

NOTICE OF CLASS ACTION, PROPOSED SETTLEMENT, AND FAIRNESS HEARING

*A Federal Court authorized this notice. This is not a solicitation from a lawyer.*

**YOU ARE NOT BEING SUED.**

Your legal rights may be affected whether you act or not. **Read this notice carefully because it explains decisions you must make and actions you must take now.**

**If you purchased certain models of Vibram FiveFingers footwear listed below in the United States from March 21, 2008 up to and including May 27, 2014, the proposed settlement of a class action lawsuit may affect your rights.**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>		
<b>DO NOTHING</b>	You get no payment. You give up your rights.	
<b>SUBMIT A CLAIM FORM</b>	This is the only way to get a payment.	The Claim Form, which is attached to this Notice, must be completed and electronically submitted no later than <b>September 24, 2014</b> or mailed <b>postmarked</b> no later than <b>September 24, 2014</b> .
<b>EXCLUDE YOURSELF</b>	You get no payment under the settlement. This is the only choice that will allow you to sue Vibram on your own about the claims discussed in this notice.	An exclusion request must be in writing and mailed to the Settlement Administrator <b>postmarked</b> on or before <b>August 15, 2014</b> .
<b>OBJECT TO THE SETTLEMENT</b>	You can write to the Court and object, setting forth why you do not agree with any aspect of the settlement.	An objection must be in writing, filed with the Court, and served on the parties of record on or before <b>August 15, 2014</b> .
<b>GO TO A HEARING</b>	You can ask to speak to the Court about the “fairness” of the settlement.	If you wish to appear and speak to the Court, you must submit a notice of Intention to Appear form, in writing, and file it with the Court on or before <b>August 15, 2014</b> .

- These rights and options – and the deadlines within which to exercise them – are explained in this Notice.
- The Court still has to decide whether to approve the settlement. Payments will be distributed if the Court approves the settlement and after appeals, if any, are resolved in favor of the settlement. Please be patient.

**QUESTIONS? Call 1-844-491-5740 or VISIT [WWW.FIVEFINGERSSETTLEMENT.COM](http://WWW.FIVEFINGERSSETTLEMENT.COM)**

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## **PART I: WHY YOU HAVE RECEIVED THIS NOTICE**

### **1. WHY DID I RECEIVE THIS NOTICE?**

You received this Notice because you may be a Class Member able to receive payment from a proposed settlement of a class action. This lawsuit was brought on behalf of people who purchased certain models of FiveFingers footwear in the United States (more fully described below) from Vibram USA Inc. and Vibram FiveFingers LLC (“Vibram”), and/or their authorized retailers.

The Court approved this notice because you have a right to know about the proposed settlement, and about your rights and options, before the Court decides whether to approve the settlement. You will be informed of the progress of this settlement and may receive payment if you are a Class Member and choose to submit a completed and timely Claim Form.

This notice package explains: (1) the lawsuits, (2) the proposed settlement, (3) your legal rights, (4) what payments are available, (5) who is eligible to receive payments under the settlement, (6) how to get a payment, and (7) other important information.

Information about the settlement is summarized below. The Settlement Agreement, available on the Settlement Website ([www.FiveFingersSettlement.com](http://www.FiveFingersSettlement.com)), gives greater detail on the rights and duties of the parties. If there is any conflict between this notice and the Settlement Agreement, the Settlement Agreement controls.

### **2. WHAT IS THIS LAWSUIT ABOUT AND WHY DID IT SETTLE?**

The lawsuit, captioned as *Valerie Bezdek, v. Vibram USA Inc., et al.*, Case Number 1:12-cv-10513-DPW (D. Mass.), along with one captioned *De Falco v. Vibram USA Inc., et al.*, Case Number 1:13-cv-10764-DPW (D. Mass.) and another captioned *Safavi v. Vibram USA Inc., et al.*, Case Number CV 12-5900-BRO-JCG (C.D. Cal.) (collectively, the “Actions”), concerns allegations that Vibram violated certain state laws and consumer protection statutes in connection with the marketing and sale of FiveFingers footwear since March 21, 2008. Plaintiffs claim that Vibram, in connection with the marketing and sale of FiveFingers footwear, misrepresented the benefits of wearing FiveFingers footwear to consumers. Plaintiffs further claim that FiveFingers footwear did not provide the benefits to consumers set forth in Vibram marketing and advertising materials.

Vibram denies any and all claims of wrongdoing and does not admit any fault, wrongdoing, or liability.

The Plaintiffs in the Actions, through their attorneys, investigated the facts and law relating to the issues in the Actions. The Parties believe that the settlement is fair, reasonable, and adequate and will provide substantial benefit to the Class. The Court has not decided whether the Plaintiffs’ claims or Vibram’s defenses have any merit, and it will not do so if the proposed settlement is approved. The proposed settlement does not suggest that Vibram has or has not done anything wrong, or that the Plaintiffs and the Class would or would not win their case if it were to go to trial.

### **3. WHAT DOES THE SETTLEMENT PROVIDE?**

The settlement provides that Vibram will create a Settlement Fund of \$3.75 million USD. This Settlement Fund will be used to resolve all approved Claims submitted through the Claim Process. The Settlement Fund is subject to certain terms, requirements, and deductions, as described below in Questions 9 and 12. As part of the Settlement, Vibram has also agreed to certain changes in its marketing campaigns. Notice and administration costs, as well as Plaintiffs' Counsel's attorneys' fees and costs and any Service Award(s) to the Plaintiffs will also be paid from the \$3.75 million Settlement Fund.

## **PART II: DESCRIPTION OF THE CLASS**

### **4. WHY IS THIS A "CLASS ACTION"?**

In a class action, one or more people, called named Plaintiffs (in this case, Valerie Bezdek, Brian De Falco, and Ali Safavi), sue on behalf of themselves and other people who they contend have similar claims. All these people are a Class or Class Members. The companies they sue, in this case Vibram, are called the Defendants. One Court resolves the issues and disputes for all Class Members in a class action, except for those who exclude themselves from the Class. The Court in charge of this case is the United States District Court for the District of Massachusetts, located at the following address: 1 Courthouse Way, Boston, Massachusetts 02210.

### **5. AM I A MEMBER OF THE CLASS?**

Except as noted below, the Class includes all people who purchased FiveFingers footwear described in Question 7 in the United States from Vibram U.S. Retailers, Vibram Stores, vibramfivefingers.com, or other third-party retailers from March 21, 2008 up to and including May 27, 2014.

### **6. ARE THERE EXCEPTIONS TO BEING INCLUDED?**

The Class does not include the following persons, entities, or claims:

- Vibram's board members or executive-level officers, including its attorneys;
- Persons or entities who purchased the FiveFingers footwear primarily for purposes of resale;
- Any claims for personal injury relating to the use of FiveFingers footwear;
- Distributors or re-sellers of FiveFingers footwear;
- The judge and magistrate judge presiding over the Actions and their immediate families;
- Governmental entities; and
- Persons or entities who or which timely and properly exclude themselves from the Class as provided in the Settlement Agreement.

**7. WHAT ARE THE “FIVEFINGERS FOOTWEAR” SUBJECT TO THIS SETTLEMENT?**

“FiveFingers footwear” means the following models of Vibram shoes purchased as new by Class Members during the Class Period in the United States:

Alitza, Bikila, Bikila EVO, Bikila EVO WP, Bikila LS, Classic, Classic Smartwool, EL-X, Estrada, Flow, Fresca, Jaya, Komodo Sport, Komodo Sport LS, KMD Sport, KMD Sport LS, KSO, KSO EVO, KSO Trek, Lontra, SeeYa, SeeYa LS, SeeYa LS Night, Signa, Speed, Speed XC, Sprint, Spyridon, Spyridon LS, Spyridon MR, Trek LS, TrekSport, TrekSport Sandal, V-On, and Vybrid Sneak.

**8. I’M STILL NOT SURE IF I’M INCLUDED.**

If you do not understand whether or not you are a Class Member, you can call 1-844-491-5740, visit the Settlement Website, [www.FiveFingersSettlement.com](http://www.FiveFingersSettlement.com), or you can contact Lead Class Counsel. Lead Class Counsel’s contact information is listed in response to Question 18 below.

**PART III: SETTLEMENT BENEFITS**

**9. WHAT BENEFITS DOES THE SETTLEMENT PROVIDE?**

Your eligibility to receive a payment from this settlement depends upon the approval of your Claim and the total sum of all approved Claims submitted by all other Class Members and other factors specified in the Settlement Agreement and in this Class Notice (particularly in this section and in Question 12). As a result, the amount of relief available to eligible Class Members may vary.

More specifically, the relief to be provided to eligible Class Members for each pair of FiveFingers footwear purchased by an eligible Class Member shall be paid on a *pro rata* basis from the balance of the Settlement Fund, after payment of Administrative Costs, necessary taxes and expenses, Attorneys’ Fees and Expenses, and Service Awards, up to a maximum of \$94.00 per pair, the average manufacturer’s suggested retail price of FiveFingers footwear. Based on experience from other similar settlements of class actions, it is reasonable to expect that Class Members may receive a payment in the range of \$20.00 to \$50.00 per pair, which could increase (up to the approximate average retail price of \$94) or decrease depending on various factors, including the number of valid claims.

As part of this settlement, Vibram has also agreed to take commercially reasonable efforts to change certain aspects of its advertising and marketing campaign, including: (i) Vibram will not make or assist others in making any claims that the FiveFingers footwear or products similar to the FiveFingers footwear are effective in strengthening muscles or preventing injury unless that representation is true, non-misleading and is supported by competent and reliable scientific evidence; (ii) Vibram will not make or assist others in making any health benefit claim about FiveFingers footwear or products similar to the FiveFingers footwear unless Vibram possesses and relies upon competent and reliable scientific evidence to substantiate that the claim is true and non-misleading; and (iii) Vibram will not misrepresent or assist others in misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research relating to Vibram’s FiveFingers footwear or products similar to the FiveFingers footwear.

## 10. HOW CAN I MAKE A CLAIM?

To receive a payment under the settlement, you must submit a Claim Form. A Claim Form and directions for completing and submitting it are attached as **Appendix B** to this Class Notice. You may also obtain and print a Claim Form and other relevant documents by visiting **www.FiveFingersSettlement.com**. Please read the instructions and certification carefully, and fill out the form completely and accurately. Claim forms must be **electronically submitted** no later than **September 24, 2014**, or mailed and be **postmarked** no later than **September 24, 2014** and addressed to:

Vibram FiveFingers Class Action  
Settlement Administrator  
P.O. Box 449  
Philadelphia, PA 19105-0449

If you submit a claim for **two pairs of eligible FiveFingers footwear or less**, no proof of purchase is necessary. Claim Forms that include more than two pairs of eligible FiveFingers footwear must include proof of purchase for additional pair over two.

## 11. WHAT IS THE CLAIM PROCESS?

The Class Action Settlement Administrator will review each Claim Form. If your Claim includes more than two pairs of the FiveFingers footwear, you must verify your purchases by providing receipt(s) or other documentation for each additional pair over two. If you do not do so, it may result in the denial of your Claim. You will have thirty-five (35) days from the date of the Settlement Administrator's request to respond.

If a Claim is not contested, you will receive payment for that Claim in accordance with the terms of the Settlement Agreement. All usual and customary steps to prevent fraud and abuse in the Claim Process will be taken. This includes denying claims in whole or in part to prevent fraud or abuse. Lead Class Counsel and Vibram's Counsel will be provided a report on the denial of any claim due to insufficient documentation and may recommend additional action including payment.

The payment of approved Claims shall begin the later of ten (10) days after the later of the close of the Claim Period or the date the settlement is final, including any appeals that must be resolved in favor of the settlement (the "Final Settlement Date"). Please see the Settlement Agreement and Question 14 for further information on how the Final Settlement Date is determined.

## 12. HOW MUCH IS THE SETTLEMENT WORTH TO THE CLASS?

The settlement includes a Settlement Fund of \$3.75 million that will be used to pay (i) the costs and expenses associated with the notice and claims administration; (ii) Service Awards up to \$2,500 to each of the three named plaintiffs, as ordered by the Court; (iii) a Court-approved award of Plaintiffs' Counsel's attorneys' fees up to 25% of the Settlement Fund, or \$937,500, plus reimbursement of expenses not to exceed \$70,000; and (iv) payment of valid and approved Claims submitted by Class Members pursuant to the Claim Process.

The fund will not be used to pay Vibram's attorneys' fees and costs.

**13. WHAT IF THERE ARE FUNDS REMAINING AFTER ALL CLAIMS ARE PROCESSED?**

If there are any funds remaining in the Settlement Fund after all Claims are processed, those funds shall be awarded *cy pres* and paid to the American Heart Association, with a specific request that such funds be used to facilitate research regarding the health benefits associated with exercise or running or substantially similar research, or to such other beneficiary as Vibram, its counsel, Lead Class Counsel, and the Court shall agree. No remaining funds will be returned to Vibram.

**14. WHEN WILL I GET MY PAYMENT, IF ANY?**

The Court will hold a Fairness Hearing on October 29, 2014 at 2:30 p.m. to decide whether or not to approve the proposed settlement. The Court must finally approve the proposed settlement before any payments can be made. The Court will grant its Final Approval only if it finds that the proposed settlement is fair, reasonable, and adequate. In addition, the Court's order may be subject to appeals. It is always uncertain whether these appeals can be resolved, and resolving them takes time, sometimes more than a year. Finally, there remains a possibility that this settlement may be terminated for other reasons. To check the progress of the Settlement, Class Members can visit the website for updates at **www.FiveFingersSettlement.com**. Please be patient. The payment of approved Claims will begin the later of ten (10) days after the close of the Claim Period or the Final Settlement Date, which is after all appeals periods have run. It may begin sooner if agreed to by Plaintiffs' Counsel and Vibram.

**The Class Action Settlement Administrator shall have completed the Claim payments to Class Members who have submitted timely, valid, and approved Claim Forms, no later than one hundred and twenty (120) days after the Final Settlement Date or the close of the Claim Period, whichever is later.**

**15. WHAT DO I GIVE UP IF I CHOOSE TO STAY IN THE CLASS?**

You will be deemed to have given Vibram and the Released Parties the Release and Waiver of Claims set forth in **Appendix A**. You will also be bound by all Court actions, orders, and judgments entered. You will not be able to sue or otherwise proceed against Vibram on any claims related to this lawsuit. This settlement will not release any claims for personal injuries. Unless you exclude yourself from the Class, if the settlement is approved all of the Court's orders will apply to you and you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Vibram about the claims in this lawsuit, ever again, regardless of whether you submit a Claim Form.

**16. DO I HAVE TO SIGN A RELEASE?**

No. If you remain in the Class, you will automatically release Vibram and the Released Parties from any claims set forth in **Appendix A** and will give up your rights to pursue or continue any action against Vibram relating to your FiveFingers footwear and the claims at issue in this lawsuit. **A word-for-word copy of the Release section from the Settlement Agreement is attached to this Notice as Appendix A.** Because Class Members will release a wide range of claims in order to receive the benefits in the Settlement Agreement, please carefully read the "Release And Waiver of Claims" attached to this Notice as **Appendix A**.

## 17. WHAT IF I DO NOTHING?

If you are a Class Member and do nothing, you will not receive any payment from the Settlement Fund, but will be bound by the settlement's Release and Waiver of Claims. You must complete and submit a Claim Form on or before the deadline, which is **September 24, 2014**, in order to be considered for payment under the settlement.

### PART IV: THE LAWYERS REPRESENTING THE CLASS

## 18. DO I HAVE A LAWYER IN THIS CASE?

The Court has designated attorneys at the law firm of **Wolf Haldenstein Adler Freeman & Herz LLP** to represent you and the other Class Members in this lawsuit. If you are a member of the Class, the lawyers representing you and the other Class Members are called "Lead Class Counsel." **You will not be charged for the services of the Lead Class Counsel.** No later than fourteen (14) days prior to the objection deadline (see Part VIII of the Settlement Agreement), Lead Class Counsel shall submit a request to the Court for payment of attorneys' fees and costs. Any fees and costs awarded by the Court may reduce the settlement relief available to Class Members.

You may contact Lead Class Counsel about this lawsuit and proposed settlement at the following address:

Janine Pollack, Esq.  
Wolf Haldenstein Adler Freeman & Herz LLP  
270 Madison Avenue  
New York, New York 10016

You have the right to retain your own lawyer to represent you in this case, but you are not obligated to do so. If you do hire your own lawyer, you will have to pay his or her fees and expenses. You also have the right to represent yourself before the Court without a lawyer.

## 19. HOW WILL THE LAWYERS BE PAID?

Lead Class Counsel have prosecuted this case on a completely contingent basis and have not been paid anything to date for their services. Lead Class Counsel will ask the Court to award attorneys' fees not to exceed 25% of the Settlement Fund, or \$937,500, plus out-of-pocket expenses incurred not to exceed \$70,000. These amounts will be paid by Vibram from the Settlement Fund.

Lead Class Counsel will petition the Court for Service Awards of up to \$2,500 for each of the named plaintiffs, Valerie Bezdek, Brian De Falco, and Ali Safavi. The purpose of such awards is to compensate them for efforts and risks taken by them on behalf of the Class. Any such amount awarded by the Court as Service Awards for the named Plaintiffs will be paid out of the \$3.75 million Settlement Fund.

Vibram shall not be responsible for, or obligated to pay, any other fees, expenses, or costs in connection with this lawsuit or the Settlement Agreement, other than the amounts expressly provided for in the Settlement Agreement.



## PART V: EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment from this settlement, but you want to keep the right to sue or continue to sue Vibram on your own about the legal issues in this case, then you must take steps to get out of the Class. This is called excluding yourself or “opting out” of the Class.

### 20. HOW DO I GET OUT OF OR EXCLUDE MYSELF FROM THE SETTLEMENT?

If you want to be excluded from the Class, you must write to the Class Action Settlement Administrator. To exclude yourself from the settlement, you must send a letter by mail. Your exclusion request letter must be **postmarked** no later than **August 15, 2014**. Send your letter to:

Vibram FiveFingers Class Action  
Settlement Administrator  
P.O. Box 449  
Philadelphia, PA 19105-0449

Your letter requesting exclusion does not need to be in any particular form, but it must include the following information in order to be effective:

- (1) your name;
- (2) your address;
- (3) your telephone number;
- (4) the FiveFingers footwear for which you are requesting exclusion;
- (5) a statement that you wish to be excluded from the Class;
- (6) your signature; and
- (7) the case name and case number: *Valerie Bezdek . v. Vibram USA Inc., et al.*, Case Number 1:12-cv-10513-DPW (D. Mass.)

Please write “**EXCLUSION REQUEST**” on the lower left-hand corner of the *front* of the envelope.

### 21. WHAT HAPPENS IF I EXCLUDE MYSELF FROM THE CLASS?

If you request exclusion from the Class, then for each of the excluded FiveFingers footwear:

- You will **not** be eligible for payment under the proposed settlement;
- You will **not** be allowed to object to the terms of the proposed settlement, and
- You will **not** be bound by any subsequent rulings entered in this case if the proposed settlement is finally approved.

**However, if your request for exclusion is late or deficient you will still be a part of the Class, you will be bound by the settlement and by all other orders and judgments in this lawsuit, and you will not be able to participate in any other lawsuits based on the claims in this case.**

**22. IF I DON'T EXCLUDE MYSELF, CAN I SUE VIBRAM LATER?**

**No.** If the Court approves the proposed settlement and you do not exclude yourself from the Class, you release (give up) all claims that have been or could have been asserted in this lawsuit relating to your FiveFingers footwear.

**PART VI: OBJECTING TO THE SETTLEMENT**

You have the right to tell the Court that you do not agree with the settlement or any or all of its terms.

**23. HOW CAN I OBJECT TO THE PROPOSED SETTLEMENT?**

If you choose to remain a Class Member, you have a right to object to any part of the proposed settlement. The Court will consider your views.

To object, you must send a letter saying that you object to the proposed Settlement of *Valerie Bezdek . v. Vibram USA Inc., et al.*, Case Number 1:12-cv-10513-DPW (D. Mass.). Your written objection must include:

- (1) your name;
- (2) your address;
- (3) your telephone number;
- (4) if you are represented by counsel, the name, address, and telephone number of your counsel;
- (5) proof of purchase of FiveFingers footwear, such as a cash register receipt, a credit card receipt, or a credit card statement that sufficiently indicates the purchase of the FiveFingers footwear;
- (6) a written statement of all grounds for your objection(s), including any legal support and/or any supporting evidence you wish to introduce;
- (7) a statement of whether you intend to appear and argue at the Fairness Hearing;
- (8) your dated signature (signature from your counsel is not sufficient); and
- (9) the case name and case number: *Valerie Bezdek . v. Vibram USA Inc., et al.*, Case Number 1:12-cv-10513-DPW (D. Mass.)

If you choose to object, your written objections must be filed with the Court, and copies must be **received** by all of the following recipients no later than **August 15, 2014** in order to be considered by the Court:

<b>COURT</b>	<b>LEAD CLASS COUNSEL</b>	<b>DEFENSE COUNSEL</b>
Clerk of the Court <b>United States District Court District of Massachusetts</b> John Joseph Moakley U.S. Courthouse 1 Courthouse Way Boston, Massachusetts 02210	Janine Pollack <b>Wolf Haldenstein Adler Freeman &amp; Herz LLP</b> 270 Madison Avenue New York, New York 10016	Christopher Morrison <b>Jones Day</b> 100 High Street Boston, Massachusetts 02110

If you file objections, but the Court approves the settlement as proposed, you can still complete and submit a Claim Form to be eligible for payment under the settlement, subject to the terms and conditions discussed in this Notice and in the Settlement Agreement.

**24. WHAT IS THE DIFFERENCE BETWEEN “OBJECTING” AND “EXCLUDING”?**

Objecting is simply a way of telling the Court that you do not like something about the settlement. You can only object if you stay in the Class.

If you object to the Settlement, you will still be a Class Member and you will still be eligible to submit a Claim Form. You will also be bound by any subsequent rulings in this case and you will not be able to file or participate in any other lawsuit or proceeding based upon or relating to the claims, causes of action, facts, or circumstances of this case.

Excluding yourself is telling the Court that you do not want to be a part of the Class. If you exclude yourself, you have no basis to object to the settlement and/or appear at the Fairness Hearing because it no longer affects you.

**PART VII: THE COURT’S FAIRNESS HEARING**

The Court will hold a final hearing (called a Fairness Hearing) to decide whether to enter a Final Approval of the Settlement. You may attend and ask to speak, but you do not have to.

**25. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?**

On **October 29, 2014**, at **2:30 p.m.**, the Court will hold a Fairness Hearing at the United States District Court for the District of Massachusetts, before the Honorable Douglas P. Woodlock, in Courtroom 1, John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210.

At the hearing, the Court will consider whether to grant final certification to the Class for settlement purposes only, whether to approve the proposed settlement as fair, reasonable, and adequate, and will make a final ruling on all related settlement issues. The Court will also decide whether to award attorneys’ fees and costs, as well as Plaintiffs’ Service Awards.

**26. DO I HAVE TO COME TO THE HEARING?**

No. Lead Class Counsel will answer questions the Court may have at the Fairness Hearing. But you are welcome to attend at your own expense. Please note that the Court has the right to change the date and/or time of the Fairness Hearing without further notice. If you are planning to attend the hearing, you should confirm the date and time before going to the Court.

**27. MAY I SPEAK AT THE FAIRNESS HEARING?**

Yes, if you have properly filed an objection, you may ask the Court for permission to speak at the hearing. To do so, you must submit an objection and also file a document called a “Notice of Intention to Appear.”

**28. WHAT DO I HAVE TO DO TO SPEAK AT THE FAIRNESS HEARING?**

If you are a member of the Class, and you (or your attorney) want to appear and speak at the Fairness Hearing, you (or your attorney) must have submitted an objection and must file a **“Notice of Intention to Appear” at the Fairness Hearing** with the Clerk of the Court, and deliver that Notice to the attorneys for both sides, at the addresses listed above. **Your Notice of Intention to Appear at the Fairness Hearing must be filed and received by the Court, Vibram’s Counsel, and Lead Class Counsel, at the addresses specified in Question 23 no later than August 15, 2014.**

If you file an objection and appear at the Fairness Hearing, but the Court approves the settlement as proposed, you can still complete and submit a Claim Form to be eligible for payment under the settlement, subject to the terms and conditions discussed in this Notice and in the Settlement Agreement.

**PART VIII: GETTING ADDITIONAL INFORMATION**

This Notice and the accompanying documents summarize the proposed settlement. More details are contained in the Settlement Agreement. The full Settlement Agreement is on file with the Clerk of the Court. For a more detailed statement of the matters involved in this case, you may review the complaint and the other papers and Court orders on file in the Clerk’s office at any time during normal business hours, Monday through Friday, 8:30 a.m. to 5:00 p.m. EDT.

If you have questions after reading this Notice, you can visit **www.FiveFingersSettlement.com** to obtain additional information about the proposed settlement and the Claim Form or you can call toll-free, 1-844-491-5740 to obtain additional information about the settlement. You may also direct your questions about the settlement to Lead Class Counsel, whose name and address is listed in Question 18 of this Notice.

**PLEASE DO NOT CALL THE COURT OR THE CLERK OF THE COURT**

Dated: May 27, 2014	Clerk of the Court for the United States District Court for the District of Massachusetts
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## APPENDIX A

### **Release And Waiver of Claims**

The Parties agree to the following Release and Waiver of Claims, which is also set forth in Section VII(B) of the Settlement Agreement, which shall take effect upon entry of the Final Order and Final Judgment:

- a) In consideration for the Settlement benefits described in the Settlement Agreement, Plaintiffs and the other members of the Class, on behalf of themselves, their heirs, guardians, assigns, executors, administrators, predecessors, and/or successors, will fully, finally and forever release, relinquish, acquit, and discharge Vibram, its parents (including but not limited to Vibram SpA, and any intermediary and/or ultimate parents), officers, directors, employees, stockholders, agents, attorneys, administrators, successors, reorganized successors, spin-offs, assigns, holding companies, subsidiaries, affiliates, joint-ventures, partners, members, divisions predecessors, Vibram-owned U.S. Retailers, Vibram-owned Stores and [www.vibramfivefingers.com](http://www.vibramfivefingers.com) (collectively, “the Released Parties”) from – and shall not now or hereafter institute, maintain, or assert on their own behalf, on behalf of the Class or on behalf of any other person or entity – any and all manner of claims, actions, causes of action, suits, rights, debts, sums of money, payments, obligations, reckonings, contracts, agreements, executions, promises, damages, liens, judgments and demands of whatever kind, type or nature and whatsoever, both at law and in equity, whether past, present or future, mature or not yet mature, known or unknown, suspected or unsuspected, contingent or noncontingent, whether based on federal, state or local law, statute, ordinance, regulation, code, contract, common law, or any other source, or any claim that Plaintiffs or Class Members ever had, now have, may have, or hereafter can, shall or may ever have against the Released Parties in any other court, tribunal, arbitration panel, commission, agency, or before any governmental and/or administrative body, or any other adjudicatory body, on the basis of, connected with, arising from, or in any way whatsoever relating to the purchase of FiveFingers footwear during the Class Period and the claims alleged in the complaints (amended and otherwise) in the Actions, and, more particularly, but without in any way limiting the generality of the foregoing, arising from, directly or indirectly, or in any way whatsoever pertaining or relating to the claims alleged in the complaints (amended and otherwise) in the Actions, including, but not limited to, communications, disclosures, nondisclosures, representations, statements, claims, omissions, messaging, design, testing, marketing, advertising, promotion, packaging, displays, brochures, studies, manufacture, distribution, operation, performance, functionality, notification, providing, offering, dissemination, replacement, sale and/or resale by the Released Parties of the FiveFingers footwear; any claims for rescission, restitution or unjust enrichment for all damages of any kind relating to the purchase of FiveFingers footwear during the Class Period and the claims alleged in the complaints (amended and otherwise) in the Actions; violations of any state’s deceptive, unlawful and/or unfair business and/or trade practices, false, misleading or fraudulent advertising, consumer fraud and/or consumer protection statutes relating to the purchase of FiveFingers footwear during the Class Period and the claims alleged in the complaints (amended and otherwise) in the Actions; any violation

of the Uniform Commercial Code, any breaches of express, implied and/or any other warranties, any similar federal, state or local statutes, codes, damages, costs, expenses, extra-contractual damages, compensatory damages, exemplary damages, special damages, penalties, punitive damages and/or damage multipliers, disgorgement, declaratory relief, expenses, interest, and/or attorneys' fees and costs against the Released Parties pertaining to or relating to the claims alleged in the complaint in the Action relating to the purchase of FiveFingers footwear during the Class Period and the claims alleged in the complaints (amended and otherwise) in the Actions, notwithstanding that Plaintiffs and the Class acknowledge that they may hereafter discover facts in addition to or different from those that they now know or believe to be true concerning the subject matter of the Actions and/or the Release and Waiver of Claims herein.

- b) Notwithstanding the language in this section and/or the Settlement Agreement, the Plaintiffs and the other members of the Class are not releasing any claims of or relating to personal injury.
- c) Plaintiffs represent and warrant that they are the sole and exclusive owners of all claims that they personally are releasing under the Settlement Agreement. Plaintiffs further acknowledge that they have not assigned, pledged, or in any manner whatsoever, sold, transferred, assigned or encumbered any right, title, interest or claim arising out of or in any way whatsoever pertaining to the Actions, including without limitation, any claim for benefits, proceeds or value under the Actions, and that Plaintiffs are not aware of anyone other than themselves claiming any interest, in whole or in part, in the Actions or in any benefits, proceeds or values under the Actions. Class Members submitting a Claim Form shall represent and warrant therein that they are the sole and exclusive owner of all claims that they personally are releasing under the Settlement and that they have not assigned, pledged, or in any manner whatsoever, sold, transferred, assigned or encumbered any right, title, interest or claim arising out of or in any way whatsoever pertaining to the Actions, including without limitation, any claim for benefits, proceeds or value under the Actions, and that such Class Member(s) are not aware of anyone other than themselves claiming any interest, in whole or in part, in the Actions or in any benefits, proceeds or values under the Actions.
- d) Without in any way limiting its scope, and, except to the extent otherwise specified in the Agreement, this Release and Waiver of Claims covers by example and without limitation, any and all claims for attorneys' fees, costs, expert fees, or consultant fees, interest, or litigation fees, costs or any other fees, costs, and/or disbursements incurred by Plaintiffs' Counsel, or by Plaintiffs or the Class Members.
- e) Plaintiffs expressly understand and acknowledge, and all Class Members will be deemed by the Final Order and Final Judgment to acknowledge, that certain principles of law, including, but not limited to, Section 1542 of the Civil Code of the State of California, provide that "a general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor." To the extent that anyone might argue that these principles of law are applicable – notwithstanding that the Parties have chosen Massachusetts law to govern this Agreement – Plaintiffs hereby agree that the provisions of all such principles of law or similar federal or state laws, rights, rules, or legal principles, to the extent they are found to be applicable herein, are hereby knowingly and voluntarily waived, relinquished and released by Plaintiffs and all Class Members.

- f) Nothing in this Release and Waiver of Claims shall preclude any action by the Parties hereto to enforce the terms of the Settlement Agreement, including participation in any of the processes detailed therein.
- g) Plaintiffs and Released Parties hereby agree and acknowledge that the provisions of this Release and Waiver of Claims together constitute an essential and material term of the Settlement Agreement and shall be included in any Final Order and Final Judgment entered by the Court.