	\$3,690,994
2017	\$675,000	\$506,314	\$500,009	--	\$174,281	\$7,646	\$1,863,250

28. The Defendants identified in paragraphs 15 through 27 are collectively referred to herein as the "Defendants."

THE FIDUCIARY DUTIES OF FOOT LOCKER'S OFFICERS AND DIRECTORS

29. Each officer and director of Foot Locker owed the Company and its shareholders the duty to exercise a high degree of care, loyalty, and diligence in the management and administration of the affairs of the Company, as well as in the use and preservation of its property and assets. The conduct complained of herein involves fraudulent misconduct by Foot Locker's directors and officers – a knowing, intentional, and culpable violation of the directors' and officers' obligations as directors and/or officers of Foot Locker, and the absence of good faith on their part concerning their duties to the Company and its shareholders. The officers' misconduct has been

ratified by the board, which has failed to take any legal action on behalf of the Company against them.

30. By reason of their positions as officers, directors, and/or fiduciaries of Foot Locker and because of their ability to control the business and corporate affairs of Foot Locker, Defendants owe Foot Locker and its shareholders fiduciary obligations of good faith, loyalty, and candor, and were and are required to use their utmost ability to control and manage Foot Locker in a fair, just, honest, and equitable manner. Defendants were and are required to act in furtherance of the best interests of Foot Locker and its shareholders so as to benefit all shareholders equally and not in furtherance of their personal interest or benefit. Each director and officer of the Company owes to Foot Locker and its shareholders the fiduciary duty to exercise good faith and diligence in the administration of the affairs of the Company and in the use and preservation of its property and assets, and the highest obligations of fair dealing.

31. Defendants, because of their positions of control and authority as directors and/or officers of Foot Locker, were able to and did, directly and/or indirectly, exercise control over the wrongful acts complained of herein. Because of their advisory, executive, managerial, and directorial positions with Foot Locker, each Defendant had knowledge of material non-public information about the financial condition, operations, and future business prospects of Foot Locker.

32. To discharge their duties, the officers and directors of Foot Locker were required to exercise reasonable and prudent supervision over the management, policies, practices, and controls of the Company. By virtue of such duties, the officers and directors of Foot Locker were required to, among other things:

- a) Exercise good faith to ensure that the affairs of the Company were conducted in an efficient, business-like manner so as to make it possible to provide the highest quality performance of their business;
- b) Exercise good faith to ensure that the Company was operated in a diligent, honest and prudent manner, and complied with all applicable federal and state laws, rules, regulations and requirements, and all contractual obligations, including acting only within the scope of its legal authority and disseminating truthful and accurate statements to the investing public;
- c) Properly and accurately guide investors and analysts as to the true financial condition of the Company at any given time, including making accurate statements about the Company's financial results; and
- d) When put on notice of problems with the Company's business practices and operations, exercise good faith in taking appropriate action to correct the misconduct and prevent its recurrence.
- e) Exercise its clawback authority to clawback compensation from the directors and officers responsible for the above improprieties.

33. As members of the Board's Audit Committee, Clark, Marmol, McKenna, Payne, Young, and Gilbert were required to comply with the Audit Committee's Charter¹ that was in place at the time of the alleged wrongdoing. The Charter confirms that each director serving on the Audit Committee is responsible for maintaining appropriate accounting and internal control systems, discussing matters related to the Company's financial statements, reviewing and investigating matters pertaining to the integrity of management or adherence to the standards of business conduct, and for discussing earnings press releases and financial presentations with management.

34. Specifically, the Audit Committee Charter provides that the purpose of the committee is to assist:

the Board in fulfilling its oversight responsibilities with regard to the Company in the following areas: (i) accounting policies and practices, (ii) the integrity of the Company's financial statements, (iii) compliance with legal and regulatory requirements, (iv) the qualifications, independence, and performance of the independent accountants, (v) the performance of the internal audit function, and (vi) the Company's policies with respect to risk assessment and risk management.

¹ The Board initially adopted the Audit Committee Charter on May 15, 2013. The Board adopted a new charter on May 16, 2017. The two charters are substantially the same for current purposes. The charter adopted on May 15, 2013, is quoted herein.

35. The Audit Committee Charter further provided that the Audit Committee was “responsible for overseeing the conduct of those activities by the Company’s management and the independent accountants.” In addition, the charter tasked the Audit Committee with:

- “review[ing] the Company's proxy statement, Annual Report to Shareholders, and Form 10-K and Forms 10-Q”;
- review[ing] disclosures made to the committee by the Company’s Chief Executive Officer and Chief Financial Officer during their certification process for the Form 10-K and Forms 10-Q about any significant deficiencies in the design or operation of internal controls or material weaknesses therein and any fraud involving management or other employees who have a significant role in the Company’s internal controls”; and
- “discuss policies with respect to risk assessment and risk management, the Company’s major financial and operational risk exposures, and the steps management has taken to monitor and control these exposures, and periodically report to the Board of Directors with regard to these discussions.”

CONSPIRACY, AIDING AND ABETTING, AND CONCERTED ACTION

36. In committing the wrongful acts complained of herein, Defendants pursued, joined in, or participated in the pursuit of a common course of conduct and acted in concert with one another in furtherance of a common plan or design. In addition to the wrongful conduct complained of herein giving rise to primary liability, Defendants also aided and abetted and/or assisted each other in breach of their fiduciary duties.

37. Each of the defendants aided and abetted and rendered substantial assistance in the wrongs complained of herein. In taking such action to substantially assist the commission of the wrongdoing complained of herein, each defendant acted with knowledge of the primary wrongdoing, substantially assisted the accomplishment of the wrongdoing, and was aware of his or her overall contribution to and furtherance of the wrongdoing.

SUBSTANTIVE ALLEGATIONS

I. Background

38. Foot Locker is a leading global retailer of athletically inspired shoes and apparel. As of the end of fiscal 2016, the Company operated 3,363 primarily mall-based brick-and-mortar stores in the United States, Canada, Europe, Australia, and New Zealand under various “banners,” including Foot Locker, Kids Foot Locker, Lady Foot Locker, Champs Sports, Footaction, Runners Point, Sidestep, and SIX:02.

39. The Company operates through two segments: (1) Athletic Stores, which encompasses its brick-and-mortar stores; and (2) Direct-to-Customers, which encompasses its online and catalog sales. In fiscal 2016, the Athletic Stores segment generated \$1.576 billion in sales, whereas the Direct-to-Customers segment generated just \$204 million in sales.

40. Foot Locker does not manufacture its own merchandise. Instead, Foot Locker sells products that it purchases from vendors.

41. Foot Locker’s business is heavily dependent on a small number of vendors. In fiscal 2016, the Company purchased 90% of its merchandise from its top five vendors, with its largest vendor Nike supplying 68% of Foot Locker’s merchandise.

42. Foot Locker’s most frequent and highest margin sales are to young males between the ages of 12 and 25, many of whom purchase athletic footwear and licensed apparel for both performance and fashion. In addition, the Company’s most loyal customers are sneaker aficionados, or “sneakerheads.” Sneakerheads typically purchase desirable, limited release sneakers. Although limited edition sneaker releases comprise approximately 5% of total sneaker sales, sneakerheads are highly coveted customers, as their enthusiasm has a halo effect – helping to shape brands’ images and driving store traffic to retailers such as Foot Locker.

43. Foot Locker relies upon having access to exclusive and marquee products from its top vendors. Therefore, the willingness of the Company's top vendors to allocate high-profile, high-demand merchandise to Foot Locker is critical to the Company's success.

44. During 2016, many traditional retailers were experiencing declining sales as a result of increased competition from online retailers such as Amazon. At the same time, many vendors were increasingly attempting to sell their products directly to consumers via online channels, essentially becoming their own retailers.

45. Foot Locker represented that it had insulated itself from these larger trends by way of its business strategies and competitive advantages. For example, Defendants represented that Foot Locker's primary customers, young males, preferred to shop in-store for a variety of reasons, including: (i) the social experience of visiting the store with their friends and interacting with store employees; and (ii) the hype generated at Foot Locker stores by limited edition sneaker releases. Defendants also highlighted Foot Locker's purportedly "strong" relationships with its vendors, which helped the Company to procure the most desirable product allocations.

II. Items 303 and 503

46. SEC Regulation S-K requires that every Form 10-Q and Form 10-K filing contain "Management's Discussion and Analysis of Financial Condition and Results of Operations" ("MD&A"), drafted in compliance with Item 303 of Regulation S-K, 17 C.F.R. §229.303. The MD&A requirements are intended to provide material historical and prospective textual disclosures that enable investors and others to assess the financial condition and results of operations of a company, with emphasis on that company's prospects for the future.

47. Item 7 of Form 10-K and Item 2 of Form 10-Q require that a company's SEC filings furnish the information required under Item 303(a)(3) of Regulation S-K. Item 303(a)(3) of

Regulation S-K requires that the MD&A section of a company's filings with the SEC, among other things:

(i) Describe any unusual or infrequent events or transactions or any significant economic changes that materially affected the amount of reported income from continuing operations and, in each case, indicate the extent to which income was so affected. In addition, describe any other significant components of revenues or expenses that, in the registrant's judgment, should be described in order to understand the registrant's results of operations.

(ii) Describe any known trends or uncertainties that have had or that the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations. If the registrant knows of events that will cause a material change in the relationship between costs and revenues (such as known future increases in costs of labor or materials or price increases or inventory adjustments), the change in the relationship shall be disclosed.

48. The instructions for Item 303(a)(3) state that “[t]he discussion and analysis [section] shall focus specifically on material events and uncertainties known to management that would cause reported financial information not to be necessarily indicative of future operating results or of future financial condition.”

49. Defendants violated, or recklessly allowed others to violate, the affirmative disclosure duties imposed by Item 303(a)(3) of Regulation S-K, and thus Section 10(b) of the Exchange Act, by failing to disclose, in the Company's Forms 10-Q and 10-K filed during the Relevant Time Period, the following material information that was known or should have been known to Defendants: (i) Foot Locker's vendors were increasingly selling their products directly to consumers, as well as through online retailers; (ii) Foot Locker was no longer receiving sufficient quantities of its vendors' premier products, as the Company's vendors were selling more of their premier products directly to consumers; and (iii) Foot Locker's vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products.

50. Defendants also violated, or recklessly allowed others to violate, their affirmative disclosure duties imposed by Item 503(c) of Regulation S-K, 17 C.F.R. §229.503(c), which governs disclosure of risk factors and requires an issuer to “provide under the caption ‘Risk Factors’ a discussion of the most significant factors that make the [securities] speculative or risky.” Item 503(c) requires the issuer to “[e]xplain how the risk affects the issuer or the securities” and to “[s]et forth each risk factor under a subcaption that adequately describes the risk.”

51. In satisfying this requirement, the SEC instructs issuers to “[s]et forth, under the caption ‘Risk Factors,’ where appropriate, the risk factors described in Item 503(c) of Regulation S-K,” codified at 17 C.F.R. §229.503(c). The SEC also instructs issuers to make similar disclosures in Forms 10-Q, requiring the issuer to “[s]et forth any material changes from risk factors as previously disclosed in the registrant’s Form 10-K (§249.310) in response to Item 1A. to Part [I] of Form 10-K.”

52. Defendants violated, or recklessly allowed others to violate, the affirmative disclosure duties imposed by Item 503 of Regulation S-K, and thus Section 10(b) of the Exchange Act, by failing to disclose that: (i) Foot Locker’s vendors were increasingly selling their products directly to consumers, as well as through online retailers; (ii) Foot Locker was no longer receiving sufficient quantities of its vendors’ premier products, as the Company’s vendors were selling more of their premier products directly to consumers; and (iii) Foot Locker’s vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products.

III. Misleading Statements and Omissions

53. On August 19, 2016, Foot Locker issued a press release announcing its financial results for 2Q16, touting that, on a year-over-year basis, comparable-store sales had risen 4.7%; gross margins had improved 40 basis points, to 33% of sales; and EPS had increased 12%, to \$0.94

per share. In addition, net income had reached \$127 million; and total sales had increased 5%, to \$1.78 billion year-to-date.

54. In the press release, Defendant Johnson stated:

As a Company, **Foot Locker has strong leadership positions in the athletic industry**, with the most important being **our deep understanding of the core customer** for each of our banners[.] . . . **We share this understanding with our key vendors, which enables us to partner with them to deliver the trend-right, premium footwear and apparel assortments our customers seek, which in turn has led to consistently outstanding financial results such as we announced today.**

55. In the same press release, Defendant Peters stated:

The returns from those investments, combined with careful inventory and expense management, have led to our current strong financial position. This position of strength underpins our commitment to balance our allocation of capital between additional investments in the business and returning substantial amounts of cash to shareholders through our dividend and share repurchase programs, as evidenced by the \$350 million of cash we have returned to shareholders in the first half of 2016.

56. That same day, the Company held a conference call in connection with its financial results for 2Q16. During the call, the Company highlighted its “26th consecutive quarter” of “meaningful sales and profit gains over the prior year period,” and “the best start to a year in Foot Locker’s history.”

57. On the call, Defendant Peters stated:

The fairly consistent sales results across footwear categories this quarter is yet another excellent example of our ability to navigate the never-ending shifts in style preferences of our customers who continue to look to our stores and online sites for the most innovative, trend-right sneakers. They know they can count on us to have what's hot, or should I say what's cool.

58. In addition, Defendant Johnson stated:

First and foremost we must be leaders with our customers. **We are leaders in understanding what our customers want and how and when they want it.** We spend a tremendous amount of time identifying the key characteristics of the core customers of each of our banners and what makes them want to engage and transact

with us. **This work in turn makes us a leading partner for our world-class vendors** as they create and market their most innovative, athletically inspired products.

The investments we have made in our store fleet, both in the physical appearance of the stores and the quality of the merchandise assortments, have led to our stores being destinations for our customers. This can be seen in our traffic results which consistently outpaced overall mall or high street traffic.

* * *

We believe we are the leading retailer of premium sneakers; period. Not just a specific category of sneakers; sneakers, full stop.

* * *

Our vendors know that our banners provide the perfect battleground spread out to win market share, especially with the young male customers who buy the most sneakers and who are the style influencers for the rest of their generation, and increasingly for the rest of us since every day it seems more and more adults are wearing sneakers too. **And that's why the leading brands continue to be highly motivated to collaborate with us on these exclusives and strong allocations.**

59. On the call, Matthew McClintock, a Barclays Capital analyst, asked for “some color about success you've had in malls that maybe aren't even A or B malls?” In response, Defendant Johnson stated:

So we know that our customers, our core consumers want to be in our stores. So the anchors, certainly there are some lease ramifications when anchors close, but **our focus is more on the connectivity with our consumer,** the engagement we have with our consumer, building exciting places to shop and buy. They interact with us digitally on their way to the mall, they in the mall will take a photo of the sneaker on their foot, and they'll tweet it out or they will send it out to their group of friends and we get the responses back.

So the anchors closing is a change certainly in the makeup of the malls, but **our consumer is still driven to the malls as a place for social interaction with their friends. So we are confident that regardless of anchor positioning, we should continue to drive traffic into the malls.**

60. Also during the call, Matthew Boss, an analyst from J.P. Morgan, asked “about the increased category and brand diversification that [Foot Locker] [is] seeing in the results” and

whether there was “any change in pricing or overall [average selling prices].” In response,

Defendant Johnson stated:

[O]ur consumers are not driven by categories, they are driven by cool and sneaker culture. So our **buyers and our merchants do a great job of working with our vendor partners to bring in assortments that resonate with our consumers.**

* * *

So from an ASP [average selling prices] perspective, they do a great job of managing that as well, and we're not talking about trading \$200 signature basketball shoes for \$49 shoes, we're talking about a lot of these casual silhouettes still being elevated in price points and **our focus is really on the premium area of sneaker culture, and the consumer is definitely responding to that.** So I don't – Lauren [Peters], you may want to comment on ASP mix, but I don't see any changes in the back half.

61. Defendant Peters also chimed in, stating:

No, I mean the trend has been there for quite a while now that ASPs have been up as the customer has voted for these shoes, but if they feel they are not really good price to value if that price has been, if they are elevated. That coupled with all of **the really good work that we're doing on improving our allocation to get the right product to the right place at the right time and keeping control of the inventory growth, that too has fueled lower markdowns.** Therefore, that is a bit of a higher ASP as well. **But our merchants are very thoughtful about the assortments across price line and to make sure that we are bringing compelling product and it's not skewed to the point that we are pricing folks out.**

62. Further, John Kernan, an analyst from Cowen and Company, asked “about your ability to get increased allocations around some of the [new shoes from Adidas] that were just launched?” Defendant Johnson answered:

We are on a nice run with adidas absolutely, John, and getting the allocations relates to the great relationship that we have with all of our vendor partners, and right now in several markets, no matter what retailer you talk to, they would tell you that they don't have enough of the best product. But that's one of the things that our vendor partners really do is they control the scarcity model, they pump in the appropriate number of shoes. Our merchants would always like more. They like to feed at the trough when something's hot, but the vendor partners do a good job of controlling the flow into the marketplace and keeping that ever-present demand out there. And I think it helps to keep the heat in our industry, it helps to keep the consumer excited about getting the next. So by and large, it's a good thing and **we continue to work with all of our vendor partners to increase our allocations**

and the storytelling that we do in the store to connect better with the consumer and connect them with the product stories.

63. Another analyst, Paul Trussell, an analyst from Deutsche Bank, then asked about the Company's "mix of exclusives with [its vendors]" Defendant Johnson responded:

I guess I'd also point out that beyond the House of Hoops, that's certainly our biggest partnership program with our vendors, but we've got vendor partnerships across multiple brands, we've got the Armoury with Champs Sports and Under Armour, we've got Flight 23 in Jordan shops with Footaction, we've got the Fly Zone with KFLs and Nike, and those are open around the globe. We've got the Collective with adidas. And **they are all committed to bringing fresh new exclusive product into those spaces.**

So I'm not going to get into the amount of exclusives that we've got in each of those, but commitment that we have made, we sign the lease, we share the buildout cost, **they deliver great product, some of it exclusive, some of it with time leads,** et cetera, we do the servicing and the storytelling in the stores and **we have great partnerships that continue to fuel sneaker culture. So they are all working and we are very positive about the vendor partnerships.**

64. On September 7, 2016, Foot Locker filed its quarterly report for 2Q16 with the SEC on Form 10-Q. The 2Q16 Form 10-Q failed to disclose material information that was required to be disclosed pursuant to Items 303(a)(3) and 503 of Regulation S-K, as set forth above in ¶¶ 46-52.

65. The 2Q16 Form 10-Q was signed by Defendant Peters and repeated Foot Locker's financial results for 2Q16. It was also accompanied by signed certifications pursuant to the Sarbanes-Oxley Act of 2002 ("SOX") by Defendants Johnson and Peters. Both Johnson and Peters certified that the form "does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report." They also certified that "the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the [Company] as of, and for, the periods presented in this report.

66. On November 18, 2016, Foot Locker issued a press release announcing its financial results for 3Q16, reporting that, on a year-over-year basis, comparable-store sales had again risen 4.7%; gross margins had improved to 33.9% of sales; and non-GAAP EPS5 had increased 13%, to \$1.13 per share. In addition, net income had reached \$157 million; and total sales had increased 5.1%, to \$1.886 billion year-to-date.

67. In the press release, Defendant Johnson stated:

Our outstanding track record of meaningful sales and profit growth over several years is a strong testament to Foot Locker, Inc.'s solid position at the center of sneaker culture. Our associates work hard every day to make our Company the sneaker lover's preferred destination for the best footwear and apparel assortments across our array of outstanding athletic vendors.

68. Defendant Peters added that Foot Locker's "inventory [was] fresh and well-positioned."

69. That same day the Company held a conference call to discuss its financial results for 3Q16. During the call, the Company highlighted its "strong third-quarter financial performance" and "the strength of [its] position in the athletic industry[.]"

70. Also, Defendant Johnson touted Foot Locker's "27th consecutive quarter of meaningful sales [and] non-GAAP profit growth," and further stated:

As great as our vendors are and they are all excellent, style preferences of our customers shift between them which is why being a multi-brand retailer is so important. **Our vendors have certainly come to recognize and support the critical position we have built within the industry in terms of providing that feeling of authenticity to our customer.** As our tag line says, if it's at Foot Locker it's approved.

We work continuously with our vendors to share the insights we gathered during the journey of discovering what our customers find to be the best, coolest sneakers and apparel at any given moment. Ultimately, it is having available the most innovative products from our outstanding suppliers that keeps our banners top of mind with our most influential customers.

71. In response to questions from analysts about the allocations of premium productions that Foot Locker was receiving from its vendors, Defendant Johnson explained:

The thing that fuels our business with our consumers is a scarcity model. So, while we always wish that we had a little bit more of the best product, the likelihood of us ever being able to satisfy the last customer, we certainly don't want that to happen, frankly.

It takes the excitement away if everybody can get exactly what they want. We want to keep your appetite high for that type of product, Mitch. We work close with the vendors on allocations and distribution. Certainly we try to get more, we try to get what we think is the appropriate amount for our stores. But it's an ongoing conversation. And as significant partners with our suppliers, I think we end up with - I don't know if our fair share is the right way to put it but we end up with a model that the consumers are driven by because they know they have to get into the stores and get it or they might not have the chance. So, the scarcity piece of the allocation model is important to our success, as well.

72. On December 7, 2016, Foot Locker filed its quarterly report for 3Q16 with the SEC on Form 10-Q. The 3Q16 Form 10-Q failed to disclose material information that was required to be disclosed pursuant to Items 303(a)(3) and 503 of Regulation S-K, as set forth above in ¶¶ 46-52.

73. The 3Q16 Form 10-Q was signed by Defendant Peters and repeated Foot Locker's financial results for 3Q16. It was also accompanied by signed SOX certifications by Defendants Johnson and Peters. Both Johnson and Peters certified that the form "does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report." They also certified that "the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the [Company] as of, and for, the periods presented in this report.

74. On February 24, 2017, Foot Locker issued a press release announcing its financial results for 4Q16 and FY16. For 4Q16, the Company reported that, on a year-over-year basis, comparable-store sales had risen 5%; gross margins had improved to 33.7% of sales; non-GAAP EPS had increased 18%, to \$1.37 per share; and net income had reached \$189 million. For FY16, Foot Locker reported that, on a year-over-year basis, total sales had increased 5.3%, to \$2.113 billion; sales had increased 4.8%, to \$7.766 billion; comparable-store sales had risen 4.3%; net income had increased to \$664 million; and non-GAAP EPS had increased 12%, to \$4.82 per share. In addition, the Company reported that FY16 sales and profits were its “[h]ighest [e]ver.”

75. In the press release, Defendant Johnson stated:

Generating our seventh consecutive year of meaningful sales and **profit growth is a strong testament to Foot Locker, Inc.’s solid position at the center of sneaker culture. . . . Due in part to the change in the cadence of income tax refund check distribution, we are facing a challenging retail sales environment as we enter 2017**; however, we believe the strategic initiatives we have in place, **coupled with our strong vendor relationships**, will enable us to deliver another year of record performance.

76. Also in the press release, Defendant Peters stated:

We continued to make substantial progress in 2016 towards our long-term goals Although we currently face a softer sales environment than at this time last year, we are planning for a mid-single digit comparable sales gain and a double-digit earnings per share increase for the full year of 2017.

77. The Company held a conference call with analysts later that day. On the call, the Company touted its “strong finish to the year” and its “sixth consecutive year achieving record annual earnings.” Defendant Johnson stated that:

So wherever the heat is brought by our tremendous vendor partners, the consumer is going to move there. Whether they decide to play basketball in a basketball shoe or they decide to hang out on the street with their friends, they’re the ones that ultimately make the determination. So, I don’t want to get into sort of the crystal-balling of how each category will respond. I have a huge amount of faith in our vendor partners and our merchant teams to move the dollars where the customer is and is going to be.

78. Defendant Johnson also stated that the Company was “**firmly positioned . . . at the center of sneaker culture**, which . . . established a strong foundation upon which to build and shape our business in the future.” Defendant Peters added that:

The current delay in the release of tax refunds by the IRS compared to a year ago has led to a slower than usual start in the U.S., which is likely to result in the challenging first quarter. It is our belief that our customers' fundamental appetite for the product has not changed. However, the timing of their cash flows and their ability to buy the product has been impacted.

79. An analyst from Canaccord Genuity asked for “a little bit more clarity on what your thinking is around these tax refund delays [and whether Johnson and Peters] consider them . . . as loss sales or sales that will be recovered in the later weeks when those refunds do flow?”

80. Defendant Johnson answered:

So, the year has some shifts in it, right? The year, or the week shift of the All-Star Game, the week shift of Presidents' Day, the start of Easter being later, so Mardi Gras and Carnival all shifting and then the PATH Act that required this delay in some of the tax returns. **So certainly, there have been buying opportunities that have passed when our consumer didn't have cash in their hands, but we firmly believe that the consumer still has a huge desire for the products that we have in our store. We have a huge belief that our vendors continue to bring heat in our category to our stores and websites. So, we're confident that the sales will start to flow when the tax checks start to flow.**

81. That same analyst also “it is that you're doing or what it is that you have, relative to even your competitors, that allows you to continue to generate positive traffic growth in the U.S.?”

82. Defendant Johnson responded:

We're focused on creating consistent, authentic and memorable experiences for our consumers, so that the striper, the person in Footaction, the guy or gal in blue at Champs, they're the resident experts. The stylists – the style associates that we've got in our SIX:02 business. Our consumers want to be there. And they see it a place where there is cool product; they're among their peers, they're among their friends. And there is an environment that they're comfortable to shop in.

Not all of our stores are like 34th Street and Times Square, but there's still a level of excitement that's brought by the product and the associates in the door. The energy level is high. They're just great places. And a lot of credit goes to the teams that make – help, I should say, not make – that help drive the excitement. But it also goes to our vendor partners who bring great products. They connect those products with great stories and assets that allow our consumer to really find them relevant and cool.

83. Defendant Peters added: **“So, our customers know. They got to come into our brands to check it out, because we're going to have the coolest stuff, and that shows up in that traffic number.”**

84. On March 23, 2017, Foot Locker filed its annual report for FY16 with the SEC on Form 10-K. The FY16 Form 10-K failed to disclose material information that was required to be disclosed pursuant to Items 303(a)(3) and 503 of Regulation S-K, as set forth above ¶¶ 46-52.

85. The FY16 Form 10-K was signed by Defendants Peters, Johnson, DiPaolo, Clark, Feldman, Gilbert, Marmol, Mckenna, Oakland, Payne, Turpin, Underhill, and Young, and repeated Foot Locker's financial results for FY16. It was also accompanied by signed SOX certifications by Defendants Johnson and Peters. Both Johnson and Peters certified that the form “does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.” They also certified that “the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the [Company] as of, and for, the periods presented in this report.

86. On April 20, 2017, Foot Locker issued a press release revising its guidance for 1Q17, stating the reason for the revision was due to the “previously noted slow start to the fiscal year in February.” Per the press release, the Company now expected 1Q17 EPS to “be equal to or slightly below last year's record earnings, or \$1.36 to \$1.39 per share,” and that comparable-store

sales for 1Q17 were “expected to increase at a low-single digit percentage rate.” As a result of “the sluggish first quarter,” Foot Locker expected a “full-year earnings per share percentage increase in the mid-single digits, excluding the 53rd week” of FY17, compared to the Company’s previous guidance of a double-digit EPS increase for FY17.

87. In the press release, Defendant Johnson was quoted as stating:

We believe the delay in the issuance of the vast majority of income tax refund checks until after the NBA All-Star Game significantly [sic] affected our February comparable store sales, which were down low-double digits. March sales rebounded well, up high-single digits; however, the strength we experienced once income tax refund checks started flowing into our customers’ hands did not fully offset the slow start to the quarter. Encouragingly, we are now having a strong Easter selling period, with April comparable sales likely up low double digits, which we see as confirmation that the customer’s appetite for our exciting product assortments has not changed.

* * *

Despite our disappointment in the overall sales performance in the first quarter, we are confident our banners remain at the center of sneaker culture and we believe in our ability to produce the strong performance over the remainder of 2017 that we previously outlined[.]”

88. On May 19, 2017, Foot Locker issued a press release announcing its financial results for 1Q17, reporting that its total sales growth had plummeted year-over-year and were effectively flat. The Company also reported that comparable-store sales had risen only 0.5% year-over-year, which was below Foot Locker’s recently-revised guidance of a low-single digit percentage increase. Accordingly, Foot Locker reported that its 1Q17 net income had fallen to \$180 million and EPS had fallen to \$1.36 per share, compared to net income of \$191 million and EPS of \$1.39 per share that the Company for 1Q16.

89. In the press release, Defendant Johnson attributed the Company’s disappointing results to delayed tax refunds, stating that “[t]he slow start we experienced in February, which we believe was largely due to the delay in income tax refunds, was unfortunately not fully offset by

much stronger sales in March and April.” He further stated that Foot Locker’s “banners remain[ed] at the center of a vibrant sneaker culture,” Defendants were “confident that [Foot Locker’s] customers ha[d] not lost their tremendous appetite for athletic footwear and apparel,” and the Company’s “position in the industry [was] stronger than ever.”

90. The Company held a conference call with analysts later that day. On the call, the Company stated that it forecasted that 2Q17 comparable-store sales would be up only in the low-single-digits, “with earnings relatively flat” on a year-over-year basis. The Company also stated that if “recent sales trends continue[d],” the Company would be forced to implement a “Plan B” to cut costs and inventory, in order to achieve its FY17 guidance of a mid-single digit EPS increase.

91. In response to an analyst question regarding whether “the direct-to-consumer efforts of some of the brands are impacting the business at all today,” Defendant Johnson stated:

At all, sure. Right, I mean I think that there is some pressure from everybody that sell sneakers, we’re all fighting for consumers. I think that our understanding of our consumer base and our connectivity trying to create consistent, authentic, memorable experiences for our consumer whether they are in-store or online with us to allow us to push back against that.

But, certainly people have a lot of shopping to us, its whether its online or places in malls around street. So I don’t know that its anymore right Bob, then it has been, but will continue to be diligent across all of the channels and leverage our inventory and our experiences with our consumers across all those channels.

* * *

[J]ust one other quick point, you know the vendors continue to support our initiatives, right. We’re building House of Hoops, we’re looking at Kicks Lounges. The Fly Zones in Kids foot locker opening the Jordon Storm Paris, you know all of those things just speak to the strength of the relationship with key vendor partners.

92. Defendant Peters added:

And we know these customers well and we know the differences in those customers across our different brands. We understand what motivates them, what they were excited about and that's what we focus on bringing to them. So with that focus they know they've got to come to us to check out what we’ve got before they make a purchase decision.

93. In addition, an analyst asked the Company to “dig a little bit more on how the second quarter is just a blip,” stating that “you’ve said that when the consumer has the cash, they shop at Foot Locker. And historically, your merchants have been very well prepared for changes in style preferences. So hard to understand why this time is different.” Defendant Johnson answered that “[t]here’s just a little bit of a lag,” and “*the consumer hasn’t gone elsewhere.*”

94. In response to the press release and conference call, the price of Foot Locker common stock declined 16.65%, from a closing price of \$70.45 per share on May 18, 2017, to close at \$58.72 per share on May 19, 2017, on unusually heavy trading volume of more than 16 million shares traded – more than eight times the average daily trading volume over the preceding 30 trading days.

95. On June 6, 2017, Foot Locker filed its quarterly report for 1Q17 with the SEC on Form 10-Q. The 1Q17 Form 10-Q repeated Foot Locker’s financial results for 1Q17, and failed to disclose material information that was required to be disclosed pursuant to Items 303(a)(3) and 503 of Regulation S-K, as set forth above in ¶¶ 46-52.

96. The 1Q17 Form 10-Q was signed by Defendant Peters and repeated Foot Locker’s financial results for FY16. It was also accompanied by signed SOX certifications by Defendants Johnson and Peters. Both Johnson and Peters certified that the form “does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.” They also certified that “the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the [Company] as of, and for, the periods presented in this report.

IV. The Truth Emerges

97. On August 18, 2017, investors discovered the truth – that Foot Locker’s business was not facing a “little bit of a lag,” but was instead experiencing a sustained downturn. On that date, before the markets opened, Foot Locker issued a press release announcing its financial results for 2Q17, reporting negative comparable metrics for the first time in 29 quarters. Foot Locker reported that its 2Q17 total sales had now declined 4.4% year-over-year, falling \$79 million, from \$1.78 billion in 2Q16 to \$1.701 billion in 2Q17. In addition, comparable-store sales had fallen 6% year-over-year, and gross margins had deteriorated 340 basis points, to 29.6% of sales, compared to 33% of sales in 2Q16. As a result, Foot Locker reported that its 2Q17 net income had fallen to just \$51 million, compared to net income of \$127 million in 2Q16, and EPS had fallen to \$0.39 per share, drastically below both the \$0.90 per share that analysts were expecting, and the \$0.94 per share that the Company had reported for 2Q16.

98. Commenting on the disappointing results, Defendant Johnson stated that the Company now “expect[ed] comparable[-store] sales to be down three to four percent over the remainder of the year.” Defendant Peters added that the Company was considering various initiatives to cut expenses “in light of the current sales challenges,” including reductions to Foot Locker’s store base, reductions in capital spending, and a “shifting of emphasis from real estate to digital and supply chain[.]”

99. The Company held a conference call with analysts later that day. On the call, Peters stated that the Company “expect[ed] non-GAAP EPS to decrease between 20% to 30% in the second half of 2017” and the deterioration in gross margins “was driven by a higher markdown.” In addition, Johnson stated that “very high level of promotional activity in the market affected [Foot Locker] more this quarter than in the past.” Johnson added that the Company was

“accelerating [its] ongoing process of reviewing [its] store portfolio” and “currently expect to close at least 135 stores, up from the 100 we previously guided to.”

100. In response to this news, the price of Foot Locker common stock declined nearly 28%, from a closing price of \$47.70 per share on August 17, 2017, to close at \$34.38 per share on August 18, 2017, on unusually heavy trading volume of more than 36.2 million shares traded – more than nine times the average daily trading volume over the preceding ten trading days. The price of Foot Locker common stock continued to decline the following trading day, on heavy trading volume, as the market digested the adverse announcements, closing at \$31.82 per share on Monday, August 21, 2017 – a total decline of more than 33%.

THE STATEMENTS WERE IMPROPER

101. The statements provided above were improper when they were made because they failed to disclose and/or misprinted material, adverse facts that Defendants knew or recklessly disregarded. These material, adverse facts included the facts that:

- a) Foot Locker’s vendors were increasingly selling their products directly to consumers, as well as through online retailers;
- b) Foot Locker was no longer receiving sufficient quantities of its vendors’ premier products, as the Company’s vendors were selling more of their premier products directly to consumers;
- c) Foot Locker’s vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products;
- d) Defendants failed to maintain adequate disclosure controls and procedures with respect to Foot Locker’s operations and financial standing; and

- e) as a result of the foregoing, Defendants' representations concerning the Company business, prospects, and finances were misleading and improper.

DAMAGES TO FOOT LOCKER

102. As a result of Defendants' improprieties, Foot Locker disseminated improper, public statements concerning Squalamine and its impact on the Company's business, operations, and prospects. Foot Locker is now the subject of a securities class action lawsuit as a result. These improper statements also devastated the Company's credibility and future prospects as evidenced by the collapse of the Company's stock price by more than 33% following the disclosure of the truth.

103. In addition, as a direct and proximate result of Defendants' actions, Foot Locker has expended, and will continue to expend, significant sums of money. Such expenses include, but are not limited to:

- a) costs and damages incurred from defending and paying any settlement or judgment in the Securities Class Action;
- b) costs incurred to investigate the wrongdoing internally; and
- c) costs incurred from compensation and benefits paid to Defendants who breached their fiduciary duties to the Company.

DEMAND FUTILITY

104. Plaintiff brings this action derivatively on behalf of Foot Locker to redress injuries suffered, and to be suffered, by the Company as a direct and proximate result of Defendants' misconduct, breach of fiduciary duties, corporate waste and unjust enrichment.

105. Plaintiff owns, and has owned, Foot Locker stock continuously during the time of the wrongful course of conduct.

106. Plaintiff will adequately and fairly represent the interests of Foot Locker in enforcing and prosecuting its rights and has retained counsel competent and experienced in stockholder derivative litigation.

107. Plaintiff did not make a demand on the Board prior to instituting this stockholder derivative litigation because a pre-suit demand upon the Board would be futile. At the time of this filing, the Board consists of the following ten directors: Clark, Feldman, Feldman, Marmol, McKenna, Oakland, Payne, Turpin, Underhill, and Young. Demand is excused because a majority of the Board are neither independent nor disinterested.

**Demand is Excused Because Defendants Clark, Feldman, Johnson,
Marmol, McKenna, Oakland, Payne, Turpin, Underhill, and Young
Face a Substantial Likelihood Liability for Their Misconduct**

108. Defendants Clark, Feldman, Feldman, Marmol, McKenna, Oakland, Payne, Turpin, Underhill, and Young were responsible for overseeing the Company's public statements concerning its products, including Squalamine, and the Company's public statements concerning its business practices and operations. Defendants authorized, or failed to prevent, false statements concerning: (i) Foot Locker's failure to disclose that its vendors were increasingly selling their products directly to consumers, as well as through online retailers; (ii) Foot Locker's failure to disclose that it was no longer receiving sufficient quantities of its vendors' premier products, as the Company's vendors were selling more of their premier products directly to consumers; (iii) Foot Locker's failure to disclose that its vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products; and (iv) Foot Locker's business, operations, and prospects. Accordingly, Defendants Clark, Feldman, Feldman, Marmol, McKenna, Oakland, Payne, Turpin, Underhill, and Young were active participants in breaches of good faith, candor, and loyalty, and have subjected the

Company to a class action lawsuit claiming violations of the federal securities laws. Because Clark, Feldman, Feldman, Marmol, McKenna, Oakland, Payne, Turpin, Underhill, and Young caused and/or allowed the Company to engaged in the unlawful conducted alleged here, these defendants face a substantial likelihood of liability. As a result, any demand upon defendants Clark, Feldman, Feldman, Marmol, McKenna, Oakland, Payne, Turpin, Underhill, and Young to bring suit against themselves would be futile.

109. As members of the Audit Committee, Defendants Clark, Marmol, McKenna, Payne, and Young were tasked with reviewing and overseeing issuance of the improper statements. The Audit Committee's Charter provides that it is responsible for oversee the Company's accounting and financial reporting policies and practices, as well as discussing and reviewing press releases prior to their release. Thus, Defendants Clark, Marmol, McKenna, Payne, and Young were responsible for knowingly or recklessly allowing the improper statements related to including Squalamine and the Company's business practices and operations. Accordingly, Clark, Marmol, McKenna, Payne, and Young breached their fiduciary duties of loyalty and good faith because they participated in the wrongdoing described herein, and face a substantial likelihood of liability for having done so, making demand futile.

Demand is Excused as to Defendant Johnson Because He Lacks Independence

110. Defendant Slakter is incapable of independently considering a demand because he is Footlocker's CEO and as such derives the majority of his income from the Company. In 2016 and 2017, Johnson received \$8,925,868 and \$6,393,222, respectively from the Company. Accordingly, Defendant Johnson lacks independence due to his interest in maintaining his executive position at Footlocker. The lack of independence renders Defendant Johnson incapable of impartially considering a demand to commence and vigorously prosecute this action.

111. The Company has confirmed that Defendant Johnson is not independent. In the Company's most recent Schedule 14A Proxy Statement, filed with the SEC on May 23, 2018, the Company disclosed that Johnson is not independent under the New York Stock Exchange rules.

CAUSES OF ACTION

COUNT I BREACH OF FIDUCIARY DUTIES (derivatively against All Defendants)

112. Plaintiff repeats and re-alleges each and every allegation above as if set forth fully herein.

113. By their wrongful acts and omissions, defendants breached their fiduciary duties of candor, good faith, and loyalty. Specifically, Defendants breached their fiduciary duties by consciously performing or failing to prevent the Company from engaging in the unlawful acts complained of herein.

114. Defendants breached their fiduciary duties by recklessly permitting the improper statements identified herein, rendering them liable to the Company for breaching their duties. Defendants knew, were reckless, or were grossly negligent in: (i) causing or allowing Foot Locker not to disclose that its vendors were increasingly selling their products directly to consumers, as well as through online retailers; (ii) causing or allowing Foot Locker not to disclose that it was no longer receiving sufficient quantities of its vendors' premier products, as the Company's vendors were selling more of their premier products directly to consumers; (iii) causing or allowing Foot Locker not to disclose that its vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products; and (iv) failing to maintain adequate disclosure controls and procedures with respect to Foot Locker's operations and financial standing.

115. Defendants Johnson and Peters either knew, were reckless, or were grossly negligent in disregarding the unlawful acts complained of herein. Defendants Johnson and Peters either knew, were reckless, or were grossly negligent in: (i) causing or allowing Foot Locker not to disclose that its vendors were increasingly selling their products directly to consumers, as well as through online retailers; (ii) causing or allowing Foot Locker not to disclose that it was no longer receiving sufficient quantities of its vendors' premier products, as the Company's vendors were selling more of their premier products directly to consumers; (iii) causing or allowing Foot Locker not to disclose that its vendors were requiring the Company to purchase large quantities of undesirable products that were expected to sell poorly in order to obtain desirable products; and (iv) failing to maintain adequate disclosure controls and procedures with respect to Foot Locker's operations and financial standing.

116. As a direct and proximate result of Defendants breaches of their fiduciary obligations, the Company has been harmed.

117. The Company has no adequate remedy at law.

COUNT II
WASTE OF CORPORATE ASSETS
(derivatively against Defendants)

118. Plaintiff repeats and re-alleges each and every allegation above as if set forth fully herein.

119. Defendants breached their fiduciary duties by failing to properly supervise and monitor the adequacy of Foot Locker disclosure controls and procedures, by issuing, causing the issuance of, and/or failing to correct the false and misleading statements identified herein, and by allowing the Company to engage in this improper code of conduct, which was continuous, connected, and ongoing throughout the relevant period. It resulted in continuous, connect, and ongoing harm to the Company.

120. As a result of the misconduct described above, Defendants have caused Foot Locker to waste its assets by paying improper compensation and bonuses to certain of its executive officers and directors that breached their fiduciary duty; and incurring potentially millions of dollars of legal liability and/or legal costs to defend Defendants' unlawful actions, including defendant the Company and its officers against the securities class action lawsuit.

121. As a direct and proximate result of these Defendants' breaches of fiduciary duties, the Company has suffered significant damages, as alleged herein. As a result of the waste of corporate assets, Defendants are liable to the Company.

122. The Company has no adequate remedy at law.

COUNT III
UNJUST ENRICHMENT
(derivatively against Defendants)

123. Plaintiff repeats and re-alleges each and every allegation above as if set forth fully herein.

124. By their wrongful acts and omissions, Defendants were unjustly enriched at the expense of, and to the detriment of, Foot Locker. Defendants were unjustly enriched as a result of the compensation and director remuneration they received while breaching fiduciary duties owed to Foot Locker.

125. Plaintiff, as a stockholder and representative of Foot Locker, seeks restitution from these defendants, and each of them, and seeks an order of this Court disgorging all profits, benefits and other compensation obtained by these defendants, and each of them, from their wrongful conduct and fiduciary breaches.

126. The Company has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

A. A judgment against all Defendants for the amount of damages sustained by the Company as a result of the Defendants' wrongdoing as alleged herein;

B. Directing Foot Locker to take all necessary actions to reform and improve its corporate governance and internal procedures to comply with applicable laws and to protect Foot Locker and its shareholders from a repeat of the damaging events described herein, including, but not limited to, putting forward for shareholder vote resolutions for amendments to the Company's By-Laws or Articles of Incorporation, and taking such other action as may be necessary to place before shareholders for a vote the following corporate governance proposals or policies:

- a. a proposal to strengthen Foot Locker's oversight of its disclosure procedures
- b. a proposal to strengthen the Company's controls over financial reporting;
- c. a proposal to strengthen the Board's supervision of operations and develop and implement procedures for greater stockholder input into the policies and guidelines of the Board; and
- d. a proposal to merit the shareholders of Foot Locker to nominate at least two candidates for election to the Board.

C. Extraordinary equitable and/or injunctive relief as permitted by law, equity and the state statutory provisions sued hereunder, including attaching, impounding, and imposing a constructive trust on or otherwise restricting the proceeds of defendants' trading activities or their other assets so as to assure that plaintiff on behalf of Foot Locker has an effective remedy;

D. Awarding to Foot Locker restitution from defendants, and each of them, including ordering disgorgement of all profits, benefits and other compensation obtained by defendants;

E. Awarding plaintiff the costs and disbursements of the action, including reasonable attorneys' fees, accountants' and experts' fees, costs and expenses; and

F. A grant of such other, further relief, whether similar or different, including damages, as this Court may deem just and proper.

Dated: October 18, 2018
New York, NY

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