

1 SEYFARTH SHAW LLP  
 Jon Meer (SBN 144389)  
 2 E-mail: jmeer@seyfarth.com  
 Sheryl L. Skibbe (SBN 199441)  
 3 E-mail: sskibbe@seyfarth.com  
 Casey J.T. McCoy (SBN 229106)  
 4 E-mail: cjtmc coy@seyfarth.com  
 Maya Harel (SBN 291990)  
 5 E-mail: mharel@seyfarth.com  
 2029 Century Park East, Suite 3500  
 6 Los Angeles, California 90067-3021  
 Telephone: (310) 277-7200  
 7 Facsimile: (310) 201-5219

8 Attorneys for Defendant  
 CONVERSE INC.

10 UNITED STATES DISTRICT COURT  
 11 NORTHERN DISTRICT OF CALIFORNIA

13 ERIC CHAVEZ, as an individual and on behalf of  
 all others similarly situated,

14 Plaintiffs,

15 v.

16 CONVERSE, INC., a Delaware corporation; and  
 17 DOES 1 through 50, inclusive,

18 Defendants.

Case No. 5:15-cv-03746-NC

**ORDER GRANTING DEFENDANT'S  
 PROPOSAL FOR VIDEO PRESERVATION**

Complaint Filed: July 10, 2015  
 FAC Filed: December 4, 2015

1 After considering (1) the Joint Further Case Management Statement [Dkt. No. 32]; (2) the  
2 Declaration of Sheryl Skibbe filed concurrently with the Joint Report, with excerpts from the 30(b)(6)  
3 deposition attached as Exhibit A [Dkt. 32-1]; (3) the Proposed Order Regarding Defendant's  
4 Preservation Of Video Surveillance, submitted by Plaintiff [Dkt. No. 33]; (4) Defendant's Response Re  
5 Video Preservation Dispute; (5) the Declaration of Corey May In Support Of Defendant's Response Re  
6 Video Preservation Dispute; (6) the Proposed Order Granting Defendant's Proposal For Video  
7 Preservation, submitted by Defendant; and (7) arguments of counsel at both the November 18, 2015  
8 Case Management Conference and the January 13, 2016 Further Case Management Conference, for  
9 good cause shown, the Court finds as follows:

10 1. By preserving video footage from November 20, 2015 to December 18, 2015, Defendant  
11 already has preserved 29 days of video from its 21 California retail store locations. Thirteen of those  
12 stores have preserved full days of video footage from the camera facing the front door and the camera  
13 facing the time clock, if one exists. Seven of those stores have been unable to preserve full days of  
14 video footage because of the camera system used, known as FlexWATCH. Because the FlexWATCH  
15 system requires minute-by-minute downloading, preserving a full day of video would require the stores  
16 only computer to be used and would remove managers from the sales floor, placing a heavy burden on  
17 Defendant. The Court recognizes that Defendant already has incurred a heavy burden on its store  
18 operations and profitability by preserving 29 days of video.

19 2. The Federal Rules of Civil Procedure provide that "Parties may obtain discovery that is  
20 relevant to any party's claim or defense and proportional to the needs of the case, considering the  
21 importance of the issues at stake in the action, the amount in controversy, the parties' relative access to  
22 relevant information, the parties' resources, the importance of the discovery in resolving the issues, and  
23 whether the burden or expense of the proposed discovery outweighs its likely benefit." Given that  
24 Defendant already has retained many days of video footage, that Plaintiff is unlikely to watch the  
25 entirety of the video footage already preserved, that additional video footage will not necessarily resolve  
26 the issues in dispute, and considering the burden and expense of continued preservation, as explained by  
27  
28

1 Corey May in his declaration and in his deposition taken pursuant to FRCP, Rule 30(b)(6), Defendant  
2 will be required to preserve the following:

- 3 a. Preservation of the time period as ordered by the Court (from November 20, 2015  
4 to December 11, 2015) from all California retail stores, but preservation of only  
5 15-minutes of closing video from the FlexWATCH stores.
- 6 b. Preservation of the time period agreed to by the parties (December 12, 2015 to  
7 December 18, 2015) from all California retail stores, but preservation of only 15-  
8 minutes of closing video from the FlexWATCH stores.
- 9 c. Preservation of 5 full days from 5 non-FlexWATCH stores in January 2016. To  
10 the extent Plaintiff wishes to preserve video from FlexWATCH stores, only 3  
11 hours of video will be preserved from those stores, as that is comparable to the  
12 time it takes to export a full day of video from non-FlexWATCH stores.
- 13 d. Preservation of 5 full days from 5 non-FlexWatch stores in February 2016. To  
14 the extent Plaintiff wishes to preserve video from FlexWATCH stores, only 3  
15 hours of video will be preserved from those stores, as that is comparable to the  
16 time it takes to export a full day of video from non-FlexWATCH stores.

17 3. Any further requirement that Defendant preserve additional video prior to class  
18 certification would be disproportional.

19 **IT IS SO ORDERED.**

20  
21 Dated: January 21, 2016

