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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

NIKE USA, INC., an Oregon corporation,

Plaintiff,

v.

BORIS BERIAN, an individual California
resident,

Defendant.

Case No. 3:16-cv-00743-SB

DECLARATION OF JOHN EVANS

**In Support Of Defendant Boris Berian's
Opposition To Nike's Motion For A
Temporary Restraining Order And
Order To Show Cause Why Preliminary
Injunction Should Not Issue**

I, John Evans, hereby declare as follows:

1. I am the General Manger of Running Sports Marketing for New Balance Athletics, Inc. I submit this declaration in support of Defendant Boris Berian's Opposition to Nike's Motion for a Temporary Restraining Order and Preliminary Injunction. The information I am providing is based on my personal knowledge, and if called and sworn as a witness I could and would testify competently to this information.

2. Prior to becoming the General Manger of Running Sports Marketing for New Balance in 2013, I consulted for the company. Since 1995, my work for New Balance has included finding, negotiating with, and signing runners to wear and promote the New Balance brand.

3. New Balance made an endorsement offer to Boris Berian on January 20, 2016. Specifically, I wrote to Mr. Berian's agent Merhawi Keflezighi and listed the basic terms of an agreement New Balance was willing to enter into with his client. The list did not include a "reduction" provision – a provision allowing New Balance to reduce Mr. Berian's compensation in the event he did not meet a specified level of performance – because New Balance had no intention of including one.

4. I have read the Affidavit of Ben Cesar wherein he states "[t]o date, Mr. Berian has never provided Nike with any evidence suggesting that the full contractual terms proposed by New Balance did not include such industry-standard reductions." My affidavit is intended to provide that evidence, to the extent it ever was, or is now needed.

5. Mr. Cesar attests that reduction provisions are "industry-standard." I do not believe that to be the case and can affirm that they are not "standard" at New Balance. To the contrary, endorsement agreements such as the one New Balance plans to enter into with Mr.

Berian are individually negotiated. New Balance does not, as a standard business practice, demand reduction provisions in its contracts with runners.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 6, 2016.

A handwritten signature in black ink, appearing to read 'John Evans', is written over a solid horizontal line.

John Evans
General Manger of Running Sports Marketing
New Balance Athletics, Inc.