

Pre-Adverse Action Class

EXHIBIT 1

SETTLEMENT AGREEMENT AND RELEASE

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Settlement Agreement”) is made and entered into by, and between Jason Brown, Laszlo Bozso, and April Ingram-Fleming (“**Plaintiffs**”), on behalf of themselves and the **Pre-Adverse Action Class** (defined below), and Defendant Lowe’s Companies, Inc. (hereafter “**Defendant**” or “**Lowe’s**”). Plaintiffs, **Pre-Adverse Action Class Members** (defined below), and Defendant are collectively referred to as the “**Parties.**”

This agreement is intended to resolve the Pre-Adverse Action Class claims as referenced herein. For the claims specifically made subject to this agreement, as set forth herein, the Parties desire to fully, finally, and forever resolve, discharge, and settle all released rights and claims.

RECITALS

WHEREAS, on May 16, 2013, Plaintiffs Brown and Bozso commenced the lawsuit styled *Brown, et al. v. Lowe’s Companies, Inc. et al.*, Civil Action No. 5:13-CV-00079-RLV-DCK, in the Western District of North Carolina, Statesville Division (the “Litigation”), alleging, *inter alia*, that Lowe’s willfully failed to comply with the disclosure and authorization requirements in the Fair Credit Reporting Act, 15 U.S.C. § 1681b(b)(2) before obtaining a consumer report about them and others for employment purposes; and

WHEREAS, Plaintiffs Brown and Bozso filed a motion for class certification on July 8, 2013 (Doc. 28); Defendant Lowe’s filed a motion to dismiss on July 11, 2013 (Doc. 31); and the parties on July 16, 2013 filed a joint motion requesting that the Court stay briefing on the Motion for Class Certification so as to allow for resolution of the pending motions to dismiss as well as discovery, which motion the Court granted (Doc. 38); and

WHEREAS, Plaintiffs Brown and Bozso filed briefs opposing the motions to dismiss on August 19, 2013 and Defendants replied on August 29; on September 30, 2014, the Court issued

a Memorandum and Order denying the motions to dismiss; and

WHEREAS, Plaintiffs Brown and Bozso filed an Amended Class Action Complaint on October 7, 2014 (Doc. 48); Defendants filed Answers on October 24 (Docs. 50, 51); and Plaintiffs Brown and Bozso filed a Second Amended Class Action Complaint on January 22, 2015 (Doc. 56); and the Defendants subsequently filed new motions to dismiss and for judgment on the pleadings (Docs. 77, 81); and

WHEREAS, on October 9, 2014, Plaintiff April Ingram-Fleming filed a separate suit against Lowe's in the Middle District of Florida, Case No. 8:14-cv-2569-SDM-MAP; and the matter was ordered transferred to this Court where it was consolidated with the existing case, pursuant to this Court's Order dated February 20, 2015 (Doc. 64); and

WHEREAS, the parties engaged in an arm's-length mediation and negotiation process with the qualified mediator Hunter R. Hughes of the Atlanta law firm Rogers & Hardin LLP including a mediation session on May 27, 2015, and a lengthy process of exchanging information and negotiating; and Lowe's and Plaintiffs reached an agreement in principle as to the Disclosure Class claims on July 29, which was then memorialized into a Memorandum of Understanding following multiple telephone and email exchanges addressing key details, and with the continued assistance and oversight of Mr. Hughes throughout the process; and

WHEREAS, the Parties reached a settlement agreement as to Plaintiffs' class action claims brought under 15 U.S.C. § 1681b(b)(2) (the "Disclosure Claims"), for which the Court entered an order of preliminary approval (Doc. 105) on February 26, 2016; and

WHEREAS, the Court set a final fairness hearing on the settlement of the Disclosure Claims for June 6, 2016 (Doc. 105); and

WHEREAS, the Parties thereafter continued their attempts to negotiate and settle the

remaining claim alleged under 15 U.S.C. § 1681b(b)(3) (the “Pre-Adverse Action Claims”) and have now reached agreement as to such terms.

NOW, THEREFORE, IT IS AGREED, by and among the Parties, that all of the claims made by Plaintiffs against Lowe’s on their own behalf, and on behalf of the Pre-Adverse Action Class Members, should be settled, compromised, and dismissed on the merits, and with prejudice, under the terms and conditions set forth below, subject to approval by the Court, without (1) any admission or concession by Plaintiffs and the Pre-Adverse Action Class Members that the Litigation lacks merit, or (2) any admission or concession by Defendant of liability or wrongdoing, and that any defense to the claims at issue in the Litigation lack merit.

I. DEFINITIONS

As used in this Settlement Agreement, the terms defined below shall have the meanings assigned to them when capitalized in the same fashion as in this Part I. Any other terms relating to the consumer reporting industry shall have the customary meaning assigned to them by the consumer reporting industry.

1.1 “Attorneys’ Fees and Costs” means Attorneys’ fees approved by the Court for Class Counsel’s attorneys’ fees accrued or proper pursuant to this Settlement, and all costs awarded Class Counsel thereby, including, but not limited to, costs associated with documenting the Settlement, securing the Court’s approval of the Settlement, and expenses for any experts. Class Counsel will request attorneys’ fees and reimbursement for litigation expenses not to exceed one-third of the Maximum Settlement Amount. Defendant has agreed not to oppose Class Counsel’s request for fees and reimbursement of costs as set forth above. Any portion of the Attorneys’ Fees and Costs not awarded to Class Counsel will remain in the settlement fund for the benefit of class members.

1.2 “CAFA Notice” means notice of this proposed settlement to appropriate federal

and state officials, as provided by the Class Action Fairness Act of 2005, 28 U.S.C. §§1332(d), 1453, and 1711–1715, and specifically 28 U.S.C. § 1715.

1.3 “**Claims Administrator**” means the third-party class action settlement claims administrator selected by Class Counsel and approved by the Court. The Claims Administrator shall mail the Court-approved Notices to all Pre-Adverse Action Class Members, shall receive and process requests for exclusion, and shall calculate and pay the settlement awards to qualifying Pre-Adverse Action Class Members out of a qualified settlement fund and issue all IRS tax forms that are required, if any. The Parties each represent that they do not have any financial interest in the Claims Administrator or otherwise have a relationship with the Claims Administrator that could create a conflict of interest. All reasonable costs and expenses incurred by the Claims Administrator will be paid by Defendant.

1.4 “**Class Counsel**” means the following law firms, which acted as counsel of record for Plaintiffs during the Litigation:

- Caddell & Chapman;
- Consumer Litigation Associates, P.C.;
- O’Toole, McLaughlin, Dooley & Pecora, Co., LPA;
- Lyngklip & Associates Consumer Law Center, PLC;
- Sellers, Hinshaw, Ayers, Dortch & Lyons, P.A.;
- Wenzel, Fenton, Cabassa, P.A.; and
- Wallace & Graham, P.A.

1.5 “**Consumer**” means an “individual, as defined by 15 U.S.C. §1681a(b) and (c).

1.6 “**Court**” means the United States District Court for the Western District of North Carolina, Statesville Division.

1.7 “**Defendant**” means Lowe’s Companies, Inc.

1.8 “**Defendant’s Counsel**” means Hunton & Williams LLP.

1.9 “**Disclosure Settlement Class**” means the following: “All natural persons residing in the United States (including all territories and other political subdivisions) (a) who submitted an employment application to Lowe’s, and (b) who were the subject of a consumer report procured by Lowe’s for employment purposes between (1) October 9, 2012 and May 6, 2015, or (2) October 9, 2012 and July 5, 2015, if he or she applied for employment at Lowe’s corporate headquarters through an external source, or (3) October 9, 2012 and July 9, 2015, if he or she applied for employment with Lowe’s corporate headquarters at a kiosk. Excluded are all counsel of record, and any judge or magistrate assigned to this matter together with their immediate family members and judicial staff.”

1.10 “**Effective Date**” means the date on which the Court’s Approval Order becomes final because (i) no objections have been made to the Settlement and no party has sought to intervene, or (ii) if any objection or motion to intervene was made, no appeal has been filed and thirty (30) days have lapsed since entry of the Judgment. If any such appeal is filed, Effective Date means the date on which all appeals are finally resolved, upholding of the Settlement. For purposes of this definition, the term “appeal” includes any writ proceedings. The Court’s determination, or approval, of Attorneys’ Fees shall not affect the Effective Date, nor shall it be used as a basis for determining the Effective Date.

1.11 “**FCRA**” means the federal Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*, and any subsequent amendments thereto.

1.12 “**FCRA State Equivalents**” means any statute, regulation, or common law rule of any state, U.S. territory, the District of Columbia, or Puerto Rico, that has the purpose, or effect,

of regulating the collection, reporting, or use of consumer information, background investigations, background checks, and related actions.

1.13 “**Final Approval**” means the final approval of the Settlement Agreement by the Court at, or following, the Final Fairness Hearing, and entry on the Court’s docket of the Final Approval Order.

1.14 “**Final Approval Order**” means a final order and judgment entered by the Court giving Final Approval to the Settlement Agreement and dismissing, with prejudice, the Pre-Adverse Action Claim, and entering a judgment according to the terms set forth in this Settlement Agreement. A proposed form of the order is attached hereto as **Exhibit A**.

1.15 “**Final Fairness Hearing**” means the hearing at which the Court will consider, and finally decide, whether to approve this Settlement, enter the Final Approval Order, and make such other rulings as are contemplated by this Settlement. The Final Fairness Hearing shall not be scheduled for a date less than ninety (90) days following the mailing of CAFA Notice as set forth in this Settlement Agreement.

1.16 “**Gross Individual Settlement Award**” means the value of the Settlement Benefits for each individual Pre-Adverse Action Class Member before Class Counsel’s attorneys’ fees, litigation expenses, and any class representative service awards are deducted.

1.17 “**Litigation**” means the consolidated action styled *Brown, et al. v. Lowe’s Companies, Inc. et al.*, Civil Action No. 5:13-CV-00079-RLV-DCK, Western District of North Carolina, Statesville Division.

1.18 “**Mail Notice**” means notice (in a form substantially similar to that attached to this Settlement Agreement as **Exhibit B**, and as finally approved by the Court) that will be mailed to the proposed Pre-Adverse Action Class Members under the Notice Plan.

1.19 “**Maximum Settlement Amount**” means the sum of all Gross Individual Settlement Awards awarded under this Settlement Agreement. The “Maximum Settlement Amount” is “all inclusive,” including any penalties and damages associated with or related to the alleged Pre-Adverse Action Claim by or of Pre-Adverse Action Class Members; interest, attorneys’ fees, costs and expenses as approved by the Court; settlement payments; and taxes, if any (including state and federal income taxes, social security contributions, and unemployment taxes).

1.20 “**Notice and Administration Expenses**” means the fees, costs, and expenses incurred by the Claims Administrator that are reasonably necessary to carry out its obligations under this Settlement Agreement.

1.21 “**Notice Plan**” means the plan for disseminating notice to proposed Pre-Adverse Action Class Members as described in this Settlement Agreement.

1.22 “**Opt-Out Form**” means a document substantially in the form attached hereto as **Exhibit C**, or substantial equivalent, by which a Pre-Adverse Action Class Member may request to be excluded from the Settlement in accordance with Section V below.

1.23 “**Parties**” means Plaintiffs, Pre-Adverse Action Class Members, and Defendant.

1.24 “**Payment Notice**” means the notice (in a form substantially similar to that attached to this Settlement Agreement as **Exhibit D**, and as finally approved by the Court) sent to Pre-Adverse Action Class Members at the time payment is made by check.

1.25 “**Plaintiffs**” mean Jason Brown, Laszlo Bozso, and April Ingram-Fleming.

1.26 “**Pre-Adverse Action Claim**” means any claim of a Pre-Adverse Action Settlement Class Member for alleged violation of 15 U.S.C. § 1681b(b)(3) or comparable provision of a FCRA State Equivalent.

1.27 “**Pre-Adverse Action Settlement Class**” means the following: “All natural persons residing in the United States (including all territories and other political subdivisions of the United States) (a) who submitted an employment application to Lowe’s, (b) who were the subject of a consumer report which was used by Lowe’s or its agent to make an employment decision regarding such person between May 16, 2011 and February 3, 2015, (c) for whom that decision was either a rejection or a delay of the employment, and (d) who were not provided a copy of that consumer report and/or the mandatory disclosures required in 15 U.S.C. § 1681b(b)(3) before that employment decision was adjudicated.” Specifically excluded from this Class are: (a) all federal court judges who preside over this case and their spouses; (b) all persons who elect to exclude themselves from the Class; and (c) all persons who have previously executed and delivered to Lowe’s releases of all their claims or all of their Pre-Adverse Action Settlement Class claims.

1.28 “**Pre-Adverse Action Class Members**” means those persons included in the Pre-Adverse Action Class.

1.29 “**Preliminary Approval**” means preliminary approval of the Settlement Agreement by the Court, conditional certification of the Pre-Adverse Action Class for purposes of this Settlement only, and approval of the method and content of notice to the Pre-Adverse Action Class.

1.30 “**Preliminary Approval Order**” means the order entered by the Court granting Preliminary Approval, a proposed form of which is attached hereto as **Exhibit E**.

1.31 “**Released Parties**” means and refers to, Lowe’s Companies, Inc. and its present, former and future officers, directors, partners, employees, agents, attorneys, servants, heirs, administrators, executors, members, member entities, shareholders, predecessors, successors, affiliates, subsidiaries, parents, representatives, trustees, principals, insurers, and assigns,

individually, jointly and severally. “Released Parties” expressly excludes any consumer reporting agency, regardless of how it may otherwise be categorized.

1.32 “**Settlement**” means the agreement between the Plaintiffs (on behalf of themselves, and as proposed representatives of the Pre-Adverse Action Class Members) and Defendant to fully, finally, and forever settle and compromise Plaintiffs’ and the Pre-Adverse Action Class Members’ Pre-Adverse Action Claims in the Litigation, as memorialized in this Settlement Agreement and documents attached hereto.

1.33 “**Settlement Agreement**” means this Settlement Agreement and Release.

1.34 “**Settlement Benefits**” means the payments to the Pre-Adverse Action Class Members that are structured as described further in Section VII below.

II. NO ADMISSION OF LIABILITY OR ELEMENTS OF CLASS CERTIFICATION

2.1 **Defendant’s Denial of Wrongdoing or Liability.** Defendant has asserted, and continues asserting, defenses in this Litigation and has expressly denied, and continues denying, any fault, wrongdoing, violation of law, or liability arising from the misconduct alleged in the Litigation. Defendant further denies the validity of each claim and prayer for relief asserted in the Litigation. The Parties expressly acknowledge and agree that neither the fact of, nor any provision in, this Settlement Agreement, nor any of the implementing documents or actions taken under them, nor Defendant’s willingness to enter into this Settlement Agreement, nor the content or fact of any negotiations, communications, and/or discussions associated with the Settlement shall constitute, or be construed as, an admission by, or against, Defendant, or any of the Released Parties, of any fault, wrongdoing, violation of law, or liability, the validity of any claim, or allegation raised in the Litigation, or any infirmity of any defenses asserted by Defendant in the Litigation.

2.2 No Admission by Defendant of Elements of Class Certification. Except for purposes of settling the Litigation as provided herein, Defendant denies class certification is appropriate and reserves its right to contest class certification for purposes other than Settlement of the Litigation. Consequently, nothing in this Settlement Agreement shall be construed as an admission by Defendant, and any of the Released Parties, that this Litigation, or any other action alleging similar claims and relief, is amenable to class certification. Furthermore, nothing in this Settlement Agreement shall prevent Defendant from seeking to decertify any certified classes if Final Approval of this Settlement is not obtained, or is not upheld on appeal.

III. MOTION FOR PRELIMINARY APPROVAL

Class Counsel shall file this Settlement Agreement with the Court, together with a Joint Motion for Preliminary Approval seeking entry of an order that would, for settlement purposes only: (a) certify a conditional settlement class under Federal Rule of Civil Procedure 23 composed of Plaintiffs and Pre-Adverse Action Class Members as defined in Sections 1.25 and 1.28 of this Settlement Agreement; (b) preliminarily approve this proposed Settlement Agreement; (c) approve the proposed Mail Notice to the proposed Pre-Adverse Action Class Members in a form substantially similar to that attached to this Settlement Agreement as **Exhibit B**; (d) certify Plaintiffs as representatives of the Pre-Adverse Action Settlement Class; (e) appoint Class Counsel; and, (f) appoint the Claims Administrator.

If the Court denies Preliminary Approval, the Parties agree to negotiate in good faith, including returning to mediation with Hunter Hughes if necessary, to resolve any issues the Court identifies as precluding Preliminary Approval.

IV. NOTICE PLAN

4.1 Preparation and Production of Settlement Class Lists

4.1.1 Within 10 business days of Preliminary Approval, Defendant will produce in

electronic form a list including Pre-Adverse Action Class Members' last known names and addresses. Class Counsel will have three business days to approve the class list and confirm agreement in writing to Lowe's counsel. The Parties understand this information will be obtained from Defendant's data, and from data in the care, custody, or control of Lowe's and that Class Counsel's failure to raise an objection to the class list in that period will be deemed to have accepted it. The Claims Administrator will be bound by a confidentiality agreement. Mail Notice will be sent to Pre-Adverse Action Class Members' last known addresses as updated through the National Change of Address database (unless obtained and/or confirmed in administration of the settlement of the Disclosure Claims), including, as necessary, verifying or updating last known addresses by using generally recognized databases, such as Accurint or Experian Address Update. To obtain last known address information in accordance with 15 U.S.C. § 1681b(a)(1), the Parties may jointly move the Court to permit the Claims Administrator to obtain information from these sources. Any disputes regarding information about the Pre-Adverse Action Class Members shall be submitted to the Court before the Final Fairness Hearing.

4.2 Notice Process

4.2.1 For purposes of providing Court-approved Mail Notice, and demonstrating the best practicable notice has been given to Pre-Adverse Action Class Members, Mail Notice will be accomplished as provided below.

4.2.2 Pre-Adverse Action Class Members shall receive Mail Notice in the same, or substantially the same, form as the Mail Notice attached to this Settlement Agreement as **Exhibit B**.

4.2.3 Mail Notice. Within thirty (30) days following Preliminary Approval, the Claims Administrator shall cause Mail Notice to be sent *via* first-class, U.S. mail, postage prepaid, to all

Pre-Adverse Action Class Members unless such class member was a member of the Disclosure Class and could not be located in administration of the settlement of the Disclosure Claims. Subject to that limitation, within thirty (30) days after mailing Mail Notice, the Claims Administrator will re-distribute Mail Notice *via* first-class U.S. mail, postage prepaid, to updated addresses for Pre-Adverse Action Class Members as made known to the Claims Administrator by address change notifications from the U.S. Postal Service, or as otherwise reasonably obtained by the Claims Administrator. Not later than twenty (20) days before the Final Fairness Hearing, the Claims Administrator shall cause proof of mailing of Mail Notice to be filed with the Court. Following exhaustion of the procedures set forth in this Subsection, the Parties, and the Claims Administrator, shall have no further obligation to send Mail Notice to Pre-Adverse Action Class Members.

4.2.4 Internet Notice. The Claims Administrator shall establish a Settlement Website that includes information about the Settlement. The Claims Administrator will use the same website and domain as created for the settlement of Disclosure Claims, but will create alternate links within the home page for each settlement. The section of the Settlement Website applicable to the Pre-Adverse Action Claims will be accessible no later than five (5) days after Mail Notice is initially mailed as described in Subsection 4.2.3. The Settlement Administrator must set forth the following information on the Settlement Website: (i) the full text of the Settlement Agreement; (ii) the Mail Notice; (iii) the Opt-out Form, in PDF Format; (iv) the Preliminary Approval Order and other relevant orders of the Court; (v) other documents from the Litigation that the Parties jointly determine to be appropriate; (vi) a mutually agreed section of frequently asked questions and (e) contact information for Class Counsel and the Claims Administrator. Additional material content will not be included on the Settlement Website without prior written consent of all Parties. No later than twenty (20) days before the Final Fairness Hearing, the Claims Administrator shall

cause proof of the establishment and maintenance of the Settlement Website to be filed with the Court. Any disputes under this Subsection of this Agreement shall be resolved by the Court.

4.2.5 Telephone Assistance Program. To answer questions from Pre-Adverse Action Class Members, the Claims Administrator shall establish and staff a toll-free telephone number. The toll-free number will provide access to live support, a voice response unit (“VRU”), or a combination of live support and VRU. It shall also offer a Spanish language alternative number and VRU. No later than twenty (20) days before the Final Fairness Hearing, the Claims Administrator shall cause proof of the establishment and maintenance of the Telephone Assistance Program to be filed with the Court. The Telephone Assistance Program described in this Subsection shall be maintained by the Claims Administrator until sixty (60) days following the mailing of the last Payment Notice under Subsection 7.1.2 of this Settlement Agreement.

4.2.6 Notice under Class Action Fairness Act of 2005 (“CAFA Notice”). No later than ten (10) days after this Settlement Agreement is filed with the Court, Defendant will serve CAFA Notices as required under 28 U.S.C. § 1715(a). Defendant will bear the cost associated with sending CAFA Notice. Defendant shall file with the Court a certification indicating the date when CAFA Notice was served.

V. PROCEDURES FOR CLAIMS, OPT-OUTS, AND OBJECTIONS

5.1 Opt-Out Procedures.

Mail Notice shall include the Opt-out form providing information about how a Pre-Adverse Action Class Member may opt out of the Settlement, as well as the potential implications of doing so, including that opting out may potentially preclude later participation in other actions against the Released Parties regarding claims made in the Litigation.

5.1.1 A Pre-Adverse Action Class Member may submit a request to be excluded from the Pre-Adverse Action Settlement Class by sending either the Opt-out Form or other written

request for exclusion to “Exclusion Requests – *Brown v. Lowe’s*” to the Claims Administrator at its mailing address. A Pre-Adverse Action Class Member’s opt-out request must include his or her original signature, current postal address and telephone number, the last four digits of the Pre-Adverse Action Class Member’s Social Security Number, and a specific statement to the effect that the proposed Pre-Adverse Action Class Member wants to be excluded from the Pre-Adverse Action Class. Opt-out requests must be postmarked no later than twenty-one (21) days before the Final Fairness Hearing. In no event shall persons who purport to opt out of the Pre-Adverse Action Class as a group, aggregate, or class, involving more than one proposed Pre-Adverse Action Class Member, be considered valid opt outs.

5.2 List of Opt Outs. No later than five (5) business days after the deadline for submission of requests to opt out of the Settlement, the Claims Administrator shall provide to Class Counsel and Defendant’s Counsel the identity of Pre-Adverse Action Class Members who have properly opted out of the Settlement, together with copies of any written requests to opt out of the Settlement.

5.3 Representation of Opt-Outs. Class Counsel and Plaintiff agree this Settlement Agreement is fair, reasonable, and in the best interest of the Pre-Adverse Action Class Members. If Pre-Adverse Action Class Members opt out of the Settlement, Class Counsel believes such Pre-Adverse Action Class Members should not be represented by Class Counsel.

5.4 Objections from Pre-Adverse Action Class Members. The Parties agree and understand that any Pre-Adverse Action Class Member who does not opt out, but who instead wishes to object to the Settlement, or any other matters as described in the Mail Notice, may do so by filing with the Court a written notice of his or her intention to object. The Parties will ask the Court to require each written objection notice to include each objection and the basis therefore, the

objecting Pre-Adverse Action Class Member's signed verification of membership in the Pre-Adverse Action Class, and any papers in support of his or her objection. The Parties will also ask the Court to require each written objection notice to be filed with the Court and served on Class Counsel and Defendant's Counsel at the addresses provided in the Mail Notice so they are received by Class Counsel and Defendant's Counsel no later than twenty-one (21) days before the Final Fairness Hearing. The Parties will also ask the Court to require any objections to any request for Attorneys' Fees to be supplemented up to seven (7) days after Class Counsel files a motion requesting Attorneys' Fees. Finally, the Parties will also ask the Court to require any written objection to the Settlement to indicate if the Pre-Adverse Action Class Member, or his or her counsel, intend to appear at the Final Fairness Hearing, and that any lawyer who intends to appear at the Final Fairness Hearing must enter a written Notice of Appearance of Counsel with the Clerk of the Court no later than the date set by the Court in its Preliminary Approval Order that includes the full caption and case number of each previous class action case in which that counsel has represented an objector.

If a Pre-Adverse Action Class Member's objection is submitted through an attorney, the Parties will also ask the Court to require the objection to include, in addition to the information set forth in the previous paragraph: (a) the identity and number of the Pre-Adverse Action Class Members represented by objector's counsel; (b) the number of such represented Pre-Adverse Action Class Members who have opted out of the Class; and (c) the number of such represented Pre-Adverse Action Class Members who have remained in the Pre-Adverse Action Settlement Class and have not objected.

VI. FINAL FAIRNESS HEARING AND FINAL APPROVAL

6.1 Final Fairness Hearing. The Parties will jointly request that the Court hold the Final Fairness Hearing to consider approval of the Settlement of the Litigation as provided for

herein approximately one hundred (100) days after Preliminary Approval, but in no event earlier than ninety (90) days after CAFA Notice is served. On or before a date at least ten (10) days before the Final Fairness Hearing, Class Counsel shall file a motion for entry of the Final Approval Order. The Parties agree the Final Approval Order constitutes a final judgment dismissing the Pre-Adverse Action Claim with prejudice. The Parties will cooperate, and take all necessary steps, to effectuate Final Approval of the Settlement.

6.2 Final Approval. All relief contemplated by this Settlement Agreement is expressly contingent upon the Settlement Agreement receiving the Court's Final Approval. If the Court rejects the Settlement, the Parties agree to work in good faith to resolve any differences they may have regarding any revised Settlement Agreement to be resubmitted to the Court, and if the Parties are unable to resolve any such differences on their own, the Parties further agree to engage Hunter Hughes for the purpose of helping the Parties to resolve any disputes about the terms and conditions of any revised Settlement Agreement to be re-submitted to the Court.

VII. SETTLEMENT BENEFITS

7.1 Monetary Payments owed to Pre-Adverse Action Class Members.

7.1.1 Determination of Gross Individual Settlement Award. Each Gross Individual Settlement Award will be \$60 cash. Before determining the final amount of each cash payment, the Claims Administrator shall first deduct from the Maximum Settlement Amount all attorneys' fees, costs, and service awards awarded by the Court pursuant to sections 8.1 and 8.2, below.

7.1.2 Additional Terms and Conditions. All Pre-Adverse Action Class funds from checks not cashed or that are otherwise stale after 90 days from mailing shall be used to reimburse Lowes its costs of notice and administration in this Litigation, including such costs incurred in connection with both this Settlement and the Disclosure Settlement Class settlement. All residual

cash funds remaining thereafter, if any, will be paid to a mutually agreed *cy pres* beneficiary as approved by the Court.

The Claims Administrator shall establish and follow a procedure agreeable to the Parties to ensure the security and proper distribution of the checks provided to Pre-Adverse Action Class Members and shall mail a Payment Notice as appropriate to class members.

7.2 Taxes and Tax Expenses. The Claims Administrator will be responsible for issuing (a) W-9 Forms and (b) 1099 Forms only if required.

VIII. ATTORNEYS' FEES, SERVICE AWARDS AND NOTICE AND ADMINISTRATION EXPENSES

8.1 Attorneys' Fees and Costs. Class Counsel are permitted to request Attorneys' fees and costs not to exceed one-third of the Maximum Settlement Amount, which Lowe's will not oppose.

8.2 Service Award to Plaintiffs. Each Plaintiff may petition the Court for a service award not to exceed \$5,000, which Lowe's agrees not to oppose. This amount shall be paid from the Maximum Settlement Amount.

8.3 Notice and Administration Expenses. The expense of Class Administration and Notice shall be separately paid by Lowe's over and above the Maximum Settlement Amount; provided, however that uncashed checks to Pre-Adverse Action Class Members shall be first applied to such expenses before any remaining sum is distributed to the mutually agreed *cy pres* beneficiary approved by the Court (referenced *supra*, § 7.1.2).

IX. RELEASE OF CLAIMS

9.1 Pre-Adverse Action Settlement Class Release. Upon the Effective Date, and in exchange for the relief described in this Settlement Agreement, Pre-Adverse Action Class Members, including any persons who did not validly opt out of the Settlement, on behalf of

themselves and their respective spouses, heirs, executors, trustees, guardians, wards, administrators, representatives, agents, attorneys, partners, successors, predecessors and assigns, and all those acting, or purporting to act, on their behalf completely, finally and forever release and discharge the Released Parties of, and from, any and all claims pursuant to § 1681b(b)(3) of the federal Fair Credit Reporting (“FCRA”) and FCRA State Equivalents. Each Pre-Adverse Action Class Member shall release any claim for attorneys’ fees beyond those mutually agreed upon between Lowe’s and Class Counsel, or as necessary to litigate a claim for actual damages, based on any alleged violation of § 1681b(b)(3) of the FCRA or FCRA State Equivalents.

The release does not include First Advantage Corporation or LexisNexis Screening Solutions, Inc.

The release does not include any claim brought under 15 U.S.C. § 1681b(b)(2).

X. TERMINATION OPTION

10.1 If greater than 3% of all Pre-Adverse Action Class Members elect to Opt Out of the settlement pursuant to Fed. R. Civ. P. 23(c)(2), Lowe’s may at its option elect to terminate the settlement within ten (10) business days after the deadline to opt out.

10.2 Lowe’s Rights to Terminate Agreement. Lowes shall have the unilateral right in its sole discretion to individually terminate this Settlement Agreement, declare it null and void, and have no further obligations under this Settlement Agreement to the Plaintiffs, Pre-Adverse Action Class Members, or Class Counsel if any of the following conditions subsequently occurs: (1) the Court fails or declines to grant Preliminary or Final Approval pursuant to the material terms of this Settlement Agreement; (2) greater than 3% of the Pre-Adverse Action Class Members request to opt-out of the Settlement pursuant to Section V (as described *supra*, § 10.1); (3) the Court materially modifies the terms of the Release or the Released Parties; (4) the Effective Date

does not occur for any reason, including the entry of an order by any court that would require either material modification or termination of the Settlement Agreement or the Final Approval Order.

10.3 Plaintiffs' Rights to Terminate Agreement. Plaintiffs shall have the unilateral right in their sole discretion to individually terminate this Settlement Agreement, declare it null and void, and have no further obligations under this Settlement Agreement to Lowes if any of the following conditions subsequently occurs: (1) the Court fails or declines to grant Preliminary or Final Approval pursuant to the material terms of the Settlement Agreement; (2) the number of Pre-Adverse Action Class Members is greater than the estimate of class size stated herein by more than 3%, unless Lowes agrees to increase the gross amount of the Maximum Settlement Fund in proportion to the class size increase; (3) the Court materially modifies the terms of the Release or the Released Parties; (4) the Effective Date does not occur for any reason, including the entry of an order by any court that would require either material modification or termination of the Settlement Agreement or the Final Approval Order.

10.4 Failure by the Court to approve attorneys' fees, costs or the service awards in the amounts sought, or at all, shall not be grounds for Plaintiffs to withdraw from the Settlement, and shall not delay the Settlement becoming Final, and shall not delay the Effective Date of the releases. Plaintiffs recognize and understand that the Court may not approve any service award to them whatsoever and that their support of the Settlement is in no way contingent on any service award. Plaintiffs represent and warrant that no promises of any kind have been made to them with respect to any service award.

XI. CONFIDENTIALITY

Plaintiffs, Defendant, Class Counsel, and Defendant's counsel shall not (i) initiate or cause the initiation of any communications concerning the settlement with any media organization and/or

(ii) respond to or cause a response to be made to any communications concerning the settlement with any media organization. As used in this Section, “media organization” shall include, without limitation, print, broadcast, television, satellite and internet media.

The Parties and their counsel agree that if they are contacted by a media organization then they will only state that this matter has settled.

XII. MISCELLANEOUS PROVISIONS

12.1 Admissibility of Settlement Agreement. This Settlement Agreement shall not be offered, nor be admitted, into evidence in the Litigation, or any action, or proceeding, except (1) the hearings necessary to obtain and implement Court approval of the Settlement, or (2) any hearing to enforce the terms of this Settlement Agreement.

12.3 Successors and Assigns. The terms of this Settlement Agreement shall apply to, and bind, the Parties, as well as their heirs, successors and assigns.

12.4 Communications with Consumers in the Ordinary Course of Business. Defendant reserves the right to continue communicating with Consumers, including its customers, employees, or prospective employees, and Pre-Adverse Action Class Members, in the ordinary course of business. To the extent Consumers initiate communications regarding this Settlement Agreement, Defendant and its counsel may confirm the fact of a settlement and refer inquiries to the Claims Administrator.

12.5 Cooperation. The Parties and their counsel agree to cooperate fully in seeking Court approval for this Settlement Agreement, use their best efforts to effectuate the consummation of the Settlement, and protect the Settlement Agreement by applying for appropriate orders enjoining others from initiating, or prosecuting, any action arising out of, or related to, facts or claims alleged in the Litigation, if so required.

12.6 Entire and Voluntary Agreement. The Parties intend the Settlement Agreement to be a final and complete resolution of the Litigation. The Parties agree the terms and conditions of the Settlement Agreement were negotiated at arm's length, and in good faith, and were reached voluntarily after consultation with competent legal counsel. There shall be no presumption for, or against, any Party that drafted all, or any portion, of this Settlement Agreement. This Settlement Agreement includes the entire agreement and understanding concerning the subject matters between the Parties addressed herein, and supersedes all prior negotiations and proposals, whether written or oral. The Parties and their agents and attorneys, have not made any promise, representation or warranty that is not included in this Settlement Agreement, and the other documents referred to in this Settlement Agreement, to induce Plaintiff, Class Counsel, and Defendant to execute the Settlement Agreement. The Parties represent they have not executed this Settlement Agreement, or any other documents, in reliance on any promise, representation or warranty that is not included, or referred to, in this Settlement Agreement.

12.7 Headings for Convenience Only. The headings in this Settlement Agreement are for the convenience of the reader only, and shall not affect the meaning, or interpretation, of this Settlement Agreement.

12.8 Amendments. This Settlement Agreement may only be amended, or modified, by a written instrument signed by Defendant, Plaintiff, and Class Counsel, or their respective successors-in-interest, or by express agreement made before the Court and on the record.

12.9 Authorization of Counsel. Class Counsel, on behalf of the Settlement Class, are expressly authorized by Plaintiffs, and the Pre-Adverse Action Class Members, to take all appropriate action required, or permitted, to be taken by the Settlement Class under the Settlement Agreement to effectuate its terms, and also are expressly authorized to modify or amend the

Settlement Agreement on behalf of the Settlement Class as they deem reasonably necessary or appropriate. Each attorney, or other person, executing this Settlement Agreement on behalf of any Party warrants that such attorney, or other person, has full authority to do so.

12.10 Court's Jurisdiction. The Parties intend to ask the Court to retain jurisdiction with respect to implementation and enforcement of the terms of this Settlement Agreement.

12.11 Construction. Before declaring any provision of this Settlement Agreement invalid, the Parties intend to ask the Court to first attempt to construe the provision valid to the fullest extent possible consistent with applicable precedent, so as to find all provisions of this Settlement Agreement valid and enforceable.

12.12 Rights against Third Parties. Nothing in this Settlement Agreement is intended to impair any rights that Defendant and its insurers may have, including, but not limited to, any subrogation rights, rights of indemnity, or claims, against Defendant's third party consumer reporting agency that provided consumer reports to it during the time period at issue in this lawsuit, or any other third party.

12.13 No Claims Arising from this Settlement Agreement. No person shall have any claim against any Released Party, nor counsel for any Released Party, Plaintiff, or Settlement Class Counsel, based on distribution of benefits made in accordance, or in substantial accordance, with this Settlement Agreement, as well as Order(s) by the Court related to the Settlement.

12.14 Applicable Law. This Settlement Agreement shall, in all respects, be interpreted, construed and governed by, and under the laws of the State of North Carolina, without regard for its choice of law provisions therein. All judicial proceedings regarding this Settlement Agreement shall be brought only in the Court. Any notice period set forth in this Settlement Agreement shall be calculated under the Federal Rules of Civil Procedure and the Local Rules of the U.S. District

Court for the Western District of North Carolina.

12.15 Counterparts. This Settlement Agreement may be executed in one, or more, counterparts and by facsimile. All executed counterparts and each of them shall be deemed to be one and the same instrument. Counsel for the Parties shall exchange, among themselves, signed counterparts, and a complete set of executed counterparts shall be filed with the Court.

IN WITNESS THEREOF, and intending to be legally bound, the Parties hereto have caused this Settlement Agreement and Release to be executed by their duly authorized representatives.

FOR PLAINTIFFS AND THE PUTATIVE CLASS:

Michael A. Caddell

Michael A. Caddell
mac@caddellchapman.com
Cynthia B. Chapman
CADDELL & CHAPMAN
1331 Lamar, Suite 1070
Houston TX 77010
Telephone: (713) 751-0400
Facsimile: (713) 751-0906

Counsel for Lowes:

Robert T. Quackenboss *by permission*
5-6-2016

Kevin J. White

Robert T. Quackenboss

Hunton & Williams LLP

2200 Pennsylvania Avenue, N.W.

Washington, DC 2003

Pre-Adverse Action Class
Settlement Agreement Exhibit A
[Proposed] FINAL APPROVAL ORDER

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION**

JASON DAVID BROWN, LASZLO BOZSO,)
and MERIS DUDZIC, individually and on)
behalf of all others similarly situated,)

Plaintiffs,)

v.)

LOWE’S COMPANIES, INC., and)
LEXISNEXIS SCREENING SOLUTIONS,)
INC.)

Defendants.)

No. 5:13-CV-00079-RLV-DSC
(consolidated case number)

APRIL INGRAM-FLEMING, individually)
and on behalf of all others similarly situated,)

Plaintiff,)

v.)

LOWE’S HOME CENTERS, LLC, d/b/a)
LOWE’S,)

Defendant.)

No. 5:15-CV-00018-RLV-DSC

**ORDER GRANTING FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

This matter is before the court on a motion for final approval of class action settlement filed by the Plaintiffs, Jason Brown, Laszlo Bozso, and April Ingram-Fleming (“Plaintiffs”), and consented to by the Defendant, Lowe’s Companies, Inc. (“Lowe’s” or “Defendant”) (jointly referred to as the “Parties”).¹ The Parties have submitted a Settlement Agreement and Release

¹ All references to “Lowe’s” herein are deemed to include both the Defendant Lowe’s Companies, Inc. named in the *Brown* case and “Lowe’s Home Centers, LLC, d/b/a Lowe’s” named in the *Ingram-Fleming* case.

(“Settlement Agreement”) that the court has reviewed. The Court finds that the settlement falls within the range of reasonability and should receive final approval.

Upon consideration of Plaintiffs’ motion for final approval of class action settlement (Doc. No. ____), the Settlement Agreement filed on _____, 2016 (Doc. No. ____), the exhibits to the Settlement Agreement, as well as all other exhibits, pleadings, submissions and filings in this action, including plaintiffs’ motion for approval of attorneys’ fees and expenses (Doc. No. ____), and the arguments presented to the Court at the final approval hearing held on _____, the Court makes the following findings and it is ORDERED that Plaintiffs’ motions for final approval of class action settlement and for approval of attorneys’ fees and expenses are GRANTED as follows:

1. This Court’s Order granting Plaintiffs’ motion for preliminary approval of class action settlement (Doc. No. ____), preliminarily certified and ordered that notice of the settlement be directed by the claims administrator to the following class: “All natural persons residing in the United States (including all territories and other political subdivisions of the United States) (a) who submitted an employment application to Lowe’s, (b) who were the subject of a consumer report which was used by Lowe’s or its agent to make an employment decision regarding such person between May 16, 2011 and February 3, 2015, (c) for whom that decision was either a rejection or a delay of the employment, and (d) who were not provided a copy of that consumer report and/or the mandatory disclosures required in 15 U.S.C. § 1681b(b)(3) before that employment decision was adjudicated.” Specifically excluded from this Class are: (a) all federal court judges who preside over this case and their spouses; (b) all persons who elect to exclude themselves from the Class; and (c) all persons who have previously executed and delivered to Lowe’s releases of all their claims or all of their Pre-Adverse Action Settlement Class claims. In

addition, the Court finds that excluded from the settlement class are all individuals who timely exercised their rights under Federal Rule of Civil Procedure 23 to opt out of this settlement.

2. The proposed resolution of this litigation includes the award of benefits for eligible class members including cash payments to qualified settlement class members. Settlement amounts shall be calculated by the Claims Administrator with the review and consent of the Parties and pursuant to the benefit methodology set forth in the Settlement Agreement. Settlement awards in the form of checks will be mailed by the Claims Administrator to eligible class members.

3. For purposes of settlement only, final certification of the above-defined class is granted and the Court makes the following findings pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure:

- a. The settlement class consists of thousands of individuals, and joinder of all members is impracticable;
- b. There exist questions of fact and law common to the settlement class members;
- c. The claims of the named plaintiffs are typical of the claims of the settlement class members;
- d. The named plaintiffs and class counsel will fairly and adequately protect the interests of the settlement class;
- e. The questions of law or fact that are common to settlement class members, and which are relevant for settlement purposes, predominate over questions affecting only individual settlement class members; and
- f. Resolution of this litigation in the manner proposed by the Parties' Settlement Agreement is superior to other available methods for a fair and efficient adjudication of this litigation.

4. Settlement class members were provided with notice of the settlement in the manner and form set forth in the Settlement Agreement, as reflected in the submissions by class counsel and the claims administrator. Notice was also provided to pertinent state and federal

officials. The notice plan was reasonably calculated to give actual notice to settlement class members of their right to receive benefits from the settlement or to be excluded from the settlement or object to the settlement. The notice plan met the requirements of Rule 23 and due process.

5. The settlement is entitled to an initial presumption of fairness. It was reached following meaningful litigation, discovery, investigation, mediation and negotiation conducted by class counsel. The settlement is the result of adversarial, arm's-length negotiations between the parties and the terms and conditions of the settlement are fair, adequate and reasonable when balanced against the risks of further litigation on the released claims. At the time the settlement was negotiated, counsel were reasonably able to evaluate their respective positions. The settlement will avoid substantial additional costs to all parties as well as the delay and risks that would be presented by further prosecution of this litigation.

6. The Court finds that the settlement is fair, reasonable and adequate. Accordingly, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure the Settlement Agreement is finally approved and shall be consummated in accordance with its terms.

7. In reaching this conclusion, the Court considered, *inter alia*, the following: evidence regarding plaintiffs' case; the complexity, expense and likely duration of further litigation on the released claims; the stage of the proceedings including the extent of investigation and discovery completed; the risks of establishing liability, proving damages and maintaining the class action through a trial; and the range of reasonableness of the settlement in light of the best possible recovery and the attendant risks of litigation.

8. The Court also considered the reaction of the class to the settlement, including written and oral objections to the settlement, finding that [no objections were timely and properly

made] [each of the objections presented to the Court is overruled] [other determination].

9. The Court also considered valid requests for exclusion from the settlement submitted by the following settlement class members: [list if any]. The Court hereby grants their requests for exclusion. Their rights shall not be affected by the settlement and they shall not receive any of the benefits of the settlement.

10. Upon entry of this Order, the settlement class members, except for those set forth above who returned valid requests for exclusion, shall be bound by the terms set forth in the Settlement Agreement. They shall be deemed to have released their claims as set forth in the Settlement Agreement.

11. The Court finally approves the method of allocation and distribution of the settlement fund set forth in the Settlement Agreement, which includes provisions for the payment of Claims Administrator expenses, dissemination of class notice, distribution of check awards to eligible class members, as well as the awarding of attorneys' fees and costs, and incentive fees to the named Plaintiffs, all as approved by the Court.

12. The Court finally appoints Caddell & Chapman, Consumer Litigation Associates, P.C., O'Toole, McLaughlin, Dooley & Pecora, Co., LPA, Lyngklip & Associates Consumer Law Center, PLC, Sellers, Hinshaw, Ayers, Dortch & Lyons, P.A., Wenzel, Fenton, Cabassa, P.A., and Wallace & Graham, P.A. as class counsel for the settlement class.

13. With respect to Plaintiffs' motion for approval of attorneys' fees and expenses (Doc. No. ___), the Court finds that this case warrants the requested award of attorneys' fees, costs and expenses to class counsel to be calculated based on one-third of the maximum settlement amount as described in the Settlement Agreement.

14. The Court finally appoints Plaintiffs Jason Brown, Laszlo Bozso, and April

Ingram-Fleming as the class representatives. The Court grants Plaintiffs' request for service awards from the settlement fund in the requested amounts to each to the class representatives and finds that these service awards are fair and reasonable.

15. The Court finally appoints _____ as the claims administrator to perform the duties assigned to them in the Settlement Agreement. Further, the Court approves payments to the claims administrator for the costs of notice and claims administration, including the claims administrator's own fees.

16. Under Fed. R. Civ. P. 54(b), the Court enters final judgment on and dismisses with prejudice all claims asserted by Plaintiffs and the settlement class that are released pursuant to paragraphs 9.1 and 1.31 of the Settlement Agreement, including all claims against Lowe's pursuant to § 1681b(b)(3) of the federal Fair Credit Reporting ("FCRA") and FCRA state equivalents. As stated in the Settlement Agreement, the release does not include First Advantage Corporation or LexisNexis Screening Solutions, Inc. and does not include any claim brought as to any Defendant under 15 U.S.C. § 1681b(b)(2). Further, the Court rules that this final judgment shall not bind any settlement class members who timely opted out. All claims not dismissed herein are preserved and shall remain pending. The Clerk of the Court is ordered to enter this final judgment pursuant to Rule 54(b) of the Federal Rules of Civil Procedure as to all claims against Defendant Lowe's pursuant to § 1681b(b)(3) of the federal Fair Credit Reporting ("FCRA") and FCRA state equivalents.

17. Neither this order, the Settlement Agreement, nor any and all negotiations, documents and discussions associated with them shall be deemed or construed to be an admission or evidence of any violation of any statute or law, of any liability or wrongdoing by Lowe's, or the truth of any of the claims or allegations contained in the Complaint or any other

pleading or document, and evidence thereof shall not be discoverable, admissible or otherwise used directly or indirectly, in any way by any party, wither in this litigation or in any other action or proceeding, nor shall the Settlement Agreement be used or referred to in any subsequent motion for class certification made by any party to this litigation.

18. In the event the settlement does not become final in accordance with its terms, this order shall be rendered null and void, shall be vacated, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Settlement Agreement.

19. Without in any way affecting the finality of this order and final judgment as to the Parties with regard to the settled claims, the Court retains and reserves jurisdiction over the litigation and the parties to the settlement to enter any future orders as may be necessary for the implementation, enforcement, construction and interpretation of the Settlement Agreement as to the settled claims, and retains jurisdiction over the pending claims that have not been dismissed herein.

It is so ORDERED, this _____ day of _____, 2016.

HONORABLE RICHARD L. VOORHEES
UNITED STATES DISTRICT JUDGE

**Pre-Adverse Action Class
Settlement Agreement Exhibit B**

MAIL NOTICE

A federal court authorized this notice. This is not a solicitation from a lawyer.

NOTICE OF CLASS ACTION SETTLEMENT

IF YOU APPLIED FOR EMPLOYMENT WITH LOWE’S COMPANIES, INC. OR ONE OF ITS SUBSIDIARIES BETWEEN MAY 16, 2011 AND FEBRUARY 3, 2015, THEN YOU MAY BE ENTITLED TO A BENEFIT FROM A CLASS ACTION SETTLEMENT.

WHAT IS THIS CASE AND SETTLEMENT ABOUT?

Three people like you, Jason Brown, Laszlo Bozso, and April Ingram-Fleming (the “Plaintiffs”) applied for a job at Lowe’s Companies, Inc. (“Lowe’s”). At the time they applied for a job, Lowe’s obtained a background check about them. Lowe’s either delayed the employment decision for the Plaintiffs, or denied employment altogether. The Plaintiffs alleged that Lowe’s violated the Fair Credit Reporting Act, 15 U.S.C. § 1681b(b)(3) because Lowe’s failed to provide Plaintiffs with a copy of their background report or a summary of their rights under the FCRA before taking an adverse action against them. Lowe’s denied that it violated the law.

The settlement will provide checks for cash amounts to eligible individuals who applied for jobs with Lowe’s during the specified time period. You must take an action to claim this benefit.

This case is in the United States District Court for the Western District of North Carolina and the case is entitled *Brown, et al. v. Lowe’s Companies, Inc., et al.*, Case No. No. 5:13-CV-00079-RLV-DSC.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT IF YOU...	
DO NOTHING:	If you do nothing and the Court approves this settlement, you will receive a settlement payment. You will not be able to sue Lowe’s for the same issues as in this lawsuit again.
EXCLUDE YOURSELF by _____, 2016:	If you do not want to be included in the case and the settlement, you must exclude yourself. This is called “opting out.” This is the only option that allows you to sue Lowe’s for these same issues again. You will not be entitled to a settlement payment if you opt out.
OBJECT BY _____, 2016:	You may write to the Court about why you don’t like the settlement. You cannot object if you opt out.
GO TO A HEARING ON ____:	You may ask to speak in Court about the fairness of the settlement.

1. WHY DID I GET THIS NOTICE?

The Court ordered this notice because you have a right to know about a proposed Settlement of a class action lawsuit of which you may be a member, and about your options, before the Court decides whether to approve the Settlement.

Lowe's records indicate you may be a member of the Settlement Class. If you are uncertain as to whether you are a member of the Settlement Class, you may contact Class Counsel to find out. In all cases, the question of class membership will be determined based on Lowe's records.

If the Court approves it and after any objections and appeals are resolved, Lowe's will provide eligible class members a check for a cash amount. This notice explains the lawsuit, the Settlement, your legal rights, the benefits available, who is eligible for them, and how to get them.

The Court in charge of the case is the United States District Court for the Western District of North Carolina and the case is entitled *Brown, et al. v. Lowe's Companies, Inc., et al.*, Case No. No. 5:13-CV-00079-RLV-DSC. The persons who sued are called the Plaintiffs, and the companies they sued, including Lowe's Companies, Inc. ("Lowe's"), are called the Defendants. Only one Defendant, Lowe's, is involved in the Settlement, and is referred to as "Defendant" or "Lowe's".

2. WHY IS THIS A CLASS ACTION?

In a class action, one or more people, called Class Representatives (in this case Jason Brown, Laszlo Bozso and April Ingram-Fleming), sue on behalf of people who have similar claims. All these people are a Class or Class Members. One Court resolves the issues for all Class Members, except for those who ask to be excluded from the Class. The United States District Court for the Western District of North Carolina is in charge of this class action.

3. WHY IS THERE A SETTLEMENT?

The Court has not decided in favor of Plaintiffs or Defendant. Instead, both sides agreed to a Settlement. That way, they avoid the cost of a trial, and the people affected will benefit. The Class Representatives and their attorneys think the Settlement is best for the Class Members.

4. HOW DO I KNOW IF I AM PART OF THE SETTLEMENT?

You are part of the Settlement if:

- You submitted an employment application to Lowe's; and
- You were the subject of a consumer report procured by Lowe's or its agent to make an employment decision between May 16, 2011 and February 3, 2015; and
- Lowe's either rejected, or delayed a decision on, your application for employment; and
- You were not provided a copy of your consumer report or the mandatory disclosures under 15 U.S.C. § 1681b(b)(3) before that employment decision was adjudicated.

5. WHAT DOES THE SETTLEMENT PROVIDE?

If you are a member of the Settlement Class, you are eligible to receive a benefit under the settlement. If you remain a member of the Settlement Class and do not exclude yourself, you will receive a check for your share of the settlement. The estimated amount of the check to be sent to you is \$_____. To receive your settlement payment, you do not have to do anything. A check will automatically be mailed to you after certain deadlines pass if you do not exclude yourself from the settlement. Your interest as a member of the Settlement Class will be represented by the Plaintiffs and Counsel for the Class. You will be bound by any judgment arising from the settlement if you do not exclude yourself. Upon the Court's final approval of the settlement, all members of the Settlement Class who do not exclude themselves (as well as their heirs, spouses, and/or representatives) will release Lowe's (and its owners, directors, agents, and representatives) from all claims arising out of or relating to the facts alleged or which could have been alleged or asserted in this lawsuit, including but not limited to any and all claims under the FCRA and any parallel state or common law claims. This release may affect your rights and may carry obligations in the future. To view the full terms of the release, review Section IX of the Settlement Agreement, which is available through Class Counsel or at the website _____.

6. WHEN WOULD I RECEIVE MY SETTLEMENT PAYMENT?

The Court will hold a hearing on _____, 2016, at _____ .m. at the United States Federal Courthouse located at the Charles R. Jonas Federal Building, 401 West Trade Street, Charlotte, NC 28202, Courtroom_____, to decide whether to approve this Settlement.

If the Court approves the Settlement after that, there may be appeals. It’s always uncertain how these appeals can be resolved, and resolving them can take time, perhaps even more than a year. You may continue to check on the progress of the Settlement by visiting the website www._____.com.

7. WHAT AM I GIVING UP TO STAY IN THE CLASS AND RECEIVE A BENEFIT?

Unless you exclude yourself, you are staying in the Class, and that means that you cannot sue, continue to sue, or be part of any other lawsuit against Lowe’s and certain affiliated companies and people about the legal claim settled in this Settlement Agreement if it is approved. It also means that all of the Court’s orders will apply to you and legally bind you.

As part of the Settlement, the Class Representatives have agreed to dismiss all claims of the members of the Settlement Class relating to any and all claims that Lowe’s violated 15 U.S.C. § 1681b(b)(3) of the Fair Credit Reporting Act or similar State laws. This means that all persons who do not opt out of the Settlement will be barred from bringing such claims on their own, even if they do not file a claim or receive a gift card or a check.

8. HOW DO I GET OUT OF THE SETTLEMENT?

If you don’t want to participate in this Settlement, but you want to keep the right to sue or continue to sue Lowe’s on your own about the legal claims released in this Settlement, then you must take steps to get out. This is called excluding yourself, and is sometimes referred to as opting out of the Class.

To exclude yourself from the Settlement, you must complete and return the enclosed Request For Exclusion (“Opt Out”) Form or send a letter by mail saying that you want to be excluded from the Settlement. If you send a letter, be sure to include your name, address, telephone number, your signature, and refer to the case -- *Brown, et al. v. Lowe’s Companies, Inc.*, Case No. 5:13-CV-00079-RLV-DSC. You must mail your completed Request For Exclusion (“Opt Out”) Form or letter exclusion request to the Claims Administrator postmarked no later than _____, 2016 to:

Lowe’s Class Action Settlement

You cannot exclude yourself on the phone or by e-mail. If you ask to be excluded, you will not get any of the Settlement benefits, and you cannot object to the Settlement. You will also not be legally bound by anything that happens in this Settlement. You may be able to sue (or continue to sue) Lowe’s in the future.

9. IF I EXCLUDE MYSELF, CAN I GET BENEFITS FROM THIS SETTLEMENT?

No. If you exclude yourself, you cannot seek benefits under the Settlement. But, you may sue, continue to sue, or be part of a different lawsuit against Lowe’s.

10. DO I HAVE A LAWYER IN THE CASE?

The Court has appointed the law firms of Caddell & Chapman, Consumer Litigation Associates, P.C., O’Toole, McLaughlin, Dooley & Pecora, Co., LPA, Lyngklip & Associates Consumer Law Center, PLC, Sellers, Hinshaw, Ayers, Dortch & Lyons, P.A., Wenzel, Fenton, Cabassa, P.A., and Wallace & Graham, P.A. to represent you and the Class. These lawyers are called Class Counsel. More information about these law firms, their practices, and their lawyers’ experience is available at www._____.com.

You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

11. HOW WILL THE LAWYERS BE PAID?

The attorneys who brought the cases on your behalf are requesting attorney’s fees and costs in the amount up to one third of the

maximum settlement amount as defined in the settlement agreement. The request for attorneys' fees and costs must be approved by the Court. The Class Representatives will also seek compensation for their efforts in the amount of \$5,000 each, which must be approved by the Court. Lowe's will pay the fees and expenses that the Court awards, and Lowe's has agreed not to oppose these requests for fees and expenses. Lowe's will also pay the costs to administer the Settlement.

12. HOW DO I OBJECT TO THE SETTLEMENT?

If you stay in the Class, you can object to the Settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views.

To object, you must send a letter saying that you object to the Settlement in *Brown, et al. v. Lowe's Companies, Inc.*, Case No. 5:13-CV-00079-RLV-DSC. Be sure to include your name, address, telephone number, your signature, and the reasons you object to the Settlement. You must also indicate whether you, or your own lawyer, intend to appear at the Final Fairness Hearing. If your own lawyer intends to appear at the Hearing, he or she must file a written Notice of Appearance of Counsel with the Clerk of Court no later than _____ that includes the full caption and case number of each previous class action case in which that lawyer has represented an objector.

If you submit your objection through your own lawyer, your submission must include, in addition to the information above, (a) the identity and number of the Class Members represented by your lawyer; (b) the number of such represented Class Members who have opted out of the Class; and (c) the number of such represented Class Members who have remained in the Settlement Class and have not objected.

Mail your objection to these three different places so that they are received no later than _____, 2016:

To the Court:

Clerk of Court
United States District Court
Western District of North Carolina
Charles R. Jonas Federal Building
401 West Trade Street, Room 210
Charlotte, NC 28202

To Class Counsel:

To Defense Counsel:

13. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you don't have to.

The Court will hold a Fairness Hearing on _____, 2016, at _____ .m. at the United States District Court for the Western District of North Carolina, United States Federal Courthouse located at the Charles R. Jonas Federal Building, 401 West Trade Street, Charlotte, NC 28202, Courtroom __, to consider whether the Settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take. The hearing may be continued without further notice.

14. DO I HAVE TO COME TO THE HEARING?

No. Class Counsel will answer questions the Court may have. But you are welcome to come at your own expense. If you send a written objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend.

15. MAY I SPEAK AT THE HEARING?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must state that in your objection, as noted in Question 12 above. You cannot speak at the hearing if you excluded yourself.

16. HOW DO I GET MORE INFORMATION?

You may also visit the website www._____.com where updates, documents and other information regarding the case will be available. You can also call the Claims Administrator toll-free at _____ to ask questions and get more information. You can also write to them by regular mail at their address as follows: Claims Administrator, _____.

You may speak to one of the lawyers representing you by calling _____ or by e-mail to: _____@_____.com.

DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT TO THE CLERK OF THE COURT, THE JUDGE, OR TO LOWES OR TO ITS ATTORNEYS.
THEY ARE NOT PERMITTED TO ANSWER YOUR QUESTIONS.

Pre-Adverse Action Class
Settlement Agreement Exhibit C
OPT-OUT FORM

REQUEST FOR EXCLUSION (“OPT OUT”) FORM

DO NOT SEND THIS FORM IF YOU WANT TO STAY IN THE SETTLEMENT

**Read the enclosed Notice of Class Action Settlement
before filling out this form.**

The undersigned has read the Notice of Class Action Settlement, dated _____ 2016, and does NOT want to remain a member of the class certified in the case of *Brown, et al. v. Lowe’s Companies, Inc., et al.*, Civil Action No. 5:13-CV-00079-RLV-DCK, pending in the United States District Court for the Western District of North Carolina. The undersigned understands that, by completing and submitting this form as instructed below, he or she will retain his or her right to pursue certain legal claims against Lowe’s, but will not be able to share in any recovery, monetary or otherwise, that is obtained for the class.

PLEASE PRINT CLEARLY IN BLACK OR BLUE INK

Your Name:

First MI Last

Address:

Street Address

City State Zip

Daytime Telephone Number:

Executed on _____

Date

Signature

If you want to exclude yourself from the Class, you must complete and return this form by mailing it before _____, to:

Brown v. Lowe's Exclusions
[claims administrator address]

A separate request for exclusion must be completed and timely mailed for each person electing to exclude themselves from the Class.

QUESTIONS? VISIT WWW._____.COM

Pre-Adverse Action Subclass
Settlement Agreement Exhibit D
PAYMENT NOTICE

Claims Administrator
[address tba]

Your Unique ID:

<<mail id>>
<<Name1>>
<<Name2>>
<<Address1>>
<<Address2>>
<<City>><<State>><<Zip>>

<<Date>>

Enclosed is a check to which you are entitled as a class member in this matter. You have released your claims against Lowe's as provided in the Settlement Agreement in the above-referenced case. If you have any questions please contact the Claims Administrator using the following contact information:

[Claims Administrator 1-800 number]

[Claims Administrator email]

Pre-Adverse Action Class

Settlement Agreement Exhibit E

[Proposed] PRELIMINARY APPROVAL
ORDER

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION**

JASON DAVID BROWN, LASZLO BOZSO,)
and MERIS DUDZIC, individually and on)
behalf of all others similarly situated,)

Plaintiffs,)

v.)

LOWE’S COMPANIES, INC., and)
LEXISNEXIS SCREENING SOLUTIONS,)
INC.)

Defendants.)

No. 5:13-CV-00079-RLV-DSC
(consolidated case number)

APRIL INGRAM-FLEMING, individually)
and on behalf of all others similarly situated,)

Plaintiff,)

v.)

LOWE’S HOME CENTERS, LLC, d/b/a)
LOWE’S,)

Defendant.)

No. 5:15-CV-00018-RLV-DSC

**ORDER GRANTING PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

This matter is before the court on a Joint Motion for Preliminary Approval of Class Action Settlement by the Plaintiffs, Jason Brown, Laszlo Bozso, and April Ingram-Fleming, and Defendant, Lowe’s Companies, Inc. (“Lowe’s” or “Defendant”) (jointly referred to as the “Parties”). The Parties have submitted a Settlement Agreement and Release (“Settlement Agreement”) that the Court has reviewed. The Court finds that the settlement falls within the range of reasonability and is appropriate for preliminary approval.

Based upon the Settlement Agreement, the record and exhibits herein, it appears to the Court that upon preliminary examination, the proposed settlement appears to be fair, reasonable, and adequate. A hearing on the matter to consider its final approval (the “Final Fairness Hearing” or “Final Approval Hearing”) shall be held on _____ 2016, at a.m./p.m., after notice to the Class Members, at which time the Court will determine whether the proposed settlement is fair, reasonable, and adequate, to determine whether a final Order and Judgment should be entered in this Lawsuit. It is hereby ORDERED:

1. The Court has jurisdiction over the subject matter of this lawsuit and over all settling parties hereto.

2. **Class Members of Rule 23(b)(3) Class:** Pursuant to Fed. R. Civ. P. 23(b)(3) and 23(c)(1)(B), the Lawsuit is hereby preliminarily certified, for settlement purposes only, as a class action on behalf of the following class, referred to as the “Pre-Adverse Action Settlement Class,” with the constituent class members known as “Pre-Adverse Action Class Members”:

All natural persons residing in the United States (including all territories and other political subdivisions of the United States) (a) who submitted an employment application to Lowe’s, (b) who were the subject of a consumer report which was used by Lowe’s or its agent to make an employment decision regarding such person between May 16, 2011 and February 3, 2015, (c) for whom that decision was either a rejection or a delay of the employment, and (d) who were not provided a copy of that consumer report and/or the mandatory disclosures required in 15 U.S.C. § 1681b(b)(3) before that employment decision was adjudicated.

Specifically excluded from this Class are: (a) all federal court judges who preside over this case and their spouses; (b) all persons who elect to exclude themselves from the Class; and (c) all persons who have previously executed and delivered to Lowe’s releases of all their claims or all of their Pre-Adverse Action Settlement Class claims.

3. **Class Representative and Class Counsel:** Pursuant to Fed. R. Civ. P. 23, the Court designates Plaintiffs Jason Brown, Laszlo Bozso, and April Ingram-Fleming as the Class Representatives. The Court preliminarily appoints Caddell & Chapman, Consumer Litigation

Associates, P.C., O'Toole, McLaughlin, Dooley & Pecora, Co., LPA, Lyngklip & Associates Consumer Law Center, PLC, Sellers, Hinshaw, Ayers, Dortch & Lyons, P.A., Wenzel, Fenton, Cabassa, P.A., and Wallace & Graham, P.A. as Class Counsel.

4. **Preliminary Class Certification of the Pre-Adverse Action Settlement**

Class: The Court preliminarily finds that, for settlement purposes only, this lawsuit and the Pre-Adverse Action Settlement Class satisfy the applicable prerequisites for class action treatment under Fed. R. Civ. P. 23. Namely, the Court preliminarily finds that:

- A. The Pre-Adverse Action Class Members are so numerous that joinder of all of them in the Lawsuit is impracticable (Fed. R. Civ. P. 23(a)(1));
- B. There are questions of law and fact common to the Pre-Adverse Action Class Members, which predominate over any individual questions (Fed. R. Civ. P. 23(a)(2) and (b)(3));
- C. The claims of the class representatives are typical of the claims of the Pre-Adverse Action Class Members (Fed. R. Civ. P. 23(a)(3));
- D. The class representatives and Class Counsel will fairly and adequately protect the interests of all of the Pre-Adverse Action Class Members (Fed. R. Civ. P. 23(a)(4)); and
- E. The Court finds that as to this Pre-Adverse Action Settlement Class, class treatment of these claims will be efficient and manageable, thereby achieving an appreciable measure of judicial economy, and a class action is superior to other available methods for a fair and efficient adjudication of this controversy, and accordingly the requirements for certification of a settlement class under Rule 23(b)(3) are satisfied.

5. If the preliminarily approved settlement is not finally approved, is not upheld on appeal, or is otherwise terminated for any reason, the Pre-Adverse Action Settlement Class shall be decertified; the settlement and all negotiations, proceedings, and documents prepared, and statements made in connection therewith, shall be inadmissible and not used to the prejudice to any party and shall not be deemed or construed to be an admission or confession by any party of any fact, matter, or proposition of law; and all parties shall stand in the same

procedural position as if the settlement had not been negotiated, made, or filed with the Court.

6. **The Claims Administrator:** The Court preliminarily appoints _____ as the Claims Administrator (the “Claims Administrator”) to administer the terms of the Settlement Agreement and the notification to Pre-Adverse Action Class Members. Defendant shall compile a Class List and provide it to the Claims Administrator. The cost to print and mail the Class Notices along with other Claims Administrator expenses shall be paid by Lowe’s separately from the Maximum Settlement Amount (as defined in the Settlement Agreement), provided, however that uncashed checks to Pre-Adverse Action Class Members shall be first applied to such expenses before any remaining sum is distributed to a *cy pres* beneficiary proposed by the Parties and approved by the Court, described more fully in Section 7.1.2 of the Settlement Agreement. The Claims Administrator will be responsible for mailing the class notice in the form substantially similar to that approved by the Court to the Pre-Adverse Action Class Members.

7. **Notice:** The court approves the form and substance of the written Mail Notice, attached to the Settlement Agreement as Exhibit B. The proposed form and method for notifying the Pre-Adverse Action Class Members of the Settlement and its terms and conditions satisfy the requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process, constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons and entities entitled to the notice. The Court finds the proposed notice is clearly designed to advise the Pre-Adverse Action Class Members of their rights. In accordance with the Settlement, the Class Administrator shall cause the completed notices to be mailed to the Pre-Adverse Action Class Members as expeditiously as possible, but no later than thirty (30) calendar days after the Court’s entry of this Order.

8. **Opt-Outs and Objections:** Pre-Adverse Action Class Members shall be given the opportunity to object to or opt out of the Settlement. All objections to the Settlement and requests to be excluded from the Settlement must be in writing, filed with the Court, and served on Class Counsel and Defendant's Counsel at the addresses provided in the Mail Notice so they are received by Class Counsel and Defendant's Counsel no later than twenty-one (21) days before the Final Fairness Hearing. Any objections to any request for Attorneys' Fees must be supplemented no more than seven (7) days after Class Counsel files a motion requesting Attorneys' Fees. Any written objection to the Settlement must indicate whether the Pre-Adverse Action Class Member, or his or her counsel, intends to appear at the Final Fairness Hearing. If any such lawyer does intend to appear at the Final Fairness Hearing, he or she must enter a written Notice of Appearance of Counsel with the Clerk of the Court, which includes the full caption and case number of each previous class action case in which that counsel has represented an objector. Such Notice of Appearance of Counsel shall be filed no later than _____.

9. **Final Fairness Filings:** Submissions by the Parties, including memoranda in support of the proposed Settlement and responses to any objections, and any submission in support of a request for an award of attorneys' fees and costs, shall be filed with the Court no later than seven (7) days prior to the Final Fairness Hearing.

10. **Final Fairness Hearing:** The Court shall conduct a Final Fairness Hearing on _____, 2016, at _____ m., at the Federal Courthouse located at the Charles R. Jonas Federal Building, 401 West Trade Street, Charlotte, NC 28202, in Courtroom _____, commencing at _____, a.m./p.m., to review and rule upon the following issues:

- A. Whether this action satisfies the applicable prerequisites for class action treatment for settlement purposes under Fed. R. Civ. P. 23;

- B. Whether the proposed settlement is fundamentally fair, reasonable, adequate, and in the best interest of the Pre-Adverse Action Class Members and should be approved by the Court;
- C. Whether the Final Approval Order, as provided under the Settlement, should be entered, dismissing the Pre-Adverse Action Claim with prejudice and releasing the claims against the Released Parties; and
- D. To discuss and review other issues as the Court deems appropriate.

Attendance at the Final Fairness Hearing is not necessary. Pre-Adverse Action Class Members need not appear at the hearing or take any other action to indicate their approval of the proposed class action settlement. Pre-Adverse Action Class Members wishing to be heard, however, are required to indicate in their written objection whether or not they intend to appear at the Final Fairness Hearing. The hearing may be postponed, adjourned, transferred, or continued without further notice to the Pre-Adverse Action Class Members.

11. **Continuing Jurisdiction.** The Court retains continuing and exclusive jurisdiction over the action to consider all further matters arising out of or connected with the Settlement, including the administration and enforcement of the Settlement.

12. **Use of Order.** This Order is entered in compromise of disputed claims and does not reflect admissions of liability of any kind, whether legal or factual by the Released Parties. The Released Parties specifically deny any liability or wrongdoing. Plaintiffs specifically believe they would have a good chance of prevailing in the event of trial, but settle in recognition of the inherent uncertainty of litigation. Neither the fact nor the terms of this Order shall be construed or used as an admission, concession, or declaration by or against Released Parties of any fault, wrongdoing, breach, or liability or as a waiver by any Party of any arguments, defenses, or claims he, she, or it may have, including, but not limited to, any objections by Released Parties to class certification in the event that the Settlement Agreement is

terminated or not given final approval.

It is so ORDERED, this _____ day of _____, 2016.

HONORABLE RICHARD L. VOORHEES
UNITED STATES DISTRICT JUDGE