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17 **UNITED STATES DISTRICT COURT**  
18 **SOUTHERN DISTRICT OF CALIFORNIA**

19 SHEILA DASHNAW, WILLIAM  
20 MEIER, and SHERRYL JONES,  
21 individually, and on behalf of all others  
similarly situated,

22 Plaintiffs,

23 v.

24 NEW BALANCE ATHLETICS, INC.,  
25 a corporation; and DOES 1 through 50,  
inclusive,

26 Defendants.

CASE NO.: 17-cv-00159-L-JLB

**JOINT EMERGENCY MOTION TO  
CLARIFY ORDER**

**No oral argument unless requested by  
the Court**

1                    **JOINT EMERGENCY MOTION TO CLARIFY ORDER**

2                    In accordance with Local Rule 7.2, and in connection with the settlement  
3 preliminarily approved by the Court, Sheila Dashnaw, William Meir, and Sherryl  
4 Jones, on behalf of themselves and the Class (“Plaintiffs”) and New Balance  
5 Athletics, Inc. (“New Balance”) (collectively, “the Parties”), submit this Joint  
6 Emergency Motion to Clarify the Court’s Order Granting in Part and Denying in  
7 Part the Joint Motion to Modify Notice Plan, Class Notice, and Settlement  
8 Implementation Dates (“Order”). (ECF No. 111).

9                    The Parties respectfully request clarification of one aspect of the Order. The  
10 Parties are mindful of the Court’s statement in that Order that it is not inclined to  
11 grant any further extensions or modifications, and have been working diligently with  
12 the Settlement Administrator to effectuate the Order as written. Item 1 of the  
13 supplementation to the January 24, 2019 order granting preliminary approval  
14 provides that the “The Settlement Administrator shall **forthwith, and in no event**  
15 **later than February 22, 2019**, disseminate the long form notice and publish the  
16 summary notice with changes as approved in this Order.” Order at ¶ 1.

17                    The Parties request clarification regarding the timeframe to comply with this  
18 provision of the Order, because dissemination of the notice consists of several  
19 components, including direct email notice, and publication of the notice on the  
20 settlement website, via internet advertisements, and in People Magazine’s California  
21 edition. The Parties will fully comply with every aspect of Item 1 of the Order by  
22 disseminating the long form class notice directly via email, publishing the long form  
23 class notice via the settlement website, publishing the summary notice as a press  
24 release via PR Newswire, commencing publication notice via internet  
25 advertisements, and *providing* the summary settlement notice to People magazine to  
26 be published in the print version of the California edition of People magazine, by  
27 February 22, 2019.

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1           However, it is impossible for actual publication in the print version of People  
2 Magazine's California edition to occur on or before February 22, 2019. The earliest  
3 print publication of People Magazine's California edition that the Settlement  
4 Administrator could arrange for the summary settlement notice to be printed in is  
5 March 22, 2019.

6           Pursuant to the Amended Settlement Agreement, the Parties intended to begin  
7 publication of the summary notice via print and internet advertisements no later than  
8 fourteen (14) calendar days after entry of the Preliminary Approval Order. *See*  
9 Amended Settlement Agreement, ¶ IV.B.3 (ECF No. 106-3). This date, with respect  
10 to print publication, was based on the original assumption that the summary  
11 settlement notice would be printed in the Los Angeles Times, which, because it is a  
12 daily publication, allows submission of a print advertisement one day before the  
13 publication is scheduled to run. However, in light of the Court's approval of the  
14 Parties' request to use People Magazine's California edition, which is published  
15 every two to three weeks, March 22, 2019 is the earliest print publication date that  
16 could be obtained once the Parties received the Order. The Parties are mindful that  
17 this may not have been communicated as clearly as it could have been to the Court  
18 in their Joint Motion to Modify Notice Plan, Class Notice, and Settlement  
19 Implementation Dates.

20           Importantly, however, the Amended Settlement Agreement provides Class  
21 Members with 90 days from the date of the first dissemination of the summary  
22 settlement notice to submit claim forms or exclude themselves from the settlement.  
23 *See* Amended Settlement Agreement, ¶ II.A.8. Based on the current deadline of June  
24 6, 2019 for Class Members to submit claim forms or exclude themselves from the  
25 settlement, they will have 104 days from the first date of dissemination on February  
26 22, 2019, to do so. Thus, all of the dates set forth in the Order will remain as  
27 scheduled, and no delay in the settlement administration will result.

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1 In sum, the Parties will promptly proceed with dissemination of the notice in  
2 compliance with the Order, but out of an abundance of caution, wanted to  
3 respectfully request clarification that print publication of the summary settlement  
4 notice in People Magazine’s California edition may first begin on March 22, 2019.

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Dated: February 21, 2019

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By: s/ Aubry Wand  
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1 Dated: February 21, 2019

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**SIGNATURE CERTIFICATION**

Pursuant to Section 2(f)(4) of the Electronic Case Filing Administration Policies and Procedures Manual, I hereby certify that the content of this document is acceptable to Laura B. Najemy, counsel for New Balance Athletics, Inc., and that I have obtained Ms. Najemy’s authorization to affix her electronic signature to this document.

By: s/ Aubry Wand  
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