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The Honorable Tana Lin

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHRIS CARLSON, individually and on
behalf of all persons similarly situated,

Plaintiff,

v.

HOME DEPOT U.S.A., INC., a foreign
corporation; and THE HOME DEPOT,
INC., a foreign corporation,

Defendants.

No. 2:20-cv-01150 MJP

~~[PROPOSED]~~ ORDER GRANTING
FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND
DISMISSING ACTION WITH
PREJUDICE AND FINAL JUDGMENT

[CLERK’S ACTION REQUIRED]

This matter comes before the Court on Plaintiff’s Unopposed Motion for Final Approval of Class Action Settlement. The Court has considered all papers submitted by the parties in connection with the proposed settlement, including the instant motion, the supporting declarations of Lluvia Islas and Adam J. Berger, Plaintiff’s Unopposed Motion for Settlement Class Certification, Preliminary Approval of Class Action Settlement, and Petition for Attorneys’ Fees and Costs (Dkt. #135) (“Preliminary Approval Motion”), the Declaration of Adam J. Berger in support of preliminary approval (Dkt. #136) and exhibits attached thereto, and the Declaration of Elizabeth A. Hanley in support of final approval (Dkt. #145) and exhibits attached thereto. In addition to the parties’ materials, the Court held a hearing

~~[PROPOSED]~~ ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT – 1
(Case No. 2:20-cv-01150 MJP)

SCHROETER GOLDMARK & BENDER
401 Union Street • Suite 3400 • Seattle, WA 98101
Phone (206) 622-8000 • Fax (206) 682-2305

1 on May 30, 2023. The Court, having heard all persons properly appearing and requesting to
2 be heard, having considered the papers submitted in support of the proposed Settlement and
3 the oral presentations of counsel, having considered all applicable law, and having
4 considered any objections made properly to the proposed Settlement, hereby GRANTS
5 Plaintiff’s Unopposed Motion for Final Approval of Class Action Settlement and ORDERS as
6 follows:
7

8 1. The Court’s prior order of February 16, 2023 granting preliminary approval
9 of the class action settlement (Dkt. #137) (“Preliminary Approval Order”) and the parties’
10 Settlement Agreement, including the terms defined therein and all exhibits thereto, are
11 incorporated herein by reference.

12 2. The Court finds it has jurisdiction over the subject matter of this action and the
13 parties, including all members of the Settlement Class who have not opted out of the matter.
14

15 3. The Court approves the Settlement, finding that it is fair, reasonable, and adequate
16 to members of the Settlement Class and consistent and in compliance with all requirements of
17 Washington and federal law for the reasons set forth in the Preliminary Approval Motion
18 (Dkt. #137) and in Plaintiff’s Motion for Final Approval.

19 4. The Court finds that the Notices mailed and emailed to members of the
20 Settlement Class at their last known addresses provides the best notice practicable under
21 the circumstances and that the Notice was distributed in accordance with the Court’s
22 Preliminary Approval Order. The Notices given to the Settlement Class Members fully
23 complied with Rule 23, were the best notices practicable, were reasonably calculated under
24 the circumstances to apprise members of the Settlement Class of their rights with respect to
25
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1 the settlement, and satisfied all applicable requirements of constitutional due process and any
2 other applicable requirements under Washington and federal law.

3 5. No objections to the terms of the Settlement have been communicated to the
4 Third Party Settlement Administrator, Class Counsel, or filed with the Court.

5 6. The Court finds that Plaintiff Chris Carlson and Class Counsel Schroeter
6 Goldmark & Bender adequately represented the Class for purposes of entering into and
7 implementing the Settlement.

8 7. The Court finds that Class Counsel’s request for an award of attorneys’ fees
9 and costs is fair and reasonable, and hereby approves the request for an attorneys’ fee award
10 of 20% of the Gross Settlement Fund, or \$1,160,000, plus litigation costs of \$75,017.54.
11 The requested award is below the benchmark for percentage awards in common fund cases.
12 This case was actively litigated including through a successful motion for litigation class
13 certification. Counsel has litigated this case on a contingent-fee basis, meaning they will not
14 have been paid for almost three years of litigation. The settlement results in a substantial
15 recovery for the Settlement Class. *See In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036,
16 1046 (N.D. Cal. 2008) (“The overall result and benefit to the class from the litigation is the
17 most critical factor in granting a fee award.”). Such considerations support a percentage
18 award of 20%.

19 8. The Court approves incentive payments from the Gross Settlement Fund in the
20 amount of \$10,000 to the named Plaintiff and \$250 each to the 16 class members who were
21 deposited by defense counsel for their time and service on behalf of the Settlement Class.

22 9. The Court approves payment in the amount of \$22,000 from the Gross
23 Settlement Fund to ILYM Group for its fees and costs as Settlement Administrator.

1 10. The parties are hereby directed to proceed with the settlement payment
2 procedures specified under the terms of the Settlement Agreement.

3 11. The Settlement Agreement is binding on all Settlement Class Members, as
4 defined in the parties’ Settlement Agreement. Plaintiff Chris Carlson and the Class
5 Members are bound by the Release of Claims set forth in Paragraphs 25 through 27 of the
6 Settlement Agreement, and are enjoined from maintaining, prosecuting, commencing, or
7 pursuing any claim released under the Settlement Agreement, and are deemed to have
8 released and discharged the Defendants and Released Parties from any such claims.
9

10 12. The Court reserves jurisdiction over the parties as to all matters relating to
11 the administration, enforcement, and interpretation of the Settlement Agreement, and for
12 any other necessary purposes.

13 13. Neither this Final Order and Judgment nor any aspect of this settlement is to
14 be offered as evidence of, or construed or deemed as an admission of, liability, culpability,
15 negligence, or wrongdoing on the part of Defendants or their employees or agents.
16

17 14. The parties are authorized, without further approval from the Court, to
18 mutually agree to and adopt any technical or process amendments or modifications to the
19 Settlement Agreement provided such changes are: (i) consistent with this Order; (ii)
20 consistent with the intent of the Settlement Agreement; and (iii) do not limit any
21 substantive rights of the Settlement Class.
22

23 15. In the event the Settlement does not become effective, this Order shall be
24 rendered null and void and shall be vacated and, in such event, all orders entered in
25 connection therewith shall be vacated and rendered null and void.

26 16. This case, including all individual and class claims presented thereby, is

1 hereby DISMISSED with prejudice, with each party to bear his, her, or its own fees and
2 costs, except as set forth herein.

3 17. The Court hereby enters Judgment approving the terms of the Settlement.
4 This Order shall constitute a final judgment for purposes of Fed. R. Civ. P. 58.

5 IT IS SO ORDERED this 30th day of May, 2023.
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9 _____
10 Tana Lin
11 United States District Judge

12 Presented by:

13 SCHROETER GOLDMARK & BENDER

14 s/ Adam J. Berger

15 Adam J. Berger, WSBA #20714
16 Elizabeth Hanley, WSBA #38233
17 401 Union Street, Suite 3400
18 Seattle, WA 98101
19 Phone: (206) 622-8000
20 berger@sgb-law.com
21 hanley@sgb-law.com

22 *Attorneys for Plaintiff and the Settlement Class*

23 Approved as to form; approved for entry by:

24 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

25 By: /s/ Laurence A. Shapero

26 Laurence A. Shapero, WSBA #31301
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OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

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