

Class Action Lawsuit Victory a Giant Feat

By Reg P. Wydeven
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As I've mentioned in previous articles, I was a huge Michael Jordan fan growing up. He brought a new edginess and swagger to the NBA, with his trademark tongue-wagging, trash talking and acrobatic dunking.

Part of his mystique was attributable to his vanguard shoes. The solid black and red sneakers matched the uniform of his Chicago Bulls. The shoes were specifically designed for him, a first for a basketball player endorsement. Because the Air Jordans had no white in them, however, they were banned under NBA rules. Accordingly, Jordan was fined \$5,000 each time he stepped on to the floor in them during his rookie year in 1985.

Nike, the manufacturer of the shoe, happily paid the fines for him, as they only added to the shoes' buzz and Jordan's aura as a basketball outlaw. Many suspected the shoes were actually banned because they gave him an unfair competitive advantage: the patented air soles purportedly allowed Jordan to jump higher.

The hype worked. During his first season, Jordan appeared in the All-Star game, won Rookie of the Year and brought the Bulls back to the playoffs after a four year drought. As a result, every kid in America wanted a pair of Air Jordans, despite their \$65 price tag, a record-setting cost for basketball sneakers.

While I'm sure I thought I could jump higher wearing them, my Air Jordans probably didn't contribute much to my vertical leap. Thankfully, Nike never promised me they would. Not all shoe companies are as conservative, however, when making claims about their products.

In 2005, shoe manufacturer Vibram introduced FiveFinger shoes. The shoes essentially look like gloves for your feet. They have thin soles and are very flexible, as they are designed to mimic walking barefoot. Because wearing FiveFingers was like walking barefoot, Vibram claimed the shoes "improved foot health."

Vibram indicated that people wearing FiveFingers strengthened the muscles in their feet and lower legs, improved their range of motion in the ankles, feet, and toes, stimulated neural function important to balance and agility, aligned their spines and improved their posture, and allowed their feet and bodies to move naturally.

According to Valerie Bezdek, however, Vibram has absolutely no scientific evidence to back up any of these claims. Bezdek sued Vibram in 2012, claiming the company deployed deceptive marketing and falsely advertised the health benefits of their FiveFinger shoes, which cost about \$100 a pair.

The American Podiatric Medicine Association agreed with Bezdek. The organization released a statement indicating that while barefoot running has been touted as being beneficial, "risks of barefoot running include a lack of protection, which may lead to injuries such as puncture wounds, and increased stress on the lower extremities."

As a result, Vibram settled the \$3.75 million lawsuit, which attained status as a class action. Members of the suit who purchased a pair of FiveFingers shoes after March 2009 are eligible to receive a partial refund of up to \$94 per pair. The settlement also bars Vibram from making future claims about the health benefits of its shoes.

Thankfully, I never bought a pair since I suffer from Morton's syndrome: presumably the FiveFingers wouldn't fit because like many of my relatives, my second toe is freakishly longer than my big toe.

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