

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

	)	
In re: The Home Depot, Inc., Customer	)	Case No.: 1:14-md-02583-TWT
Data Security Breach Litigation	)	
	)	
This document applies to:	)	
FINANCIAL INSTITUTION CASES	)	
	)	

**JOINT MOTION FOR PRELIMINARY APPROVAL OF A  
MODIFICATION TO THE PARTIES’ SETTLEMENT AGREEMENT AND  
REVISION OF THE COURT’S PRELIMINARY APPROVAL ORDER**

On March 10, 2017, this Court preliminarily approved the settlement agreement reached by the parties and approved the proposed notice plan. [Doc. 328] Since the preliminary approval order was entered, the parties have decided, subject to the approval of the Court, to make two minor changes to the settlement agreement, that is: (1) to extend until May 12, 2017 the Notice Deadline by which the class must be notified by the Settlement Administrator (which will result in moving back the deadline for objecting and opting out until July 12, 2017 and the claims deadline to September 14, 2017) and (2) to provide additional notice to the class by publication. These two changes are incorporated in an Addendum to Settlement Agreement, which is attached as Exhibit 1. A proposed order is attached as Exhibit 2. The reasons supporting this motion are set forth below.

(1) After entering into the Settlement Agreement and in accordance with its terms, the parties provided the Settlement Administrator with identifying information in their possession for the more than 11,000 banks, credit unions and other financial institutions that are potentially in the settlement class. Unfortunately, despite their best efforts, the parties were unable to provide the Settlement Administrator with complete addresses and other identifying information for a large percentage of the financial institutions potentially in the class. Until the complete class list has been prepared, the Settlement Administrator is unable to mail notice to the class as required by the Settlement Agreement.

(2) The Settlement Administrator is engaged in an effort to find the missing information, but will not be able to complete the process for several weeks. Further, to facilitate finding the missing contact information and ensure that all potential class members are identified, the parties contacted MasterCard, Visa and other third parties that have lists of financial institutions affected by the Home Depot data breach, including complete addresses. The parties believe that the third parties will cooperate by producing needed information. However, additional time is needed for the third parties to assemble the requested information, put it in a useful format, and allow the Settlement Administrator to

compare the new information with the class list that it is preparing from the material provided by the parties and other sources.

(3) The parties and Settlement Administrator estimate that the final list of potential class members, including their mailing addresses, will be ready in time for notice to issue by May 12, 2017. Accordingly, the parties request that the Court extend the Notice Deadline until May 12, 2017. To accommodate the interests of the class and provide class members the same amount of time for acting on the notice, the parties further request the Objection Deadline and Opt-Out Deadline be extended until July 12, 2017 and the Claims Deadline be extended until September 14, 2017. Extending these deadlines should have no impact on the fairness hearing, which the Court has scheduled for September 22, 2017.

(4) The parties have further agreed to enhance the notice program by providing publication notice. While the parties do not believe publication notice is constitutionally required, such notice will reduce the possibility that a potential class member does not receive the mailed notice and thus does not learn of the settlement. The proposed publication program will entail a short form notice appearing in issues of three trade journals widely read by executives and lawyers employed by financial institutions, specifically the Credit Union Journal, the ABA (American Banking Association) Banking Journal, and Independent Banker

magazine. A copy of the proposed short form notice is attached as Exhibit A to the Addendum.

(5) Except for the two changes set forth above, all other terms of the Settlement Agreement that the Court preliminarily approved remain the same.

WHEREFORE, the parties jointly request that the Court approve their proposed modification to the settlement agreement and by entering the proposed order attached as Exhibit 2.

Dated: April 18, 2017

/s/ Kristine M. Brown

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*Chair, Plaintiffs' Steering Committee  
for the Financial Institution Plaintiffs*

**CERTIFICATION**

The Undersigned hereby certifies, pursuant to Local Civil Rule 7.1D, that the foregoing document has been prepared with one of the font and point selections (Times New Roman, 14 point) approved by the Court in Local Civil Rule 5.1C.

*/s/ Kenneth S. Canfield*

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 18, 2017, I served all parties by causing a true and correct copy of the foregoing Joint Motion for Preliminary Approval of a Modification to the Parties Settlement Agreement and Revision of the Court's Preliminary Approval Order to be filed with the Clerk of Court using the CM/ECF system, which automatically sends a copy to all counsel registered to received service.

/s/ Kenneth S. Canfield  
Kenneth S. Canfield

*Co-Lead Counsel for Financial Institution  
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