

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
GEOFFREY OSBERG, :
 :
On behalf of himself and on :
behalf of all others similarly situated, :
 : **Case No.: 07 CV 1358 (KBF)**
Plaintiff, :
 :
v. :
 :
FOOT LOCKER, INC. and :
 :
FOOT LOCKER RETIREMENT PLAN, :
 :
Defendants. :
 :
-----X

**NOTICE OF PENDENCY OF CLASS ACTION LAWSUIT
FILED ON YOUR BEHALF**

This Notice is being sent to you because you have been identified as a current or former participant in the Foot Locker Retirement Plan (the “Plan”), sponsored by Foot Locker, Inc. (“Foot Locker”) and a member of the class certified in the above-referenced lawsuit. On September 24, 2014 and November 7, 2014, the lawsuit was certified as a class action by the United States District Court for the Southern District of New York (the “District Court” or the “Court”). You have legal rights that you may exercise before the Court holds a trial. The trial will decide whether the claims against the Plan and/or Foot Locker (collectively, “Defendants”), on your behalf, are correct. The Honorable Judge Katherine B. Forrest of the United States District Court for the Southern District of New York is overseeing this class action lawsuit.

As a member of the certified class, you are receiving notification that:

- A lawsuit (referenced above) has been filed on your behalf. The lawsuit, seeks additional pension benefits from the Plan and/or Foot Locker (collectively, “Defendants”) on your behalf.
- The lawsuit, which Defendants contest and has not yet reached a conclusion, will decide whether you and other class members are entitled to additional pension benefits, and if so, how much. The lawsuit does not put at risk any payments that you may have already received or are scheduled to receive in the future.
- To participate in this class action lawsuit, Class Members, including you, do not need to take any action.
- If you do not wish to participate in this class action lawsuit, you may request to be excluded in accordance with the procedure outlined in Item 8, below.

You can learn more about the case by contacting class counsel, whose contact information is listed in Item 9, below.

BASIC INFORMATION

1. What is this lawsuit about?

The lawsuit alleges that, in connection with the conversion of the Plan from a traditional defined benefit pension plan to a “cash balance” plan effective January 1, 1996, Foot Locker (formerly known as the Woolworth Corporation), made false and misleading statements to Plan participants as to what the new plan would provide.

The lawsuit alleges that Foot Locker falsely told participants that the retirement annuity benefits they had earned under the old defined benefit plan were converted into initial account balances of equal value and that any subsequent additions to those account balances represented additional benefits. The lawsuit alleges that this was untrue because the benefits represented by the initial account balances in the cash balance plan were less than the benefits already earned under the old plan, and that Foot Locker failed to disclose this to employees.

Plaintiff alleges that by falsely promising participants that the benefits represented by the initial account balances in the cash balance plan were equal to the benefits already earned under the old plan and that the additions to their accounts were new pension earnings based on work performed after December 31, 1995, Defendants violated their fiduciary duties under the Employee Retirement Income Security Act of 1974 (“ERISA”) and ERISA’s minimum requirements for summary plan descriptions (“SPDs”). Plaintiff further alleges that the appropriate remedy is that Foot Locker should pay participants what was allegedly promised and what employees reasonably but mistakenly expected based on the participant communications they received. That would be done by reforming the Plan to conform to the alleged promises made to participants.

Defendants maintain that they have at all times operated the Plan lawfully and have made no false statements to Plan participants. Defendants believe that Plaintiff’s claims are without merit.

At this time, the Court has not decided whether Plaintiff or Defendants are correct, but it has decided that the case should proceed as a class action. By certifying this case as a class action and issuing this notice, the Court does not intend to suggest that Plaintiff and the class will win or lose this case. Plaintiff and the class must prove their claims at trial.

2. What is a class action and who is involved?

In a class action lawsuit, one or more people (in this case, Mr. Osberg) sue on behalf of people who have the same or similar claims (“Class Members”). The entities that they sued are the Defendants. The Court will resolve the issues for the parties.

3. Why is this lawsuit a class action?

The Court ruled on September 24, 2014 and on November 10, 2014 that the case should proceed as a class action because the claims involve issues common and typical to all Class Members, and thus can be resolved in a more efficient manner than requiring each individual Class Member to bring his or her claims in separate, individual lawsuits.

4. Am I a Class Member?

You are a Class Member if you were a Plan participant on December 31, 1995 and earned vested retirement benefits under the Plan at any time between January 1, 1996 and the present.¹ (The beneficiary, estate, or alternate payee under a Qualified Domestic Relations Order of a Class Member is also a Class Member.)

CASE HISTORY – CURRENT STATUS

5. What has happened in the case so far?

Plaintiff filed this action in February 2007. In September 2009, in response to Defendants' motion to dismiss the Complaint, the Court upheld the claims still at issue now and dismissed others. The case was then held in abeyance for a time pending the outcome of a similar case in the United States Supreme Court. In 2012, after a period of discovery, the Court rejected Plaintiff's remaining claims and found it unnecessary to rule on Plaintiff's motion for class certification. In February 2014, the United States Court of Appeals for the Second Circuit reinstated Plaintiff's claim for fiduciary breach and Plan reformation and sent the case back to the Court for further proceedings. On September 24, 2014, the Court granted Plaintiff's motion to certify this action as a class action, specifically certifying for class treatment Plaintiff's breach of fiduciary duty/plan reformation claim, and appointed Eli Gottesdiener of Gottesdiener Law Firm, PLLC as Class Counsel. On November 7, 2014, the Court also specifically certified for class treatment Plaintiff's SPD/plan reformation claim. Defendants have petitioned the Court of Appeals to grant review of the District Court's certification of the case and are asking the Court of Appeals to reverse the District Court's class certification ruling.

6. What is the current status of the case and what happens next?

The case is currently scheduled for trial on February 2, 2015. However, the Court has indicated that the schedule may change. Class counsel will have to prove Plaintiff's and the class's claims at trial. During the trial, the Judge will hear all of the evidence and then decide whether Plaintiff and the class or Defendants are correct about the claims in the lawsuit. After the case has concluded in the trial court, one or both sides may appeal the Court's trial decision. The case will end after all appeals are exhausted, unless the trial court order is reversed for further proceedings. Another manner in which the case may conclude is by agreement, via a settlement. Because this case is a class action, no settlement can be accomplished without the approval of the Court, after giving Class Members the opportunity to be heard.

¹ Note that "Plan participant" includes individuals who may have participated in the Plan when it was known as the Woolworth Retirement Plan or the Venator Retirement Plan. Plan participants may have worked at any Woolworth or Foot Locker-owned subsidiary, including, for example, the San Francisco Music Box Company, Kinney Shoes, Champs Sports, Northern Reflections, and Afterthoughts.

PARTICIPATING IN THE CLASS

7. What potential effect will the Court's class ruling have on my rights?

The ruling by the Court that this is a class action means that the final outcome of this lawsuit, whether favorable to Plaintiff or Defendants (or some combination of both), will apply in like manner to all Class Members. Therefore, you would be legally bound by any ruling from the Court that determines whether or not you are entitled to additional benefits based on the claims in this case. You need not do anything to participate in the case. In the event of a proposed settlement, you will be given notice of the settlement proposal and an opportunity to be heard regarding its adequacy and fairness. If there are additional payments to be made – either as a result of a decision by the Court or a Court-approved settlement – you will also receive notice and an opportunity to be heard as to the reasonableness of any fees and expenses Class Counsel would ask the Court to approve to be paid out of such award.

8. What do I need to do to be a Class Member or not be a Class Member?

If you fit into the definition of a Class Member (see Item 4) and wish to participate in the lawsuit, no action on your part is necessary at this time.

However, if you fit into the definition of a Class Member but do *not* wish to participate in this class action, you must submit a written request to be excluded from the Class that includes all of the following information: (1) your name; (2) your mailing address; and (3) the statement “I want to be excluded from the *Osberg v. Foot Locker* case.” To be timely, a written request to be excluded from the Class must be postmarked on or before **December 22, 2014**, and must be mailed, with sufficient postage, to: Office of the Clerk, United States District Court, Daniel Patrick Moynihan U.S. Courthouse, 500 Pearl Street, New York, NY 10007.

If you timely submit a notice that you wish to be excluded from the Class, the Court will exclude you from the Class, you will not share in any money recovered by or on behalf of the Class, and you will not be bound by any judgment in this class action.

COUNSEL REPRESENTING YOU AND THE CLASS

9. Do I have a lawyer in this case?

The Court has decided that Eli Gottesdiener of Gottesdiener Law Firm, PLLC is qualified as Class Counsel to represent you and other Class Members. Mr. Gottesdiener is experienced in handling similar cases. The website for Class Counsel's firm is www.gottesdienerlaw.com. Class Counsel's contact information is as follows:

Eli Gottesdiener
Gottesdiener Law Firm, PLLC
498 7th Street
Brooklyn, NY 11215

Tel: 718.788.1500
Fax: 718.788.1650
info@gottesdienerlaw.com

You should contact Class Counsel: (1) if you received this Notice at an address different from the address to which it was mailed; (2) if your address changes in the future; or (3) if you did not receive this Notice in the mail but believe that you are a Class Member under the definition.

10. Who are Defendants' lawyers?

The Defendants are represented by Proskauer Rose LLP, Eleven Times Square, New York, New York, 10036-6299. You can read more about Proskauer at www.proskauer.com.

11. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. If you want your own lawyer, you will have to retain and pay for that lawyer. For example, you can ask a lawyer to appear in Court for you if you want someone other than Class Counsel to speak for you. You do not have to do anything if you wish to continue being represented by Class Counsel.

MORE INFORMATION

12. How can I get more information on the case?

There are several ways you can obtain more information regarding the lawsuit:

- You may visit the website Class Counsel has created dedicated to the lawsuit, www.footlockerpensionclassaction.com. Defendants have not assisted in creating the website and had no participation in its content. The Court does not indicate its agreement with the content of Class Counsel's website by informing Class Members of its existence.
- You may inspect the papers concerning this lawsuit at the Office of the Clerk, United States District Court, Daniel Patrick Moynihan U.S. Courthouse, 500 Pearl Street, New York, NY 10007, (212) 805-0136, during regular business hours. *See also* www.nysd.uscourts.gov.
- The case filings may also be viewed on the Court's electronic filing website, PACER, at <http://pacer.psc.uscourts.gov>. (To use PACER, you must first set up an account and pay \$0.08 per page for downloading court documents.)

ALL INQUIRIES CONCERNING THIS NOTICE SHOULD BE DIRECTED TO CLASS COUNSEL, NOT TO THE COURT.

Approved by the Honorable Katherine B. Forrest
of the United States District Court

for the Southern District of New York
by Orders dated October 20, 2014 and November 10, 2014