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- and -

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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

KRIS DANIELS, on behalf of himself and  
all others similarly situated,

Plaintiff,

v.

FINISH LINE, INC.

Defendant.

CASE NO. 2:07-CV-01501-GEB-GGH

**STIPULATION TO DISMISS  
COUNTS SIX, SEVEN AND EIGHT  
OF THE COMPLAINT PURSUANT  
TO FED. R. CIV. P. 41(a)(1)**

1           WHEREAS, on July 24, 2007, Plaintiff Kris Daniels (“Plaintiff”) filed a Class/Collective  
2 Action Complaint against Finish Line, Inc., and Does 1 through 10, inclusive, (collectively  
3 “Defendants”), seeking the recovery of, *inter alia*, unpaid wages on behalf of himself and all other  
4 similarly situated individuals (the “Complaint”);

5           WHEREAS, on July 11, 2008, Defendants filed a Motion for Partial Summary Judgment on  
6 Counts One, Two, Three, Four, Five, Nine and Ten of Plaintiff’s Complaint;

7           WHEREAS, on October 30, 2008, the Court granted Defendant’s Motion for Partial  
8 Summary Judgment in its entirety;

9           WHEREAS, Plaintiff seeks to dismiss, with prejudice, the remaining counts of his  
10 Complaint, namely, Counts Six, Seven and Eight, pursuant to FED. R. CIV. P. 41(a)(1);

11           WHEREAS, dismissal of the remaining counts will dispose of this action in its entirety; and

12           WHEREAS, the parties have conferred about the subject of this Stipulation,

13           THEREFORE, the parties STIPULATE and AGREE as follows:

14           Counts Six, Seven and Eight of the Complaint are dismissed with prejudice, with each side  
15 to bear their own costs.  
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1 DATED: January 6, 2009

2 **BARROWAY TOPAZ KESSLER**  
3 **MELTZER & CHECK, LLP**

**SEYFARTH SHAW LLP**

4 By: /s/ Gerald D. Wells, III

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By: /s/ Timothy M. Watson

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*Attorneys for Defendant*

19 **Attestation Pursuant To General Order 45**

20 I, Gerald D. Wells, III, attest that concurrence in the filing of this document has been  
21 obtained from the other signatory. I declare under penalty of perjury under the laws of the United  
22 States that the foregoing is true and correct. Executed this 6<sup>th</sup> day of January, 2009 at Radnor,  
23 Pennsylvania.

24 /s/ Gerald D. Wells, III

25 **ORDER**

26 PURSUANT TO STIPULATION, IT IS SO ORDERED.

27 DATED: January 8, 2009

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GARLAND E. BURRELL, JR.  
United States District Judge