

COHELAN KHOURY & SINGER

Michael D. Singer (SBN 115301)

msinger@ckslaw.com

J. Jason Hill (SBN 179630)

jhill@ckslaw.com

605 C Street, Suite 200

San Diego, CA 92101

Tele.: (619) 595-3001/Fax: (619) 595-3000

THE LAW OFFICE OF IAN PANCER

Ian M. Pancer (SBN 246600)

ian@sandiegolegal.net

105 West F Street, 4th Floor

San Diego, CA 92101

Tele.: (619) 955-6644/Fax: (619) 374-7410

Attorneys for Plaintiff STEVEN FORD,
on behalf of himself and all others similarly situated

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

STEVEN FORD, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

HOME DEPOT U.S.A., INC., a
Delaware corporation, and DOES 1
through 100, inclusive,

Defendants.

CASE NO. '19CV0754 AJB LL

CLASS ACTION COMPLAINT FOR:

- 1. Violation of the Fair Credit Reporting Act for Failure to Make Proper Disclosures, 15 U.S.C. § 1681b(b)(2)(A)(i);**
- 2. Violation of the Fair Credit Reporting Act for Failure to Obtain Proper Authorization, 15 U.S.C. § 1681b(b)(2)(A)(ii)**

DEMAND FOR A JURY TRIAL

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1 Plaintiff STEVEN FORD (“Plaintiff”), on behalf of himself and all others
2 similarly situated, alleges on information and belief, except for his own acts and
3 knowledge, the following:

4 **I.**

5 **INTRODUCTION**

6 1. Defendant HOME DEPOT U.S.A., INC. (“Defendant”) is a
7 Delaware Corporation and at all relevant times mentioned herein conducted and
8 continues to conduct substantial and regular business throughout California.

9 2. Defendant is a home improvement retailer company specializing in
10 home improvement installation services and tool and equipment rentals, and
11 offers products and materials that include lawn and garden, decor, and building
12 products for “DIY” customers and professional contractors.

13 3. Plaintiff applied, was hired, and performed work for Defendant in
14 California, in the County of San Diego.

15 4. On or about June 12, 2017, Plaintiff filled out Defendant’s standard
16 Fair Credit Reporting Act (“FCRA”) form (hereinafter referred to as “standard
17 FCRA form,” “FCRA form” or “form”) purporting to permit Defendant to obtain
18 a consumer report verifying Plaintiff’s background and experience.

19 5. A true and correct copy of Defendant’s standard FCRA form is
20 attached hereto as **Exhibit 1**. This form is a single “document” for purposes of
21 the FCRA and consists of a disclosure and an authorization.

22 6. Defendant’s FCRA form is invalid on two separate grounds. First,
23 the FCRA form violates the stand-alone disclosure requirement. Second,
24 Defendant’s FCRA form violates the “clear and conspicuous disclosure”
25 requirement.

26 7. The FCRA form violates the stand-alone document requirement as
27 expressed in the FCRA because:

28 a. The form itself includes extraneous information related to

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1 various inapplicable state disclosures. *See*, 15 U.S.C. § 1681b(b)(2)(A)(i) (the
2 FCRA disclosure must be “in a document that consists solely of the disclosure”);
3 *Gilberg v. California Check Cashing Stores, LLC*, 913 F.3d 1169, 1175 (9th Cir.
4 2019).

5 b. In addition to the extraneous, out-of-state disclosures on the
6 standard FCRA form, the form directs the reader to a webpage
7 (<https://www.lexisnexis.com/privacy/state-agencies.aspx>) entitled “LexisNexis
8 Privacy Facts,” which has virtually no privacy facts, and certainly no facts
9 pertaining to the FCRA. Instead, the webpage is a directory that contains, for
10 each of the 50 states (and Puerto Rico), a link to a page within the website for
11 that state’s Attorney General (or equivalent) and that state’s Department of Motor
12 Vehicles (or equivalent). Many of the links, including both of the two California
13 links, are now broken and were broken at the time of Mr. Ford’s application. That
14 is to say, both of the California links and most of the others did and do lead to
15 nowhere (to a non-existent page). To the extent some of the (non-California)
16 links did or do lead to existing webpages, all of the pages contain extraneous
17 information.

18 c. The form includes the following language, which is
19 extraneous in that it is a reservation of rights and not a disclosure at all: “Finally,
20 notwithstanding anything else in this document, Home Depot reserves the ability
21 to avail itself of any rights under any applicable federal, state, or local law,
22 including the Fair Credit Reporting Act, as amended.”

23 8. Defendant’s FCRA form violates the “clear and conspicuous
24 disclosure” requirement in 15 U.S.C. section 1681b(b)(2)(A)(i) because:

25 a. Defendant’s FCRA form is unclear because it combines both
26 federal and inapplicable, out-of-state disclosures, creating confusion about what
27 rights are applicable. *Gilberg*, 913 F.3d at 1176,

28 b. The disclosure contains language that is unclear insofar as it

1 provides: “I understand and agree that Home Depot or an outside consumer
2 reporting agency may secure a consumer report or an investigative consumer
3 report, as defined in the federal Fair Credit Reporting Act and any applicable state
4 or local laws, and to the extent permitted by any applicable state or local laws,
5 from an outside consumer reporting agency.” It is unclear who is going to secure
6 the report. Home Depot or an outside agency? If an outside agency secures the
7 report from another outside agency, will Home Depot receive a copy of the report
8 from the securing outside agency? If not, is it the outside agency or Home Depot
9 who will make hiring decisions based on the report?

10 c. The webpage listed on the FCRA form
11 (<https://www.lexisnexis.com/privacy/state-agencies.aspx>) entitled “LexisNexis
12 Privacy Facts,” which has virtually no privacy facts, and certainly no facts
13 pertaining to the FCRA. Instead, the webpage is a directory that contains, for each
14 of the 50 states (and Puerto Rico), a link to a page within the website for that
15 state’s Attorney General (or equivalent) and that state’s Department of Motor
16 Vehicles (or equivalent). Many of the links, including both of the two California
17 links, are now broken and were broken at the time of Mr. Ford’s application. That
18 is to say, both of the California links and most of the others did and do lead to
19 nowhere (to a non-existent page). Furthermore, the inclusion of links to out-of-
20 state privacy information is extraneous and muddies the waters, raising, for
21 example, the following questions to a reasonable reader: What law governs the
22 rights of Mr. Ford? California law because that is where he submitted the job
23 application? Georgia law because that is where First Advantage Background
24 Services Corp. is located (according to the disclosure form)?

25 9. Since Defendant’s standard FCRA disclosure is non-complaint,
26 Plaintiff was confused regarding the nature of his rights under the FCRA and
27 accordingly did not give valid authorization for Defendant to procure a consumer
28 report in violation of 15 U.S.C. section 1681b(b)(2)(A)(ii).

1 10. Plaintiff now brings this Class Action on behalf of himself and a
2 proposed class, defined as:

3 All job applicants who signed HOME DEPOT U.S.A., INC.’s
4 standard FCRA form at any time during the period beginning
5 five (5) years prior to the filing of this action to the present (the
6 “Proposed FCRA Class”).

7 **II.**

8 **JURISDICTION AND VENUE**

9 11. 9. The Court has jurisdiction over Plaintiff’s federal claims
10 pursuant to 28 U.S.C. section 1331 and 15 U.S.C. section 1681p.

11 12. Venue is proper in this district pursuant to 28 U.S.C. section 1391(d)
12 because Defendant is subject to personal jurisdiction in this district, maintains
13 offices in this district, and the actions at issue took place in this district.

14 **III.**

15 **THE PARTIES**

16 **A. PLAINTIFF**

17 13. Plaintiff applied, was hired, and performed work for Defendant in
18 Chula Vista, California as a non-exempt hourly employee.

19 14. During the application process, Plaintiff completed Defendant’s
20 standard FCRA form on June 12, 2017. On that same day, Defendant procured an
21 investigative consumer report. On June 13, 2017, the report was furnished to
22 Defendant.

23 15. At the time Plaintiff signed the standard FCRA form, he did not
24 understand it. It confused him and he did not understand his rights under the
25 FCRA. Nor was he aware that the form violated the FCRA.

26 16. Nonetheless, Defendant secured a consumer report pertaining to
27 Plaintiff.

28 **B. DEFENDANT**

17. Defendant is a Delaware Corporation. At all times relevant herein,

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1 Defendant conducted and continues to conduct business throughout the State of
2 California, including hiring employees such as Plaintiff.

3 18. Defendant’s entity address listed with the California Secretary of
4 State is 2455 Paces Ferry Road, Atlanta, Georgia 30339.

5 19. Defendant requires Plaintiff and all other persons similarly situated
6 to fill out Defendant’s standard FCRA form (**Exhibit 1**) permitting Defendant to
7 obtain a consumer report verifying the applicant’s background and experience.

8 20. With respect to the events at issue in this case, Defendant is liable for
9 the violations of law described in this Complaint.

10 21. Plaintiff is unaware of the true names, capacities, relationships, and
11 extent of participation in the conduct alleged herein, of the Defendants sued as
12 DOES 1 through 100, but is informed and believes, and thereon alleges, that said
13 Defendants are legally responsible for the wrongful conduct alleged herein and
14 therefore sues these Defendants by such fictitious names. Plaintiff will amend this
15 complaint when their true names and capabilities are ascertained.

16 22. Plaintiff is informed and believes and thereon alleges that each
17 Defendant, directly or indirectly, or through agents or other persons, sought a
18 consumer report without adequate disclosures and consent. Plaintiff is informed
19 and believes, and thereon alleges, that each Defendant acted in all respects
20 pertinent to this action as the agent of the other Defendants, carried out a joint
21 scheme, business plan, or policy in all respects pertinent hereto, and the acts of
22 each Defendant is legally attributable to the other Defendants.

23 **IV.**

24 **NATURE OF THE ACTION**

25 23. The FCRA provides individuals with a number of rights.
26 Specifically, pertaining to employment-related background checks referred to as
27 “consumer reports,” the FCRA provides that a prospective employee must give
28 valid written authorization to the background check after receiving a compliant

1 written disclosure.

2 24. The FCRA’s disclosure and authorization requirements are listed in
3 28 U.S.C. section 1681b(b)(2)(A).

4 **V.**

5 **FACTUAL ALLEGATIONS**

6 25. Plaintiff applied to work for Defendant in California. In connection
7 with his employment application, Plaintiff was required to fill out Defendant’s
8 standard FCRA form (**Exhibit 1**) permitting Defendant to obtain a consumer
9 report verifying Plaintiff’s background and experience.

10 26. Upon information and belief, Defendant required all applicants to
11 complete the same standard FCRA form.

12 27. Defendant’s standard FCRA form is a single “document” for
13 purposes of the FCRA and consists of a disclosure and authorization.

14 28. Defendant’s FCRA form contained extraneous information such as
15 state law notices in violation of 15 U.S.C. section 1681b(b)(2)(A)(i)’s “stand-
16 alone” disclosure and “clear and conspicuous” requirements. *Gilberg*, 913 F.3d at
17 1175-1176.

18 29. Accordingly, Plaintiff was confused regarding the nature of his rights
19 under the FCRA and did not give valid authorization for Defendant to procure a
20 consumer report in violation of 15 U.S.C. section 1681b(b)(2)(A)(ii).

21 30. Nevertheless, Defendant procured or caused to be procured
22 Plaintiff’s consumer report.

23 31. Defendant’s failure to provide a compliant disclosure, and failure to
24 obtain a proper authorization, deprived Plaintiff and others similarly situated of
25 the right to information and the right to privacy guaranteed by 15 U.S.C. section
26 1681b(b)(2)(A). *Syed v. M-1, LLC*, 853 F.3d 492, 499 (9th Cir. 2017).

27 32. By including extraneous information in its standard FCRA
28 disclosure, Defendant’s conduct is contrary to the plain language of the statute,

1 case law, and unambiguous regulatory guidance from the Federal Trade
2 Commission (“FTC”).

3 33. Based on information and belief, Plaintiff alleges that Defendant
4 “willfully” violated the FCRA. Defendant knew that its standard FCRA
5 disclosure must not contain surplus or extraneous information related to state
6 disclosures and must be clear and not likely to confuse a reasonable reader.

7 **VI.**

8 **CLASS ALLEGATIONS**

9 34. Plaintiff brings this action on behalf of himself and all others
10 similarly situated as a Class Action pursuant to Rules 23(a) and 23(b)(3) of the
11 Federal Rules of Civil Procedure. Plaintiff satisfies the requirements of Rules
12 23(a) and 23(b)(3) for the prosecution of this action as a class action. Plaintiff
13 seeks to represent a class defined as follows:

14 All job applicants who signed HOME DEPOT U.S.A., INC.’s
15 standard FCRA form at any time during the period beginning
16 five (5) years prior to the filing of this action to the present (the
“Proposed FCRA Class”).

17 35. Plaintiff reserves the right to amend or modify the Class description
18 with greater specificity or further division into subclasses or limitation to
19 particular issues, including in the alternative, certification without notice as a
20 single legal issue under Fed. R. Civ. P. Rule 23(b)(2) and/or Rule 23(c)(4).
21 Plaintiff also reserves the right to allege subclasses as appropriate following
22 discovery procedures.

23 36. This class action on behalf of members of the Proposed FCRA Class
24 meets the statutory prerequisites for the maintenance of a class action as set forth
25 in Fed. R. Civ. P. Rules 23(a) and 23(b)(3).

26 A. Numerosity

27 37. The Proposed FCRA Class is so numerous that joinder of all Class
28 Members is impracticable. Plaintiff is informed and believes that Defendant used

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1 the same form for thousands of job applicants to obtain consumer reports and
2 background checks.

3 38. While the precise number of members of the Proposed FCRA Class
4 has not been determined at this time, Plaintiff is informed and believes that
5 Defendant, during the relevant period, had applicants that numbered well over
6 1,000. Each of these potential Class Members is readily ascertainable by the
7 information provided at the time of application for employment with Defendant.

8 39. Plaintiff alleges that Defendant’s records will provide information as
9 to the number of all members of the Proposed FCRA Class with a last known
10 mailing address such that constitutional notice of the action and opportunity to
11 opt out of the action can be provided by U.S. Mail.

12 B. Commonality

13 40. There are questions of law and fact common to the Proposed FCRA
14 Class that predominate over any questions affecting only individual members of
15 the Class. These common questions of law and fact include, without limitation:

16 a. Whether Defendant’s standard FCRA form (**Exhibit 1**) meets
17 15 U.S.C. section 1681b(b)(2)(A)(i)’s “clear and conspicuous disclosure”
18 requirement;

19 b. Whether Defendant’s standard FCRA form (**Exhibit 1**) is “in a
20 document that consists solely of the disclosure” (15 U.S.C. § 1681 b(b)(2)(A)(i));

21 c. Whether Defendant acquires applicants’ consumer reports
22 without authorization in violation of 15 U.S.C. section 1681 b(b)(2)(A)(ii); and

23 d. Whether Defendant “willfully” violated the FCRA pursuant to
24 15 U.S.C. section 1681n.

25 C. Typicality

26 41. The claims of the named Plaintiff are typical of the claims of the
27 members of the Proposed FCRA Class.

28 42. Plaintiff is a member of the Proposed FCRA Class. Plaintiff was an

1 applicant and filled out Defendant’s standard FCRA form (**Exhibit 1**) during his
2 application process. Plaintiff was subjected to the same unlawful practices as
3 other members of the Proposed FCRA Class. Plaintiff suffered the same injuries
4 and seeks the same relief as members of the Proposed FCRA Class and as to any
5 necessary subclasses.

6 D. Adequacy of Representation

7 43. Plaintiff will fairly and adequately represent and protect the interests
8 of the members of the Proposed FCRA Class.

9 44. Counsel for Plaintiff is competent and experienced in litigation of
10 large complex consumer and wage and hour class actions.

11 E. Predominance and Superiority of a Class Action

12 45. A class action is superior to other available means for fair and
13 efficient adjudication of this controversy. Individual joinder of all members of the
14 Proposed FCRA Class is not practicable, and questions of law and fact common
15 to the Class predominate over any questions affecting only individual members.

16 46. Class action treatment will allow those similarly-situated persons to
17 litigate their claims in the manner that is most efficient and economical for the
18 parties and the judicial system. Plaintiff is unaware of any difficulties that are
19 likely to be encountered in the management of this action that would preclude its
20 maintenance as a class action.

21 47. Class action treatment will allow a large number of similarly-situated
22 employees to prosecute their common claims in a single forum, simultaneously,
23 efficiently, and without the unnecessary duplication of effort and expense that
24 numerous individual actions would require. Further, the monetary amounts due to
25 many individual Class Members are likely to be relatively small, and the burden
26 and expense of individual litigation would make it difficult or impossible for
27 individual members of the Proposed FCRA Class to seek and obtain relief.
28 Moreover, a class action will serve an important public interest by permitting

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1 employees harmed by Defendant’s unlawful practices to effectively pursue
2 recovery of the sums owed to them.

3 **VII.**

4 **FIRST CAUSE OF ACTION**

5 **FAILURE TO MAKE PROPER DISCLOSURE IN VIOLATION OF THE**
6 **FCRA**

7 **[15 U.S.C. § 1681b(b)(2)(A)(i)]**

8 **(By Plaintiff and All Members of The Proposed FCRA Class Against All**
9 **Defendants)**

10 48. Plaintiff, and the other members of the Proposed FCRA Class, re-
11 allege and incorporate by this reference, as though set forth herein, the prior
12 paragraphs of this complaint.

13 49. Under the FCRA, it is unlawful to procure a consumer report or
14 cause a consumer report to be procured for employment purposes, unless:

- 15 (i) a clear and conspicuous disclosure has been made in writing to
- 16 the consumer at any time before the report is procured or
- 17 caused to be procured, in a document that consists solely of
- 18 the disclosure, that a consumer report may be obtained for
- 19 employment purposes; and
- 20 (ii) the consumer has authorized in writing (which authorization
- 21 may be made on the document referred to in clause (i)) the
- 22 procurement of the report.

23 15 U.S.C. §§ 1681b(b)(2)(A)(i)-(ii)

24 50. Defendant’s standard FCRA form is unlawful on two separate
25 grounds.

26 51. First, Defendant’s FCRA disclosure violates the “stand-alone”
27 disclosure requirement in 15 U.S.C. section 1681b(b)(2)(A)(i) (the FCRA
28 disclosure must be “in a document that consists solely of the disclosure”) because
29 Defendant’s FCRA disclosure combines both federal and state disclosures, among

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1 other extraneous and irrelevant information. *Gilberg*, 913 F.3d at 1175.

2 52. Second, Defendant’s FCRA disclosure violates the “clear and
3 conspicuous disclosure” requirement in 15 U.S.C. section 1681b(b)(2)(A)(i). The
4 FCRA disclosure is unclear, as it would “confuse a reasonable reader because it
5 combines federal and state disclosures.” *Gilberg*, 913 F.3d at 1176. Plaintiff
6 alleges that the Defendant’s standard disclosure was not clear and did not contain
7 a “stand-alone” document and in fact was unclear, contained extraneous and
8 confusing material that did not comply with law. As a sophisticated corporate
9 Defendant who has faced similar litigation over the identical issues in the past,
10 Defendant’s conduct must be viewed as “willful” as defined under the statute.

11 53. The violations of the FCRA were willful based on the clear statutory
12 text, case law guidance, and regulatory guidance. The statutory text of the stand-
13 alone requirement is straightforward. The word “solely” in Subsection (i) and the
14 one express exception in Subsection (ii), which allows the authorization to be on
15 the same document as the disclosure, shows that “the FCRA should not be read to
16 have implied exceptions[.]” *Gilberg*, 913 F.3d at 1175 (citing to *Syed*, 853 F.3d at
17 501-503).

18 54. Defendant also had specific case law to provide guidance. *See*
19 *Gilberg*, 913 F.3d at 1175 (“*Syed*’s holding and statutory analysis were not
20 limited to liability waivers; *Syed* considered the standalone requirement with
21 regard to *any surplusage*”) (citing to *Syed*, 853 F.3d at 501) (emphasis added).

22 55. Lastly, informal guidance from the FTC is unambiguous that no
23 extraneous information should be included in the FCRA disclosure. *See* FTC,
24 Opinion Letter, 1997 WL 33791227, at *1 (Oct. 21, 1997) (“[The] document
25 should include nothing more than the disclosure and the authorization for
26 obtaining a consumer report.”); FTC, Opinion Letter, 1998 WL 34323748, at *2
27 (Feb. 11, 1998) (disclosure may describe the “nature of the consumer reports” it
28 covers, but otherwise should “not be encumbered with extraneous information”);

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1 FTC, Opinion Letter, 1998 WL 34323756, at *1 (June 12, 1998) (inclusion of a
2 waiver in a disclosure form violates Section 1681 b(b)(2)(A)).

3 56. In addition, Defendant’s violation of the “clear and conspicuous
4 disclosure” requirement was willful. Defendant knew that its standard disclosure
5 form must be clear and not contain extraneous information, such as state
6 disclosures, that would confuse a reasonable person about the nature of his rights
7 under the FCRA.

8 57. Plaintiff and all other members of the Proposed FCRA Class are
9 entitled to statutory damages of not less than \$100 and not more than \$1,000 for
10 every willful violation of the FCRA, pursuant to 15 U.S.C. section
11 1681n(a)(1)(A).

12 58. Plaintiff and all other members of the Proposed FCRA Class are also
13 entitled to punitive damages for these willful violations, pursuant to 15 U.S.C.
14 section 1681n(a)(2).

15 59. Plaintiff and all other members of the proposed FCRA Class are
16 further entitled to recover their costs and attorneys' fees, pursuant to 15 U.S.C.
17 section 1681n(a)(3).

18 **VIII.**

19 **SECOND CAUSE OF ACTION**

20 **FAILURE TO OBTAIN PROPER AUTHORIZATION IN**
21 **VIOLATION OF THE FCRA**

22 **[15 U.S.C. § 1681b(b)(2)(A)(ii)]**

23 **(By Plaintiff and All Members of The Proposed FCRA Class Against All**
24 **Defendants)**

25 60. Plaintiff, and the other members of the Proposed FCRA Class, re-
26 allege and incorporate by this reference, as though fully set forth herein, the prior
27 paragraphs of this Complaint.

28 61. Since Defendant’s standard FCRA form contains extraneous
information, such as state disclosures, the FCRA disclosure does not consist

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1 “solely” of the disclosure nor is it “clear and conspicuous” as required by 15
2 U.S.C. section 1681b(b)(2)(A)(i).

3 62. Accordingly, Plaintiff was confused regarding the nature of his rights
4 under the FCRA and did not give valid authorization for Defendant to procure a
5 consumer report in violation of 15 U.S.C. section 1681b(b)(2)(A)(ii).

6 63. Nevertheless, Defendant procured a consumer report or caused a
7 consumer report to be procured for employment purposes on Plaintiff and the
8 Proposed FCRA Class in violation of 15 U.S.C. § 1681b(b)(2)(A).

9 64. This violation of the FCRA is willful. 15 U.S.C. § 1681n. Defendant
10 knew that its standard FCRA form must stand alone and must be clear and
11 conspicuous. In addition, Defendant knew that proper authorization is not
12 possible without a legally compliant disclosure.

13 65. Plaintiff and all other members of the Proposed FCRA Class are
14 entitled to statutory damages of not less than \$100 and not more than \$1,000 for
15 every willful violation of the FCRA, pursuant to 15 U.S.C. section
16 1681n(a)(1)(A).

17 66. Plaintiff and all other members of the Proposed FCRA Class are also
18 entitled to punitive damages for these willful violations, pursuant to 15 U.S.C.
19 section 1681n(a)(2).

20 67. Plaintiff and all other members of the Proposed FCRA Class are
21 further entitled to recover their costs and attorneys’ fees, pursuant to 15 U.S.C.
22 section 1681n(a)(3).

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff prays for judgment against each Defendant,
25 jointly and severally, as follows:

26 1. On behalf of the Proposed FCRA Class:

27 A) That the Court certify the First and Second Causes of Action asserted
28 by the Proposed FCRA Class as a Class Action pursuant to Fed. R.

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Civ. P. Rules 23(b)(2) and/or 23(b)(3);

B) A determination and judgment that Defendant willfully violated Sections 1681b(b)(2)(A)(i) and(ii) of the FCRA;

C) Pursuant to 15 U.S.C. section 1681n(a)(1)(A), an award of statutory damages to Plaintiff and all other members of the Proposed FCRA Class in an amount equal to \$1,000 for Plaintiff and all other members of the proposed FCRA Class for each willful violation of the FCRA;

D) Pursuant to 15 U.S.C. section 1681n(a)(2), an award of punitive damages to Plaintiff and all other members of the Proposed FCRA Class; and

E) An award for costs of suit and reasonable attorneys' fees pursuant to 15 U.S.C. section 1681n(a)(3).

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial of his claims by jury to the extent authorized by law.

Dated: April 24, 2019

**COHELAN KHOURY & SINGER
THE LAW OFFICE OF IAN PANCER**

By: s/J. Jason Hill
Michael D. Singer
J. Jason Hill
Attorneys for Plaintiff STEVEN FORD on
behalf of himself and all others similarly
situated

EXHIBIT 1



**THE HOME DEPOT
BACKGROUND CHECK
DISCLOSURE AND AUTHORIZATION**

Disclosure

A consumer report is a type of background check in which information (which may include but is not limited to criminal background, driving background, character, general reputation, personal characteristics, and mode of living), is gathered and communicated by a consumer reporting agency ("CRA") to your prospective employer or your current employer.

An investigative consumer report is a special type of consumer report in which information (as described above) about you may be obtained by personal (including telephonic) interviews with neighbors, friends, associates, acquaintances, or others. You have a right to request disclosure of the nature and scope of an investigative consumer report, including the name, address, and phone number of the consumer reporting agency as well as a summary of your rights under the federal Fair Credit Reporting Act. This request must be made in writing within a reasonable period of time after your receipt of this Fair Credit Reporting Act Disclosure and Authorization. The disclosure of the nature and scope should be mailed or delivered to you no later than five days after the date the request for disclosure is received from you or such report was first requested, whichever is later. You also have a right to request a written summary of your rights. Any requests under this paragraph should be made to Home Depot c/o First Advantage Background Services Corp, P.O. Box 105292, Atlanta, GA 30348, 1-800-845-6004.

Home Depot may obtain either a consumer report or an investigative consumer report to be used for employment purposes.

Before information from a consumer report or investigative consumer report is used to make an adverse employment decision, Home Depot will provide you with a copy of the report and a summary of your rights under the federal Fair Credit Reporting Act and applicable state laws.

Except as otherwise prohibited by state law, your authorization remains in effect during employment, should you become employed by Home Depot.

Finally, notwithstanding anything else in this document, Home Depot reserves the ability to avail itself of any rights under any applicable federal, state, or local law, including the Fair Credit Reporting Act, as amended.

State Law Notices

For California applicants/employees only: Under California law, an "investigative consumer report" is a consumer report in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through any means. In connection with your application for employment with Home Depot, Home Depot intends to procure, as defined under California law, an investigative consumer report. The name, address and telephone number of the consumer reporting agency that Home Depot will use to procure these consumer reports is: First Advantage Background Services Corp, P.O. Box 105292, Atlanta, GA 30348, 1-800-845-6004.



Privacy protection information may be found at www.lexisnexis.com/privacy/state-agencies.aspx. You are entitled to inspect files and information about you that are kept by the consumer reporting agency identified above during normal business hours and on reasonable notice. You may appear in person with proper identification (such as a valid driver's license or military identification card) and review the file. You may also make a written request with proper identification for copies of the file to be sent to a specified addressee. Finally, you may make a request to receive a written summary of the information by phone, again with proper identification for telephone disclosure. A copy of the file may be made available to you for a fee not to exceed the cost of duplication. In addition, the consumer reporting agency shall provide a written explanation of any coded information contained in files maintained on a consumer and shall provide trained personnel to explain to you any information furnished. Finally, you may be permitted to be accompanied by one other person of your choosing to inspect the file, though the consumer reporting agency may require you to furnish a written statement granting permission to it to address your file in such person's presence.

For New York applicants/employees only: Upon request, you will be informed whether or not a consumer report was requested, and if such report was requested, informed of the name and address of the consumer reporting agency that furnished the report. Upon written request, you will be informed whether or not an investigative consumer report was requested, and if such report was requested, the name and address of the consumer reporting agency to whom the request was made. Upon furnishing you with the name and address of the consumer reporting agency, you will also be informed that you may inspect and receive a copy of such report by contacting that agency. Further, if an investigative consumer report is requested, you will be provided with a copy of Article 23A of the Correction Law governing the licensure and employment of persons previously convicted of one or more criminal offenses.

For Massachusetts and New Jersey applicants/employees only: The precise nature and scope of any investigative consumer report will be the same as described above. You have a right to obtain a copy of any investigative consumer report upon request.

For Washington State applicants/employees only: You have the right, upon written request made within a reasonable period of time after your receipt of this disclosure, to receive from the Company a complete and accurate disclosure of the nature and scope of any "investigative" consumer report we may have requested. You also have the right to request from the consumer reporting agency a written summary of your rights and remedies under the Washington Fair Credit Reporting Act. Any requests under this paragraph should be made to Home Depot c/o First Advantage Background Services Corp, P.O. Box 105292, Atlanta, GA 30348, 1-800-845-6004.



Authorization

I hereby authorize Home Depot, upon execution of this consent form, to investigate the information contained in my employment application and any other background information (which may include but is not limited to my criminal background, driving background, character, general reputation, personal characteristics, and mode of living), for the purpose of obtaining information relevant to my qualifications for employment, and unless prohibited by applicable law, my continued employment, retention, promotion, demotion, or any other employment purpose. I understand and agree that Home Depot or an outside consumer reporting agency may secure a consumer report or an investigative consumer report, as defined in the federal Fair Credit Reporting Act and any applicable state or local laws, and to the extent permitted by any applicable state or local laws, from an outside consumer reporting agency. I have reviewed and understand the State Law Notices in the Disclosure section.

For Minnesota, Oklahoma, or California applicants/employees only: If you would like to receive from the consumer reporting agency a copy of the report that Home Depot will procure in connection with your application for employment, please check this box.

I agree that the giving of any false, misleading, or incomplete information on my employment application, this form, or otherwise will be grounds for denial or termination of employment.



Applicant/Employee Signature

6/12/17
Today's Date

Steven Ford
Name (Print)

8096414
Candidate Reference Number

Parent/Legal Guardian Signature
(If Applicant is under 18 years of age)


Today's Date

Parent/Legal Guardian Name (Print)

FOR OFFICE USE ONLY

STORE/LOCATION # <u>1050</u>	State
The Home Depot CONTACT NAME	Date of Request

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

STEPHEN FORD

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) J. Jason Hill, Esq. (SBN179630) COHELAN KHOURY & SINGER 605 C Street, Suite 200, San Diego, California 92101; (619)595-3001

DEFENDANTS

HOME DEPOT U.S.A., INC.

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

'19CV0754 AJB LL

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 15 U.S.C. §1681, et seq. Brief description of cause: Violations of the Fair Credit Reporting Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 04/23/2019 SIGNATURE OF ATTORNEY OF RECORD s/ J. Jason Hill

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Home Depot Performed Unauthorized Background Check, Employee Alleges in Class Action](#)
