

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE HD SUPPLY HOLDINGS, INC. DERIVATIVE LITIGATION	}	Lead Case No.: 1:17-cv-02977-MLB (Derivative Action)
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STIPULATION AND AGREEMENT OF SETTLEMENT

This Stipulation and Agreement of Settlement, dated December 4, 2020 (the “Stipulation”), is made and entered into by and among the following parties, and by and through their respective counsel: (i) Mark Hittinger (“Hittinger”), plaintiff in the consolidated federal derivative action styled *In re HD Supply Holdings, Inc. Derivative Litigation*, Case No. 1:17-cv-02977 (N.D. Ga.); (ii) Eric Hendren (“Hendren”), plaintiff in the derivative action styled *Hendren v. DeAngelo, et al.*, C.A. No. 2018-0643-AGB (Del. Ch.); (iii) Michael C. Hilton, M.D. (“Dr. Hilton”), who sent a stockholder demand pursuant to Del. Ct. Ch. R. 23.1 (collectively, “Plaintiffs”), acting on their own behalves, and derivatively on behalf of HD Supply Holdings, Inc. (“HD Supply” or the “Company”) and its stockholders; (iv) Joseph J. DeAngelo, Evan J. Levitt, Kathleen J. Affeldt, Betsy S. Atkins, Peter A. Dorsman, Patrick R. McNamee, Charles W. Peffer, James A. Rubright, Lauren Taylor Wolfe, John W. Alden, and Peter A. Leav (collectively, the “Individual Defendants”); and

(v) Nominal Defendant HD Supply (together with the Individual Defendants, “Defendants,” and together with Plaintiffs and the Individual Defendants, the “Settling Parties”). The Stipulation is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims¹ upon Court approval and subject to the terms and conditions hereof.

I. BRIEF OVERVIEW OF THE ACTIONS

A. The Federal Derivative Action

On August 8, 2017, Sean Zhou (“Zhou”) and James Calderaro (“Calderaro”) commenced two separate stockholder derivative actions (the “*Zhou* Derivative Action” and the “*Calderaro* Derivative Action,” respectively)² on behalf of HD Supply that alleged claims for, *inter alia*, violations of Section 14(a) of the Securities Exchange Act of 1934, breach of fiduciary duties, waste of corporate assets, unjust enrichment, and breach of fiduciary duties for insider selling and misappropriation of corporate information, and requesting other relief in the discretion of the Court in the United States District Court for the Northern District of Georgia (the “Northern District of Georgia”).

¹ All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in ¶ IV.1. herein.

² Specifically, the *Zhou* Derivative Action was captioned *Zhou v. DeAngelo, et al.*, Case No. 1:17-cv-02977-ELR (N.D. Ga.), and the *Calderaro* Derivative Action was captioned *Calderaro v. DeAngelo, et al.*, Case No. 1:17-cv-02983-ELR (N.D. Ga.).

By court order dated October 17, 2017, Johnson Fistel, LLP f/k/a Johnson & Weaver LLP and Robbins LLP f/k/a Robbins Arroyo LLP were appointed lead counsel (“Federal Derivative Action Lead Counsel”), and the *Zhou* Derivative Action and the *Calderaro* Derivative Action were consolidated under the caption *In re HD Supply Holdings, Inc. Derivative Litigation*, Case No. 1:17-cv-02977-ELR (N.D. Ga.) (the “Federal Derivative Action”).³

In an effort to preserve judicial resources and the resources of the parties, on December 1, 2017, the parties in the Federal Derivative Action submitted a motion seeking deferral of proceedings in the Federal Derivative Action pending the resolution of an anticipated motion to dismiss to be filed by defendants in the related Securities Class Action. The Court granted the parties’ joint motion for deferral of proceedings on December 5, 2017.

On September 19, 2018, the Court entered an Order in the Securities Class Action granting in part and denying in part defendants’ motion to dismiss. Accordingly, after the parties in the Federal Derivative Action met and conferred, the parties submitted a Joint Motion to Continue Deferral of Litigation on October

³ Following consolidation, the Federal Derivative Action was transferred from Judge Eleanor L. Ross to Judge Michael L. Brown, and the case styling updated from “ELR” to “MLB” accordingly.

19, 2018, which requested that the Federal Derivative Action continue to be deferred until the earlier of: (i) an order from the Court on any summary judgment motion(s) that may be filed in the Securities Class Action; (ii) notification that there has been a settlement reached in the Securities Class Action; or (iii) until otherwise agreed to by the parties in the Federal Derivative Action, and provided, *inter alia*, that Defendants would produce to Plaintiffs in the Federal Derivative Action copies of written discovery responses and documents produced by the defendants in the Securities Class Action. The Court granted the parties' joint motion on October 22, 2018.

Following the Court's October 22, 2018 order continuing the deferral of the Federal Derivative Action, Zhou and Calderaro, respectively, sold their HD Supply stock, and thus lost standing to sue derivatively on behalf of the Company. On December 19, 2019, Plaintiff Hittinger submitted an unopposed motion to intervene as a representative stockholder plaintiff, either as a matter of right pursuant to Federal Rule of Civil Procedure 24(a)(2), or in the alternative, permissively, under Rule 24(b)(1)(B), to take the place of plaintiffs Zhou and Calderaro. The Court granted the foregoing motion on January 9, 2020 and further ordered that the Federal Derivative Action remained deferred and administratively closed per the Court's October 22, 2018 Order.

During the pendency of the deferral, Federal Derivative Action Lead Counsel reviewed and evaluated certain relevant documents from the more than four million pages of documents produced by HD Supply in the Securities Class Action, pursuant to the Court's October 22, 2018 order continuing the deferral of the Federal Derivative Action.

B. The Delaware Action

On March 9, 2018, Plaintiff Hendren issued a demand through his counsel, Shuman, Glenn & Stecker ("SGS" or "Delaware Derivative Counsel"), to inspect certain HD Supply books and records pursuant to 8 Del. C. §220 (the "*Hendren* §220 Demand"). The *Hendren* §220 Demand sought documents relating to, *inter alia*, (i) the Company's FM Supply Division; (ii) defendant Joseph DeAngelo's stock sales during 2017; and (iii) documents relating to the Company's supply chain.

On March 21, 2018, the Company responded to the *Hendren* §220 Demand by offering to discuss providing an "appropriately circumscribed set of documents responsive" to the *Hendren* §220 Demand. Following meet and conferral discussions, Plaintiff Hendren and the Company agreed to a production of specified categories of documents. The Company produced the agreed-upon documents on May 28, 2018.

Counsel for Plaintiff Hendren, reviewed the §220 documents and subsequently, on August 29, 2018, Plaintiff Hendren filed a shareholder derivative complaint in the Delaware Chancery Court nominally for the benefit of HD Supply against the Individual Defendants for breach of fiduciary duty, unjust enrichment and insider trading. *See Hendren v. DeAngelo, et al.*, C.A. No. 2018-0643-AGB (Del. Ch.) (the “Delaware Derivative Action”).

On November 2, 2018, the Individual Defendants and HD Supply filed a motion to dismiss the Delaware Derivative Action. Following this filing and after discussions between counsel for the Defendants and Plaintiff Hendren, the parties agreed to stay the Delaware Derivative Action on substantially similar terms as had already been agreed to in the Federal Derivative Action and filed a joint motion to stay the Delaware Derivative Action on January 11, 2019. The Delaware Chancery Court granted the motion to stay on January 14, 2019.

Pursuant to the terms of the stay, Plaintiff Hendren, through counsel, also reviewed and evaluated certain relevant documents from the more than four million pages of documents produced by HD Supply in the Securities Class Action while the Delaware Derivative Action was stayed.

C. The Demands

On September 26, 2017, Dr. Hilton issued a demand through his counsel, Faruqi & Faruqi, LLP (“Faruqi & Faruqi”), to inspect certain HD Supply books and records pursuant to 8 Del. C. §220 (the “*Hilton* §220 Demand”). The *Hilton* §220 Demand sought documents relating to, *inter alia*, (i) the Company’s FM Supply Division; (ii) defendant Joseph DeAngelo’s stock sales during 2017; and (iii) documents relating to the Company’s supply chain.

On October 4, 2017, the Company responded to the *Hilton* §220 Demand by offering to discuss providing documents responsive to the *Hilton* §220 Demand. Following meet and conferral discussions, Dr. Hilton and the Company agreed to a production of specified categories of documents. The Company produced the agreed-upon documents on February 22, 2018. Counsel for Dr. Hilton reviewed more than one thousand pages of documents produced in response to the *Hilton* §220 Demand.

Subsequently, on December 4, 2018, Dr. Hilton sent a litigation demand directed to HD Supply’s Board demanding that the Board take action to remediate alleged breaches of fiduciary duties by certain of the Company’s officers and directors (the “*Hilton* Demand”). The Company responded on December 18, 2018 acknowledging receipt of the *Hilton* Demand and requesting documentation

establishing Dr. Hilton's continuous ownership of HD Supply stock. After providing the requested information, discussions between Faruqi & Faruqi and counsel for the Defendants ensued.

Thereafter, Dr. Hilton and the Company entered into an agreement to defer proceedings concerning the *Hilton* Demand pending a settlement in the Securities Class Action or a ruling on any summary judgment motion in the Securities Class Action, whichever occurred earlier. The agreement also required the Company to provide Hilton with copies of written discovery responses and documents produced by the defendants in the Securities Class Action and the right to participate in any mediation or formal settlement meeting related to the Securities Class Action.

In addition to the *Hilton* Demand, on or about October 16, 2018, the Company received a litigation demand directed to HD Supply's Board from counsel representing Kevin Ortenzio demanding that the Board take action to remediate alleged breaches of fiduciary duties by certain of the Company's officers and directors (the "*Ortenzio* Demand"). The Settlement also resolves the issues raised in the *Ortenzio* Demand.

D. Settlement Negotiations

On August 12, 2019, Defendants' Counsel invited Plaintiffs' Counsel to attend a mediation alongside the parties in the Securities Class Action which was

scheduled for September 10, 2019 in New York, New York, with Jed Melnick, Esq., a nationally recognized mediator with extensive experience mediating complex stockholder disputes similar to the Derivative Matters.

Thereafter, on August 30, 2019, Federal Derivative Action Lead Counsel issued a confidential settlement demand to Defendants' Counsel, which outlined a proposed framework for settlement of the Federal Derivative Action and included, *inter alia*, comprehensive corporate governance reforms tailored to directly address the alleged wrongdoing in the Federal Derivative Action.

On September 4, 2019, SGS, on behalf of Plaintiff Hendren, issued a confidential settlement demand to Defendants' Counsel, which outlined a proposed framework for settlement of the Delaware Derivative Action. Plaintiff Hendren's settlement demand included a comprehensive set of corporate governance reforms which addressed the alleged wrongdoing in the Delaware Derivative Action and the governance issues identified by Plaintiff Hendren in his review of the §220 documents produced by the Company in May 2018.

On September 10, 2019, Federal Derivative Action Lead Counsel, Delaware Derivative Counsel, and counsel for Dr. Hilton attended an all-day mediation in New York City before Mr. Melnick. In connection with the mediation, Federal Derivative Action Lead Counsel also submitted a confidential mediation statement and relevant

exhibits to Mr. Melnick. Delaware Derivative Counsel and counsel for Defendants submitted a joint confidential mediation statement to Mr. Melnick on September 4, 2019, prior to the September 10, 2019 mediation. Counsel for Dr. Hilton and counsel for Defendants submitted a joint confidential mediation statement to Mr. Melnick on August 30, 2019, prior to the September 10, 2019 mediation.

Although neither the Securities Class Action nor the Derivative Matters were resolved at the September 10, 2019 mediation, a second mediation was scheduled for October 22, 2019 with Mr. Melnick in New York City. On October 22, 2019, Federal Derivative Action Lead Counsel, Delaware Derivative Counsel, and counsel for Dr. Hilton attended the second mediation. Although no settlement was reached at the October 22, 2019 mediation, some progress was made. On October 30, 2019, SGS and Faruqi & Faruqi sent a joint confidential settlement demand to Defendants' counsel, which outlined a proposed framework for settlement including a comprehensive set of corporate governance reforms.

In the months following the second mediation on October 22, 2019, Federal Derivative Action Lead Counsel, Delaware Derivative Counsel, counsel for Dr. Hilton and Defendants' Counsel continued to engage in confidential settlement negotiations regarding the substantive terms of the Settlement, including the

corporate governance reforms (“Corporate Governance Reforms”), via numerous written and telephonic communications.

On or about August 6, 2020, Plaintiffs in the Derivative Actions, Dr. Hilton, and Defendants reached an agreement in principle regarding the material substantive terms of the Settlement, including the Corporate Governance Reforms, other than the attorneys’ fees and expenses to be paid to Plaintiffs’ Counsel.

Thereafter, Plaintiffs in the Derivative Actions, Dr. Hilton, and Defendants commenced negotiations through Mr. Melnick regarding the attorneys’ fees and expenses to be paid to Plaintiffs’ Counsel. On September 7, 2020, after several weeks of negotiations, Mr. Melnick issued a double-blind mediator’s proposal for a fee in the amount of one million nine hundred thousand dollars (\$1,900,000) to be paid to Plaintiffs’ Counsel as attorneys’ fees and expenses by the Individual Defendants’ insurer(s) (“Fee and Expense Amount” as defined in ¶ 4.1), based on the substantial benefit conferred on HD Supply by the Settlement, subject to approval of the Court. Plaintiffs in the Derivative Actions, Dr. Hilton, and Defendants agreed to the mediator’s recommendation regarding the Fee and Expense Amount on September 8, 2020.

The Stipulation, together with the exhibits thereto, reflects the final and binding agreement between the Settling Parties.

II. CLAIMS OF PLAINTIFFS AND BENEFITS OF SETTLEMENT

Plaintiffs and Plaintiffs' Counsel believe that the claims asserted in the Derivative Matters have merit. However, Plaintiffs and Plaintiffs' Counsel recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Derivative Matters against the Individual Defendants throughout a trial and any appeal(s). Plaintiffs and Plaintiffs' Counsel also have taken into account the uncertain outcome and the risk of any litigation, especially in complex actions such as the Derivative Matters, as well as the difficulties and delays inherent in such litigation. Plaintiffs and Plaintiffs' Counsel are also mindful of the inherent problems of proof of, and possible defenses to, the claims asserted in the Derivative Matters.

Plaintiffs' Counsel have conducted an extensive investigation, including, *inter alia*: (i) reviewing and evaluating confidential discovery culled from more than four million pages of documents produced in the Securities Class Action; (ii) reviewing HD Supply's press releases, public statements, filings with the U.S. Securities and Exchange Commission ("SEC"), and securities analysts' reports and advisories about the Company; (iii) reviewing media reports about the Company; (iv) researching the applicable law with respect to the claims alleged in the Derivative Matters and the potential defenses thereto; (v) preparing and filing

stockholder derivative complaints in the Derivative Actions; (vi) preparing the litigation demands; (vii) reviewing and analyzing relevant pleadings in the Securities Class Action, and evaluating the merits of, and Defendants' liability in connection with, the Securities Class Action and the Derivative Matters, which included detailed damages analyses concerning the Company's and Defendants' potential exposure in connection therewith; (viii) reviewing public and non-public versions of the Company's existing corporate governance policies and preparing extensive settlement demands detailing proposed corporate governance reforms to strengthen the Company's governance; (ix) participating in extensive settlement discussions, including two separate mediation sessions in New York, as well as continued follow-up communications with Defendants' Counsel and Mr. Melnick; and (x) negotiating this Stipulation and all of the exhibits hereto.

Based on Plaintiffs' Counsel's thorough investigation and analysis of the relevant facts, allegations, defenses, and controlling legal principles, Plaintiffs and Plaintiffs' Counsel believe that the Settlement set forth in this Stipulation is fair, reasonable, and adequate, confers substantial benefits upon HD Supply, and is in the best interests of HD Supply and its stockholders.

III. THE INDIVIDUAL DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY

The Individual Defendants have denied and continue to deny each and every one of the claims, contentions, and allegations of wrongdoing made against them or that could have been made against them in the Derivative Matters, and expressly deny all charges of wrongdoing or liability against them. Nonetheless, Defendants have taken into account the uncertainty and risks inherent in any litigation, especially in complex actions such as the Derivative Matters, as well as the continuing expense, inconvenience, and distraction of ongoing litigation. Defendants have, therefore, determined that it is desirable for the Derivative Matters to be fully and finally settled in the matter and upon the terms and conditions set forth in this Stipulation.

IV. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Plaintiffs (acting on their own behalves, and derivatively on behalf of HD Supply and its stockholders), by and through their respective attorneys of record, the Individual Defendants, and HD Supply, by and through their respective attorneys of record, that in exchange for the consideration set forth below, the Derivative Matters and Released Claims shall be fully, finally, and forever compromised, settled, discharged, relinquished, and released, and the Derivative

Matters shall be dismissed with prejudice as to the Defendants, upon and subject to the terms and conditions of this Stipulation, as follows:

1. Definitions

As used in this Stipulation, the following terms have the meanings specified below:

1.1 “Board” means the Board of Directors of HD Supply.

1.2 “Corporate Governance Reforms” or “Reforms” means the measures set forth in **Exhibit A** attached hereto.

1.3 “Court” means the United States District Court for the Northern District of Georgia.

1.4 “Current HD Supply Stockholder” means any Person who owned HD Supply common stock as of the date of the execution of this Stipulation and who continues to hold such HD Supply common stock as of the date of the Settlement Hearing.

1.5 “Defendants” means, collectively, the Individual Defendants and HD Supply.

1.6 “Defendants’ Counsel” means King & Spalding LLP, and any other law firm that appeared for the Defendants in the Derivative Actions.

1.7 “Defendants’ Released Claims” means all claims, including both known claims and Unknown Claims (as defined herein), arising out of, relating to, or in connection with the institution, prosecution, assertion, settlement, or resolution of the Derivative Matters. Nothing herein shall in any way impair or restrict the rights of any Settling Party to enforce the terms of settlement.

1.8 “Derivative Actions” means: (i) the consolidated action *In re HD Supply Holdings, Inc. Derivative Litigation*, Case No. 1:17-cv-02977-MLB (N.D. Ga.), pending in the Northern District of Georgia, including the actions styled *Zhou v. DeAngelo, et al.*, Case No. 1:17-cv-02977-ELR (N.D. Ga.) and *Calderaro v. DeAngelo, et al.*, Case No. 1:17-cv-02983-ELR (N.D. Ga.); and (ii) *Hendren v. DeAngelo, et al.*, C.A. No. 2018-0643-AGB (Del. Ch.), pending in Delaware Chancery Court.

1.9 “Demands” means (i) the October 16, 2018 stockholder demand pursuant to Del. Ct. Ch. R. 23.1 on behalf of Kevin Ortenzio, and the December 4, 2018 stockholder demand pursuant to Del. Ct. Ch. R. 23.1 on behalf of Michael C. Hilton, M.D.

1.10 “Derivative Matters” means, collectively, the Derivative Actions and the Demands.

1.11 “Effective Date” means the first date by which all of the events and conditions specified in ¶ 6.1 of this Stipulation have been met and have occurred.

1.12 “Fee and Expense Amount” shall have the meaning defined in ¶ 4.1 hereof.

1.13 “Final” means the date upon which the last of the following shall occur with respect to the Judgment approving this Stipulation, substantially in the form of **Exhibit C** attached hereto: (1) the expiration of the time to file a notice of appeal from the Judgment; (2) if an appeal has been filed, the appellate court has either affirmed the Judgment or dismissed that appeal, and the time for any reconsideration or further appellate review has passed; or (3) if a higher court has granted further appellate review, that court has either affirmed the underlying Judgment or affirmed the appellate court’s decision affirming the Judgment or dismissing the appeal. For purposes of this paragraph, an “appeal” shall not include any appeal challenging the award of the Fee and Expense Amount or the payment of any Service Awards (as defined in ¶ 4.3). Any proceeding or order, or any appeal or complaint for a writ of certiorari pertaining solely to the Fee and Expense Amount, shall not in any way delay or preclude the Judgment from becoming Final.

1.14 “HD Supply” or the “Company” means HD Supply Holdings, Inc., a Delaware corporation with its headquarters in Atlanta, Georgia.

1.15 “Judgment” means the Order and Final Judgment to be rendered by the Court, substantially in the form attached hereto as **Exhibit C**.

1.16 “Notice” means the Notice of Proposed Settlement, substantially in the form attached hereto as **Exhibit B-1**.

1.17 “Person” or “Persons” means an individual, corporation, limited liability company, professional corporation, limited liability partnership, partnership, limited partnership, association, joint venture, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity, and, as appropriate, each of their spouses, heirs, predecessors, successors, representatives, or assignees.

1.18 “Plaintiffs” means, collectively, Mark Hittinger, Eric Hendren, and demanding stockholder Michael C. Hilton, M.D.

1.19 “Plaintiffs’ Counsel” means Johnson Fistel, LLP; Robbins LLP, Faruqi & Faruqi LLP; Shuman, Glenn & Stecker, LLP; and any other law firm that appeared for the Plaintiffs in the Derivative Actions.

1.20 “Plaintiffs’ Released Claims” means all claims, debts, disputes, demands, rights, actions or causes of action, liabilities, damages, losses, obligations, sums of money due, judgments, suits, amounts, matters, issues and charges of any

kind (including, but not limited to, any claims for interest, attorneys' fees, expert or consulting fees, and any other costs, expenses, amounts or liabilities whatsoever), and claims for relief of every nature and description whatsoever, including both known claims and Unknown Claims (as defined herein), whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, foreseen or unforeseen, whether arising under federal or state statutory or common law or any other law, rule, or regulation, whether foreign or domestic, that Plaintiffs, HD Supply, or any HD Supply stockholder derivatively on behalf of HD Supply (i) asserted in any of the complaints in the Derivative Actions or in any of the Demands; or (ii) could have asserted in the Derivative Matters or in any other forum that arise out of or are based upon, related to, or are in consequence of any of the allegations, transactions, facts, matters, events, disclosures, non-disclosures, occurrences, representations, statements, acts or omissions, failures to act, or circumstances that were involved, set forth, or referred to in any of the complaints filed in the Derivative Actions, in any of the Demands, or in the investigation by the SEC styled *In the Matter of HD Supply Holdings, Inc.* (A-3836), or that would have been barred by *res judicata* had either of the Derivative Actions been litigated to a final judgment. Nothing herein shall in any way impair or restrict the rights of any Settling Party to enforce the terms of settlement.

1.21 “Released Claims” means all Defendants’ Released Claims and all Plaintiffs’ Released Claims.

1.22 “Released Persons” means all Defendants and their respective families, past, present, or future directors, officers, employees, representatives, agents, affiliates, parents, subsidiaries, insurers, co-insurers, reinsurers, executors, heirs, spouses, marital communities, assigns or transferees, and any person or entity acting for or on behalf of any of them.

1.23 “Securities Class Action” means the securities class action filed in the Northern District of Georgia styled *In re HD Supply Holdings, Inc. Securities Litigation*, No. 1:17-cv-02587-ELR (N.D. Ga.)

1.24 “Settlement” means the agreement, terms, and conditions contained in this Stipulation, dated December 4, 2020, and its exhibits.

1.25 “Settlement Hearing” means any hearing or hearings at which the Court will consider final approval of the Settlement.

1.26 “Settling Parties” and individually, a “Settling Party” means, collectively, each of the Plaintiffs and each of the Defendants.

1.27 “Unknown Claims” means any Plaintiffs’ Released Claims which Plaintiffs, HD Supply, or any Current HD Supply Stockholder does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, and

any Defendants' Released Claims which HD Supply or any Individual Defendant does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, including claims which, if known by him, her, or it, might have affected his, her, or its decision(s) with respect to this Settlement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, the Plaintiffs and Defendants shall expressly waive and each Current HD Supply Stockholder shall be deemed to have, and by operation of the Judgment shall have, expressly waived, the provisions, rights, and benefits of California Civil Code Section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Upon the Effective Date, Plaintiffs and Defendants shall expressly waive, and each Current HD Supply Stockholder shall be deemed to have, and by operation of the Judgment shall have, expressly waived any and all provisions, rights, and benefits conferred by any law of any jurisdiction or any state or territory of the United States or any foreign jurisdiction, or principle of common law, which is similar, comparable or equivalent to California Civil Code Section 1542. Plaintiffs, Defendants, and each Current HD Supply Stockholder may hereafter discover facts

in addition to or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Released Claims, but, upon the Effective Date, each Plaintiff and Defendant shall expressly settle and release, and each Current HD Supply Stockholder shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released, any and all Released Claims, known or Unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. The Settling Parties acknowledge, and each Current HD Supply Stockholder shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and is a key element of the Settlement of which this release is a part.

2. Terms of the Settlement

2.1 Preservation of Company Resources. HD Supply and its Board acknowledge that Plaintiffs and Plaintiffs' Counsel's initiation and prosecution of

the Derivative Matters were factors in the Company's ability to resolve the Securities Class Action within insurance policy limits.

2.2 Corporate Governance Reforms. The HD Supply Board, on behalf of HD Supply, will adopt the Corporate Governance Reforms upon the terms and conditions set forth in **Exhibit A** attached hereto at the first regularly scheduled meeting of the Board following the Effective Date, and will maintain the Corporate Governance Reforms for a period of at least four (4) years following the later of (i) their adoption or (ii) the Effective Date of the Settlement (the "Minimum Term"); provided, however, that HD Supply's Board may alter or discontinue any of the Corporate Governance Reforms prior to the end of the Minimum Term if the Board, in a good faith exercise of its business judgment, determines that such Corporate Governance Reforms: (a) are no longer necessary or advisable; (b) conflict with any law, regulation, or rule applicable to the Company; or (c) conflict with any amendment to the Company's articles of incorporation or bylaws approved by the Company's stockholders. Any changes deemed material to the Company by the Board that are made pursuant to the above shall be reported on an annual basis either in the Company's SEC Form 10-K or SEC Form 14(a) Proxy Statement. By entering into this Stipulation, the Board certifies that it is not currently aware of any law that would trigger application of the foregoing provision.

2.3 Board Resolution. The independent members of the Company's Board have unanimously approved a resolution reflecting their determination, in a good faith exercise of their business judgment, that: (a) Plaintiffs, through their initiation and prosecution of the Derivative Matters, were the cause of the Board's agreement to adopt, implement, and/or maintain for the Minimum Term the Corporate Governance Reforms set forth in Section IV of **Exhibit A** hereto; (b) Plaintiffs, through their initiation and prosecution of the Derivative Matters, were a significant and material factor in the Board's agreement to adopt, implement, and/or maintain for the Minimum Term the Corporate Governance Reforms set forth in Section III of **Exhibit A** hereto; (c) the Corporate Governance Reforms set forth in **Exhibit A** hereto confer substantial benefits on the Company and its stockholders; and (d) the Settlement is in the best interests of the Company and its stockholders.

3. Notice and Approval

3.1 Within thirty (30) days after execution of the Stipulation, the Settling Parties shall seek preliminary approval of the Settlement in the Court and shall apply for entry of an order (the "Preliminary Approval Order"), substantially in the form of **Exhibit B** attached hereto, requesting: (i) preliminary approval of the Settlement set forth in this Stipulation; (ii) approval of the form and manner of providing Notice (as defined below in ¶ 3.2); and (iii) a date for the Settlement Hearing.

3.2 Notice shall consist of the approved Notice of Proposed Settlement of (the “Notice”), which shall summarize the general terms of the Settlement set forth in this Stipulation and shall specify the date of the Settlement Hearing, substantially in the form attached hereto as **Exhibit B-1** (“Long-Form Notice”) and **Exhibit B-2** (“Summary Notice”).

3.3 Within ten (10) business days of the issuance of the Preliminary Approval Order, HD Supply (i) shall cause the Stipulation (along with any exhibits thereto) and Long-Form Notice to be filed with the SEC via a Form 8-K; (ii) shall publish the Summary Notice for one day in *Investor’s Business Daily*; and (iii) shall post a link to the Stipulation (along with any exhibits thereto) and Long-Form Notice on HD Supply’s website such that visitors to the “Investors” section of the website will readily find a hyperlink to the Long-Form Notice and Stipulation (along with any exhibits thereto), which shall be maintained as an active link until such time as the Court grants final approval of the Settlement. The Settling Parties agree that the content and manner of the notice constitutes adequate and reasonable notice to Current HD Supply Stockholders pursuant to applicable law and due process. At least seven (7) calendar days before the Settlement Hearing, Defendants’ Counsel shall file with the Court an appropriate affidavit or declaration with respect to filing and posting the Long-Form Notice and Summary Notice. The Individual Defendants

will pay (or cause their insurance carrier(s) to pay) all costs of providing notice of the Settlement, as directed by the reviewing court.

3.4 The Settling Parties agree to request that the Court hold a Settlement Hearing in the Derivative Actions on a date that is convenient for the Court and the Settling Parties and falls at least forty-five (45) calendar days after Notice is given, during which the Court will consider and determine whether the Judgment, substantially in the form of **Exhibit C** attached hereto, should be entered: (i) approving the terms of the Settlement as fair, reasonable, and adequate; and (ii) dismissing with prejudice the Derivative Actions against the Defendants.

3.6 Following the Execution of the Stipulation, the Settling Parties agree to cease all litigation activity in the Derivative Actions and Demands, except activities related to seeking approval of the Settlement from the Court. The Settling Parties further agree to jointly request a continuance of any pending motions, discovery, and any other deadlines or filing requirements in the Derivative Actions, other than those incident to Settlement itself.

4. Plaintiffs' Counsel's Separately Negotiated Attorneys' Fees and Expenses

4.1 The Individual Defendants will pay (or cause their insurance carrier(s) to agree to pay) one million nine hundred thousand dollars (\$1,900,000) in attorneys' fees and expenses, as negotiated in good faith based on the substantial benefit

conferred on the Company, which amount shall be subject to approval by the reviewing court (the “Fee and Expense Amount”).

4.2 The Fee and Expense Amount will be paid to Plaintiffs’ Counsel within fifteen (15) business days of the entry of an order from the reviewing court preliminarily approving the settlement, to be held in escrow, and shall be immediately releasable upon entry of an order granting final approval to the settlement and approving the fees and expenses, notwithstanding the existence of any collateral attacks on the settlement, including without limitation, any objections or appeals, subject to Plaintiffs’ Counsel’s obligations, which shall be joint and several as to each law firm, (i) to return all released fees and expenses within ten (10) business days following notice that the settlement has failed to become effective; and (ii) to refund any amount by which the award of such fees and expenses is reduced within ten (10) business days following notice of such reduction.

4.3 Plaintiffs may seek the Court’s approval of reasonable service awards for each Plaintiff, to be paid out of the Fee and Expense Amount (“Service Awards”). Defendants take no position in connection with the Service Awards.

4.4 The payment of the Fee and Expense Amount pursuant to ¶¶ 4.1 and 4.2 hereof shall constitute final and complete payment for Plaintiffs’ Counsel’s attorneys’ fees and for the reimbursement of expenses and costs that have been

incurred, or will be incurred, in connection with the Derivative Matters. Plaintiffs' Counsel shall allocate the Fee and Expense Amount among themselves. Plaintiffs' Counsel agree that any disputes regarding the allocation of the Fee and Expense Amount among them shall be presented to and be mediated by Mr. Melnick, and if mediation is unsuccessful, decided on a final, binding, non-appealable basis by Mr. Melnick, on the terms and subject to the processes and procedures set forth by Mr. Melnick in his sole discretion. Mr. Melnick's fees and costs for any such mediation and/or arbitration shall be borne solely by Plaintiffs' Counsel, and split evenly among Plaintiffs' Counsel.

4.5 The Fee and Expense Amount, as well as any Service Awards, are subject to the approval of the Court; however, the effectiveness of the Stipulation shall not be conditioned upon the approval of the Court of either the Fee and Expense Amount or any Service Awards.

5. Releases

5.1 Within five (5) business days following the Effective Date, the parties in the Delaware Action shall file a stipulation of dismissal with prejudice as to all Defendants and the Hilton Demand shall be withdrawn with prejudice.

5.2 Upon the Effective Date, HD Supply, Plaintiffs (acting on their own behalves and derivatively on behalf of HD Supply), and each Current HD Supply

Stockholder (solely in his, her, or its capacity as such) shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged and dismissed with prejudice the Plaintiffs' Released Claims against the Released Persons and any and all claims (including Unknown Claims) arising out of, relating to, or in connection with the defense, settlement, or resolution of the Derivative Actions against the Released Persons, provided that nothing herein shall in any way impair or restrict the rights of any of the Settling Parties to enforce the terms of this Stipulation or the Judgment.

5.3 Upon the Effective Date, HD Supply, Plaintiffs (acting on their own behalves and derivatively on behalf of HD Supply), and each Current HD Supply Stockholder (solely in his, her, or its capacity as such) will be forever barred and enjoined from commencing, instituting, or prosecuting any of the Plaintiffs' Released Claims or any action or other proceeding against any of the Released Persons based on the Plaintiffs' Released Claims or any action or proceeding arising out of, related to, or in connection with the settlement or resolution of the Derivative Matters, provided that nothing herein shall in any way impair or restrict the rights of any of the Settling Parties to enforce the terms of this Stipulation or the Judgment.

5.4 Upon the Effective Date, HD Supply and the Individual Defendants shall be deemed to have, and by operation of the Judgment shall have, fully, finally,

and forever released, relinquished, and discharged each and all of the Plaintiffs and Plaintiffs' Counsel from all claims (including Unknown Claims) arising out of, relating to, or in connection with the institution, prosecution, assertion, settlement or resolution of the Derivative Matters. Nothing herein shall in any way impair or restrict the rights of any of the Settling Parties to enforce the terms of this Stipulation or the Judgment.

5.5 Nothing in this Stipulation constitutes or reflects a waiver or release of any rights or claims of Defendants and/or HD Supply against their insurers, or their insurers' subsidiaries, predecessors, successors, assigns, affiliates, or representatives, including, but not limited to, any rights or claims by the Defendants under any directors' and officers' liability insurance or other applicable insurance coverage maintained by the Company. Nothing in this Stipulation constitutes or reflects a waiver or release of any rights or claims of the Defendants relating in any way to indemnification or advancement of attorneys' fees relating to the Derivative Actions or the Released Claims, whether under any written indemnification or advancement agreement, or under the Company's charter, by-laws or operating agreement, or under applicable law.

6. Conditions of Settlement; Effect of Disapproval, Cancellation, or Termination

6.1 The Effective Date shall be conditioned on the occurrence of all of the following events:

a. Court approval of the method of providing Notice, substantially in the forms of **Exhibit B-1** and **Exhibit B-2** attached hereto;

b. dissemination of the Notice as set forth in ¶ 3.3;

c. entry of the Judgment, substantially in the form of **Exhibit C** attached hereto, approving the Settlement without awarding costs to any party, except as provided herein;

d. the payment of the Fee and Expense Amount in accordance with ¶¶ 4.1 and 4.2; and

e. the passing of the date upon which the Judgment becomes Final.

6.2 If any of the conditions specified above in ¶ 6.1 are not met, then this Stipulation shall be canceled and terminated subject to ¶ 6.3, unless counsel for the Settling Parties mutually agree in writing to proceed with this Stipulation.

6.3 If for any reason the Effective Date does not occur, the Judgment does not become Final, or if this Stipulation is canceled or terminated in accordance with its terms: (i) all Settling Parties shall be restored to their respective positions in the Derivative Matters that existed immediately prior to the date of execution of this

Stipulation; (ii) all releases delivered in connection with this Stipulation shall be null and void, except as otherwise provided for in this Stipulation; (iii) the Fee and Expense Amount paid to Plaintiffs' Counsel shall be repaid to HD Supply or its designee(s) within ten (10) business days following notice that the Settlement has failed to become effective to the insurers that made such payment; (iv) the terms and provisions of this Stipulation (other than those set forth in ¶¶ 1.1-1.27, 6.2-6.3, and 7.3-7.4 hereof) shall have no further force or effect with respect to the Settling Parties and shall not be used in the Derivative Matters or in any other proceeding for any purpose; and (v) all negotiations, proceedings, documents prepared, and statements made in connection herewith shall be without prejudice to the Settling Parties, shall not be deemed or construed to be an admission by one of the Settling Parties of any act, matter, or proposition, and shall not be used in any manner for any purpose (other than to enforce the terms remaining in effect) in the Derivative Matters, or in any other action or proceeding.

6.4 No order of the Court, modification, or reversal on appeal of any order of the Court concerning the Fee and Expense Amount, any Service Awards and interest awarded by the Court to Plaintiffs' Counsel shall constitute grounds for cancellation or termination of the Stipulation, affect the enforceability of the Stipulation, or delay or preclude the Judgment from becoming Final.

7. Miscellaneous Provisions

7.1 The Settling Parties: (i) acknowledge that it is their intent to consummate the terms and conditions of this Stipulation; and (ii) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of the Stipulation and to exercise their best efforts to accomplish the foregoing terms and conditions of the Stipulation expeditiously.

7.2 The Settling Parties intend this Settlement to be a final and complete resolution of all disputes between Plaintiffs and HD Supply and its stockholders, on the one hand, and the Released Persons, on the other hand, arising out of, based upon, or related to the Released Claims. The Settlement compromises claims that are contested and shall not be deemed an admission by any Settling Party or Released Person as to the merits of any claim, allegation, or defense. The Judgment shall contain a finding that (a) the Individual Defendants and HD Supply agree that the Derivative Actions were filed in good faith and were not frivolous, and are being settled voluntarily by the Defendants; and (b) the Settling Parties agree that throughout the course of the litigation, all parties and their counsel complied with the provisions of Federal Rule of Civil Procedure 11, Delaware Court of Chancery Rule 11, and all similar state law provisions. No Settling Party or Released Person shall assert any claims for violation of Rule 11 of the Federal Rules of Civil

Procedure, Rule 11 of the Delaware Court of Chancery, or any other similar laws relating to the institution, prosecution, defense, and/ or settlement of the Derivative Actions. The Settling Parties agree that the Released Claims are being settled voluntarily after consultation with legal counsel who could assess the strengths and weaknesses of their respective clients' claims or defenses.

7.3 Neither the Settlement, this Stipulation (including any exhibits attached hereto), nor any act performed or document executed pursuant to, or in furtherance of, the Stipulation or the Settlement: (i) is, may be deemed to be, or may be offered, attempted to be offered, or used in any way as a concession, admission, or evidence of the validity of any Released Claims, or of any fault, wrongdoing, or liability of the Released Persons or HD Supply; or (ii) is, may be deemed to be, or may be used as a presumption, admission, or evidence of, any liability, fault, or omission of any of the Released Persons in any civil, criminal, administrative, or other proceeding in any court, administrative agency, tribunal, or other forum. Neither this Stipulation nor the Settlement shall be admissible in any proceeding for any purpose, except to enforce the terms of the Settlement, and except that the Released Persons may file or use the Stipulation and/or the Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, full faith and credit, release, good faith settlement,

standing, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion, or similar defense or counterclaim.

7.4 All designations and agreements made and orders entered during the course of the Derivative Matters relating to the confidentiality of documents or information shall survive this Settlement.

7.5 All exhibits to this Stipulation are material and integral parts hereof and are fully incorporated herein by this reference.

7.6 In the event that there exists a conflict or inconsistency between the terms of this Stipulation and the terms of any exhibit hereto, the terms of this Stipulation shall prevail.

7.7 This Stipulation may be amended or modified only by a written instrument signed by, or on behalf of, all Settling Parties or their respective successors-in-interest.

7.8 This Stipulation shall be deemed drafted equally by all parties hereto.

7.9 This Stipulation and the exhibits attached hereto constitute the entire agreement among the Settling Parties and no representations, warranties, or inducements have been made to any Settling Party concerning the Stipulation and/or any of its exhibits, other than the representations, warranties, and covenants contained and memorialized in such documents.

7.10 The Stipulation supersedes and replaces any prior or contemporaneous writing, statement, or understanding pertaining to the Derivative Matters, and no parole or other evidence may be offered to explain, construe, contradict, or clarify its terms, the intent of the Settling Parties or their counsel, or the circumstances under which the Stipulation was made or executed.

7.11 It is understood by the Settling Parties that, except for matters expressly represented herein, the facts or law with respect to which this Stipulation is entered into may turn out to be other than, or different from, the facts or laws now known to each party or believed by such party to be true; each party therefore expressly assumes the risk of facts or law turning out to be different, and agrees that this Stipulation shall be in all respects effective, and not subject to termination by reason of any such different facts or law.

7.12 Except as otherwise expressly provided herein, all parties, including all Individual Defendants, HD Supply, Defendants' Counsel, Plaintiffs, and Plaintiffs' Counsel, shall bear their own fees, costs, and expenses.

7.13 Counsel for the Settling Parties are expressly authorized by their respective clients to take all appropriate actions required or permitted to be taken pursuant to the Stipulation to effectuate its terms and conditions.

7.14 Plaintiffs represent and warrant they have not assigned or transferred, or attempted to assign or transfer, to any Person any Released Claim or any portion thereof or interest therein.

7.15 Each counsel or other Person executing this Stipulation or any of its exhibits on behalf of any party hereto, hereby warrants that such Person has the full authority to do so.

7.16 This Stipulation shall be binding upon, and inure to the benefit of, the Settling Parties and the Released Persons, and their respective successors, assigns, heirs, spouses, marital communities, executors, administrators, trustees in bankruptcy, and legal representatives, and any corporation or other entity into or with which any Settling Party merges, consolidates, or reorganizes.

7.17 Any failure by any party to this Stipulation to insist upon the strict performance by any other party of any of the provisions of the Stipulation shall not be deemed a waiver of any of the provisions, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of the Stipulation to be performed by such other party.

7.18 The Stipulation and the exhibits attached hereto may be executed in one or more counterparts. A facsimiled or PDF signature shall be deemed an original signature for purposes of this Stipulation. All executed counterparts, including

facsimile and/or PDF counterparts, shall be deemed to be one and the same instrument. A complete set of counterparts, either originally executed or copies thereof, shall be filed with the Court.

7.19 The Settling Parties shall use reasonable best efforts and will cooperate in good faith to obtain court approval. If any disputes arise out of the finalization of the settlement documentation, said disputes are to be mediated on an expedited basis by Mr. Melnick, and if mediation is unsuccessful, decided on a final, binding, non-appealable basis, by Mr. Melnick on the terms and subject to the processes and procedures set forth by Mr. Melnick in his sole discretion. The mediator's fees and costs for any such mediation and/or arbitration shall be split evenly between Plaintiffs' Counsel and Defendants.

7.20 Without affecting the finality of the Judgment entered in accordance with this Stipulation, the Court shall retain jurisdiction with respect to interpretation, implementation, and enforcement of the terms of the Stipulation and the Judgment, and the Settling Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation, and the Judgment, and for matters arising out of, concerning, or relating thereto.

7.21 This Stipulation and the exhibits attached hereto shall be governed by, construed, performed, and enforced in accordance with the laws of the State of

Georgia, without regard to any state's principles, policies, or provisions governing choice of law. The Settling Parties agree that the Settlement, and all matters relating to its enforcement, will be subject to the continuing jurisdiction of the Court.

7.22 The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

7.23 Nothing in this Stipulation, or the negotiations relating thereto, is intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, the attorney-client privilege, the joint defense privilege, or work product protection.

7.24 Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of this Stipulation.

7.25 There will be no public announcements regarding the Settlement until HD Supply has announced and/or disclosed it or three (3) business days have elapsed since the filing of this Stipulation with the Court, whichever occurs earlier.

IN WITNESS WHEREOF, the Settling Parties have caused the Stipulation to be executed by themselves and/or by their duly authorized attorneys, dated December 4, 2020.

Dated: December 4, 2020

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EXHIBIT A

I. CONFIRMATION OF NO MONETARY CONTRIBUTION TO SETTLE THE SECURITIES CLASS ACTION

HD Supply and its Board acknowledge that Plaintiffs and their counsel's initiation and prosecution of the Derivative Matters were factors in the Company's ability to resolve the Securities Class Action within insurance policy limits.

II. MINIMUM TERM FOR MAINTAINING GOVERNANCE REFORMS

At the first regularly scheduled meeting of the Board following the effective date (as that term is customarily defined in agreements to settle shareholder derivative claims) of the settlement, HD Supply will adopt the Reforms set forth herein and will maintain those governance reforms for a period of at least four (4) years following the later of (i) their adoption or (ii) the effective date of the settlement (the "Minimum Term"); *provided, however*, that HD Supply's Board may alter or discontinue any such measure prior to the end of the Minimum Term if the Board, in a good faith exercise of its business judgment, determines that such Reform: (a) is no longer necessary or advisable; (b) conflicts with any law, regulation, or rule applicable to the Company; or (c) conflicts with any amendment to the Company's articles of incorporation or bylaws approved by the Company's stockholders. Any changes deemed material to the Company by the Board that are made pursuant to the above shall be reported on an annual basis either in the Company's SEC Form 10-K or SEC Form 14(a) Proxy Statement. By entering into the Stipulation and Agreement of Settlement, the Board certifies that it is not currently aware of any law that would trigger application of the foregoing provision.

III. GOVERNANCE MEASURES ALREADY IMPLEMENTED OR BEING IMPLEMENTED

In March 2019, the Board modified HD Supply's trading policy to prohibit forward sales, prepaid variable forward contracts, and any similar hedging arrangements by any insiders. The Company prohibits any modifications of existing 10b5-1 plans (except as may otherwise be required by law) and requires that the Company's General Counsel approve any request to terminate or cancel an existing

10b5-1 plan. The Company will agree to maintain these prohibitions and requirements for the Minimum Term, subject to Section II hereof.

IV. ADDITIONAL CORPORATE GOVERNANCE REFORMS

A. Insider Trading Policy

The Board will also adopt the following provisions relating to trading in Company securities:

1. The Company will implement quarterly reporting by the General Counsel to the Nominating & Corporate Governance Committee of any activity relating to 10b5-1 plans entered by or any trading in HD Supply securities by executive officers of the Company.

2. The Company's independent directors shall receive a written report from the General Counsel regarding its monitoring of the Company's Insider Trading Policy at least once annually.

3. All transactions in HD Supply stock by § 16 reporting individuals ("Insiders") must be made either (i) pursuant to 10b5-1 trading plans ("Trading Plans") or (ii) otherwise only at times when a Blackout Period¹ is not in effect and the insider is not in possession of material nonpublic information. Any Trading Plans adopted by Insiders shall be structured to comply with the following rules:

- a. The Trading Plans may not be adopted during a Blackout Period or at a time when the person seeking to adopt the Trading Period is in possession of material nonpublic information;
- b. The Trading Plans shall prohibit the commencement of trading until

¹ "Blackout Periods" occur: (i) during the period beginning 21 days prior to the end of each fiscal quarter and ending after the second full business day following the release of the Company's quarterly or annual earnings results; (ii) while the Company is in the process of preparing any release of potentially material information by way of press release, SEC filing on Form 8-K or other means designed to achieve widespread dissemination of the information; and (iii) when the General Counsel (or his/her authorized designee) otherwise advises.

thirty (30) days have elapsed following the plan's adoption;

- c. The Trading Plans shall permit trades only pursuant to specific instructions or formulae determined in advance with regard to stock price(s) and/or date(s) of transactions, and Insiders may not authorize his or her broker discretion to execute HD Supply stock transactions in a manner inconsistent with those instructions or formulae;
- d. The Trading Plans shall have a minimum length of twelve (12) months, and Trading Plans entered by executive officers may not be cancelled without prior approval from the Company's General Counsel;
- e. If a Trading Plan is canceled, the Insider may not adopt a new Trading Plan until after the expiration of twelve (12) months following the initial adoption of the canceled Trading Plan.
- f. The Board shall prohibit forward sales, prepaid variable forward contracts, and any similar hedging arrangements by any insiders;
- g. All Trading Plans shall be pre-cleared by the General Counsel (and any such plan entered into by the General Counsel shall be pre-cleared by the Company's Nominating & Corporate Governance Committee (the "Nominating Committee")).

4. The duties and responsibilities of the Company's General Counsel shall include responsibility for implementing and overseeing compliance with the Insider Trading Policy and reporting any material non-compliance and disciplinary determinations. The Company's Nominating Committee shall be responsible for oversight of the Insider Trading Policy. The members of the Nominating Committee and all independent directors shall have regular access to the General Counsel, including the opportunity to meet with the General Counsel outside of the presence of any other senior executives.

B. Board of Directors

1. Board Independence

- a. The Company shall amend page five (5) of the August 16, 2018 Corporate Governance Guidelines to provide that the Board's independent members shall vote on whether to accept the recommendation from the Nominating Committee for a tendered resignation for any director who ceases to be independent as defined by NASDAQ listing rules. The Company shall require a minimum of 3/4 (75%) of its directors to be independent as defined by NASDAQ listing rules, which shall be accomplished no later than at the Company's next annual stockholder meeting.

2. Limited Director Committee Engagements

- a. The Company shall revise its charters for each of its Board committees to prohibit any individual member of the Board from serving concurrently as the Chairperson of more than one (1) committee.

C. Lead Director

In the event that the positions of Chairman of the Board and Chief Executive Officer are held by the same person, the independent directors of the Board shall elect a Lead Director. The Nominating Committee shall amend the Company's Corporate Governance Guidelines to establish the following processes and procedures for electing the Lead Director;

- a. Only those directors who qualify as independent under applicable NASDAQ listing standards shall be permitted to serve as Lead Director;
- b. Each independent director who wishes to be considered to serve as Lead Director shall notify the Board of the same and shall provide an opportunity for each of the other independent directors to

question her or him about her or his qualifications for service in the Lead Director position;

- c. The independent directors of the Board may submit questions, either in person or in writing, to each candidate for Lead Director, if they choose to do so, in connection with the application process;
- d. Following review of the Lead Director candidates' qualifications, a vote shall be held by the independent directors of the Board to elect the Lead Director, which vote shall take place in a meeting of the independent directors held in executive session with those seeking the role of Lead Director abstaining from participation in the vote;
- e. The Lead Director shall be elected by a majority vote of the independent directors of the Board. In the event of a plurality vote, such that no candidate receives a majority vote of the independent directors, the independent directors shall cast their votes for one (1) of the top two (2) candidates receiving the highest number of votes from the initial vote, and the recipient of the majority of votes shall be elected to serve as the Lead Director;
- f. The Lead Director may, but need not be, the chairperson of a Board committee, provided, however, that the Lead Director shall not also be chairperson of the Nominating Committee.
- g. Unless otherwise determined by a majority of the independent directors, the Lead Director shall serve for a one-year period, or until his or her earlier termination of service on the Board. A director may be elected as Lead Director for more than one term in succession, not to exceed five (5) successive terms.

The performance of the Lead Director shall be evaluated annually by the other independent members of the Board. Where the Board determines that the Lead Director is not sufficiently active or successful in providing meaningful leadership for the Board, he or she shall be replaced by the independent directors, through the process detailed herein.

In addition to the duties of all Board members (which shall not be limited or diminished by the Lead Director's role), the duties of the Lead Director shall include:

1. Coordinating the activities of the independent directors in their capacities as such;
2. Approving scheduling of HD Supply's Board meetings to provide sufficient time for discussion of all agenda items, as he or she deems appropriate;
3. Advising the Chief Executive Officer on the quality, quantity, and timeliness of information provided to the Board by the Company's management;
4. Exercising discretion to add items to the agenda for meetings;
5. Calling meetings of the independent directors as he or she deems appropriate so that they have adequate opportunities to meet to discuss issues without management present;
6. Coordinating and developing the agenda for, and moderating executive sessions of, HD Supply's independent directors;
7. Acting as the principal liaison between the independent directors and management, including the Chief Executive Officer and Chief Financial Officer, on topics or issues as requested by the independent directors, any Committee of the Board, or any other sensitive issues or topics; and
8. In conjunction with the Compensation Committee chairperson, or if the Lead Director is chairperson of the Compensation Committee, in conjunction with the chairperson of the Nominating Committee, establishing the specific performance criteria, goals and objectives of the Chief Executive Officer, monitoring the Chief Executive Officer's performance against those objectives, and coordinating and chairing the annual Board performance review of the Chief Executive Officer.

D. Meetings in Executive Session

1. The independent directors of the Board shall meet in executive session at least once in connection with each regularly scheduled Board meeting.

E. Disclosure Committee

1. The Company shall amend the Disclosure Committee Charter and shall publish a copy of the Charter on the Company's website. The amended Charter will reflect that the Disclosure Committee's areas of responsibility shall include the following:

- a. Advance review by members of the Committee (which shall include representatives of the Legal Department, the Finance Department, and Investor Relations) of scripts or talking points to be used during quarterly public earnings conference calls and investor conferences;
- b. Evaluation of materiality of information and events relating to or affecting the Company and the timing and appropriate method of disclosure of information deemed material;
- c. Reporting to the Audit Committee on all corrections or modifications to public statements that were recommended for issuance by the Disclosure Committee, the action taken in regard to each recommendation, and for each recommendation not followed, the reason(s) for not following that recommendation; and
- d. The Chair of the Disclosure Committee shall meet with the Audit Committee at least quarterly, or more frequently if necessary, to report material matter concerning a prior or upcoming public disclosure by the Company.

In addition to the above responsibilities, the following provisions and duties of the Disclosure Committee shall be added to the Committee's Charter:

1. No Board member shall sit on the Disclosure Committee.
2. The Disclosure Committee shall hold regular meetings prior to the preparation and filing of the Company's annual and quarterly financial statements and additional meetings from time to time as directed by the Disclosure Committee Chairperson. Representatives of the Company's independent auditor and other personnel of the Company, or representatives of its outside advisors, will be invited to attend Disclosure Committee meetings as deemed necessary or appropriate by the Disclosure Committee in performing its duties and responsibilities. The Disclosure

Committee Chairperson shall report any concerns regarding disclosure issues to the Audit Committee.

Additional responsibilities of the Disclosure Committee include to:

1. Assist the Chief Executive Officer and Chief Financial Officer in designing, maintaining, and documenting the Company's disclosure controls and procedures;
2. Assist the Chief Executive Officer and Chief Financial Officer in evaluating the effectiveness of the Company's disclosure controls and procedures as of the end of each quarter and year-end; and
3. Review the Company's Form 10-Qs, Form 10-Ks, registration statements, press releases containing financial information, information about material acquisitions or dispositions or other information material to the Company's security holders, and presentations to analysts and investors prior to release or filing to ensure compliance with Company policy and legal requirements.

F. Whistleblower Policy

1. The Company shall revise its written Whistleblower Policy to (i) advise employees that they need not report concerns directly to the Company, and have the right to report concerns directly to the SEC, Department of Justice, and/or other applicable regulatory agencies (and have the right to hire their own lawyer to represent them in any such proceeding, at their own cost, if they so choose) and (ii) confirm that, if a whistleblower brings his or her concern to an outside regulator or other governmental entity, he or she will be protected by the terms of the Whistleblower Program just as if he or she directed the concern to the Audit Committee or Company.

2. In addition, Defendants agree to revise the Whistleblower Policy in accordance with the following provisions:

- a. Whistleblower complaints may be directed to the Audit Committee, Disclosure Committee, and/or the Company's General Counsel, and the complaints will be handled by these parties anonymously and in confidence; and
- b. The Company shall remind employees of whistleblower options

and whistleblower protections in employee communications provided at least once a year and shall post the Whistleblower Policy on the Company's intranet.

G. Stockholder Proposals

The Board shall review stockholder proposals as follows:

1. HD Supply's legal department and senior management shall discuss with the Independent Lead Director and Chair of any Board committee responsible for oversight of the subject matter of the proposal, if applicable, the financial, legal, practical, and social implications of approval and implementation of the proposal;

2. The Company shall timely contact the proponent of the proposal to arrange a teleconference or an in-person meeting to discuss the proposal and its financial, legal, social, and practical implications;

3. HD Supply's legal department and senior management may prepare a response to the stockholder proposal and/or submit a no-action request to the SEC pursuant to Exchange Act § 14a and SEC Rule 14a-8, promulgated thereunder;

4. Before the filing of a proxy statement, which makes a recommendation concerning any stockholder proposal, a draft of the recommendation shall be reviewed and approved by the Board; and

5. The Board is authorized in its discretion to engage outside counsel or other advisors at the expense of the Company to assist in their review of any stockholder proposal.

H. Changes to the Compensation Committee Charter

The Board shall adopt a resolution setting forth the following amendments to the Compensation Committee Charter:

1. Executive compensation shall be submitted to an annual non-binding advisory stockholder vote at the annual meeting. The results of the stockholder vote shall be disclosed at the same time as the results of the other matters voted on at the annual meeting;

2. Cash incentive compensation plans for executive officers shall link pay

to achievement of financial goals set in advance by the Compensation Committee;

3. An independent compensation consultant shall be retained no less than once every three (3) calendar years to review and report to the Compensation Committee of the Board on management and director compensation; and

4. The minutes of the Compensation Committee shall be maintained by HD Supply's General Counsel for no less than ten (10) calendar years.

5. Compensation arrangements shall include measures to promote ownership of Company stock to align the interests of management and stockholders. At a minimum, 10% of an executive officer's compensation shall be in the form of equity-based awards.

I. Clawback Policy

The Board shall revise its current Clawback Policy to provide that:

- a. The Company shall recapture any portion of incentive compensation (including any cash incentive award, equity-based award, or other incentive compensation) paid to an executive officer (as defined by SEC Rule 3b-7) to the extent such compensation was based on performance targets and financial objectives that would not have been satisfied nor payment made to the executive officer under any restatement of the Company's financial statements to correct an error that is material to previously issued financial statements (as contemplated by regulations issued by the U.S. Securities and Exchange Commission to implement Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 which added Section 10D to the Securities Exchange Act of 1934), beginning with the financial statements for the first fiscal quarter following the fiscal quarter during which the Effective Date of the Settlement occurred. For the avoidance of doubt, and without limiting the foregoing, types of restatements and changes to the Company's financial statements that do not represent error corrections, and therefore would not trigger application of the Company's revised Clawback Policy include: (1) retrospective application of a change in accounting principle; (2) retrospective revision to reportable segment information due to a change in the

structure of an issuer's internal organization; (3) retrospective reclassification due to a discontinued operation; (4) retrospective application of a change in reporting entity, such as from a reorganization of entities under common control; (5) retrospective adjustment to provisional amounts in connection with a prior business combination; and (6) retrospective revision for stock splits. Cash incentive compensation paid or equity incentive compensation granted to an executive officer in the previous one-year period shall also be recaptured in the event of an action or omission by the executive officer that constitutes a material violation of law or the Company's Code of Ethics;

- b. The Company will report in a filing on Form 8-K any decision to take action, the number of employees impacted and their seniority, and the aggregate amount of the clawback/forfeiture; and
- c. The Company shall report in the Compensation Discussion and Analysis section of its annual Proxy Statement any determination made during the covered year to recapture incentive compensation paid to executive officers on grounds described in the above subsection (a), the number of employees impacted and their seniority, and the aggregate amount of the incentive compensation recaptured.

J. Changes to Audit Committee Charter

The Audit Committee Charter shall be revised to provide as follows:

- a. The Audit Committee shall oversee the work of the Disclosure Committee. The Audit Committee shall meet with, and review reports from, management and the Chairperson, or if the Chairperson is unavailable, a representative of, the Disclosure Committee at least once each quarter and more frequently, if necessary, to effectively oversee the Company's disclosure function and specific disclosure issues of importance;
- b. The Audit Committee shall review with the Chairperson, or if the Chairperson is unavailable, a representative of, the Disclosure Committee any financial statements issued under Regulation S-X,

including, but not limited to, any Form 10-Qs, Form 10-Ks, registration statements, and press releases containing financial information;

- c. The Audit Committee shall review and discuss any material, proposed compliance-related disclosures in the “Management’s Discussion and Analysis of Financial Condition and Results of Operation” section of the Company’s annual audited and quarterly financial statements, including, without limitation, any such proposed disclosures concerning the Company’s compliance or attempted compliance with the appropriate accounting rules required by the federal securities laws, regulations, and guidance, and/or the impact, anticipated impact, or potential impact of the Company’s compliance or attempted compliance with the appropriate accounting rules as required under the federal securities laws, regulations, and guidance on the Company’s business;
- d. The General Counsel’s Office shall be responsible for forwarding to the members of the Audit Committee for its review all material correspondence between the Company and the SEC, including, but not limited to, correspondence related to SEC investigations, Wells notices, response to SEC comment letters, and requests for no action relief;
- e. The General Counsel and/or his designee (which can be outside counsel) shall, as necessary but on at least a quarterly basis, provide updates to the Audit Committee regarding any material correspondence between the Company and the SEC, including, but limited to, correspondence related to SEC investigations, Wells notices, response to SEC comment letters, and requests for no action relief; and
- f. The Company will advise employees via the Company's Code of Business Conduct and Ethics that failure to cooperate with any Audit Committee investigations may constitute grounds for discipline by the Board, including, but not limited to, termination.

EXHIBIT B

WHEREAS, the Settling Parties have made an unopposed motion for an order preliminarily approving the proposed Settlement of the Derivative Matters in accordance with the Stipulation and Agreement of Settlement dated December 4, 2020 (the "Stipulation"), which together with the exhibits annexed thereto, sets forth the terms and conditions for the proposed Settlement of the Derivative Matters, and for dismissal of the Derivative Actions with prejudice;

WHEREAS, the Court having: (i) read and considered the Unopposed Motion for Preliminary Approval of Shareholder Derivative Settlement together with the accompanying Memorandum of Points and Authorities; (ii) read and considered the Stipulation, as well as all the exhibits attached thereto; and (iii) heard and considered arguments by counsel for the Settling Parties in favor of preliminary approval of the Settlement;

WHEREAS, the Court finds, upon a preliminary evaluation, that the proposed Settlement falls within the range of possible approval criteria, as it provides a beneficial result for HD Supply and Current HD Supply Stockholders and appears to be the product of good faith, informed, and non-collusive negotiations between experienced and able counsel for the Settling Parties;

WHEREAS, the Court also finds, upon a preliminary evaluation, that Current HD Supply Stockholders should be apprised of the Settlement through the proposed

form of notice, allowed to file objections, if any, thereto, and appear at the Settlement Hearing; and

WHEREAS, except as otherwise expressly provided herein, all capitalized terms shall have the same meanings and/or definitions as set forth in the Stipulation.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

1. This Court preliminarily approves the Settlement as set forth in the Stipulation as being fair, reasonable, and adequate.

2. Within ten (10) business days after the entry of this Preliminary Approval Order, HD Supply shall: (i) cause the Stipulation (along with any exhibits thereto) and Long-Form Notice, substantially in the form of Exhibit B-1 to the Stipulation, to be filed with the SEC via a Current Report on Form 8-K; (ii) cause a copy of the Summary Notice, substantially in the form of Exhibit B-2 to the Stipulation, to be published for one day in *Investor's Business Daily*; and (iii) post a link to the Stipulation (along with any exhibits thereto) and Long-Form Notice on HD Supply's website such that visitors to the "Investors" section of the website will readily find a hyperlink to the Long-Form Notice and Stipulation (along with any exhibits thereto), which shall be maintained as an active link until such time as the Court grants final approval of the Settlement. The Company and the Individual

Defendants will pay (or cause their insurance carrier(s) to pay) all costs of providing such notice of the Settlement.

3. No later than seven (7) calendar days prior to the Settlement Hearing, Defendants' Counsel shall file with the Court an appropriate affidavit or declaration with respect to the filing and posting of the Long-Form Notice and Summary Notice.

4. Within five (5) business days following the Effective Date, the parties to the Delaware Derivative Action shall jointly apply to the Delaware Court for a dismissal with prejudice of the Delaware Derivative Action, and shall use their reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things reasonably necessary, proper, or advisable under applicable laws, regulations, and agreements to secure such dismissal with prejudice.

5. Within fifteen (15) business days after the entry of this Preliminary Approval Order by the Court, the Company and the Individual Defendants shall pay (or cause their insurance carrier(s) to pay) the Fee and Expense Amount to Johnson Fistel, LLP as receiving agent for Plaintiffs' Counsel, to be held in escrow until such time as the Court grants final approval of the Settlement and the Fee and Expense Amount. The Fee and Expense Amount, as approved by the Court, shall constitute final and complete payment for Plaintiffs' Counsel's fees and expenses that have been incurred or will be incurred in connection with the Derivative Matters.

6. The Court finds that the form, substance, and dissemination of information regarding the proposed Settlement in the manner set out in this Preliminary Approval Order constitutes the best notice practicable under the circumstances and complies fully with Federal Rule of Civil Procedure 23.1 and due process.

7. A hearing shall be held on _____, 202__ at _____.m., before the Honorable Michael L. Brown, in the U.S. District Court for the Northern District of Georgia, Atlanta Division, located at Richard B. Russell Federal Building & U.S. Courthouse, 75 Ted Turner Drive, SW, Atlanta, GA 30303-3309, (the "Settlement Hearing"), at which the Court will determine: (i) whether the terms of the Stipulation should be approved as fair, reasonable, and adequate; (ii) whether the Long-Form Notice and Summary Notice fully satisfied the requirements of Federal Rule of Civil Procedure 23.1 and the requirements of due process; (iii) whether the Federal Derivative Action should be dismissed with prejudice; (iv) whether all Released Claims against the Released Persons should be fully and finally released; (v) whether the agreed-to Fee and Expense Amount should be approved; (vi) whether Service Awards to Plaintiffs should be approved; and (vi) to rule upon such other matters as the Court may deem appropriate.

8. The Court reserves: (i) the right to approve the Settlement, with such modifications as may be agreed to by counsel for the Settling Parties consistent with such Settlement, without further notice to Current HD Supply Stockholders; and (ii) the right to continue or adjourn the Settlement Hearing from time to time, by oral announcement at the hearing or at any adjournment thereof, without further notice to Current HD Supply Stockholders.

9. Any Current HD Supply Stockholders may appear and show cause, at their own expense, individually or through counsel, if he, she, or it has any reason why the Settlement embodied in the Stipulation should not be approved as fair, reasonable, and adequate, or why the Judgment should or should not be entered hereon, or the Fee and Expense Amount should not be awarded. However, no Current HD Supply Stockholders shall be heard or entitled to contest the approval of the proposed Settlement, or, if approved, the Judgment to be entered hereon, unless that Current HD Supply Shareholder has caused to be filed, and served on counsel as noted below: (i) a written notice of objection with the Person's name, address, and telephone number, along with a representation as to whether such Person intends to appear at the Settlement Hearing; (ii) competent evidence that such Person held shares of HD Supply common stock as of the date the Stipulation was signed, December 4, 2020 and continuing through the date the objection is made;

(iii) a statement of objections to any matters before the Court, the grounds therefor, or the reasons for such Person desiring to appear and be heard, as well as all documents or writings such Person desires the Court to consider; and (iv) the identities of any witnesses such Person plans on calling at the Settlement Hearing, along with a summary description of their likely testimony.

10. At least fourteen (14) calendar days prior to the Settlement Hearing set for _____, 20____, any such person must file the written objection(s) and corresponding materials, and a notice of intent to appear if any Current HD Supply Stockholder intends to appear and requests to be heard at the Settlement Hearing, with the U.S. District Court for the Northern District of Georgia, Atlanta Division, located at Richard B. Russell Federal Building & U.S. Courthouse, 75 Ted Turner Drive, SW, Atlanta, GA 30303-3309, and serve such materials by that date, to each of the following Settling Parties' counsel:

Counsel for Plaintiffs

Michael I. Fistel, Jr.
JOHNSON FISTEL LLP
40 Powder Springs Street
Marietta, GA 30064

Counsel for Defendants

M. Robert Thornton
Benjamin Lee
KING & SPALDING LLP
1180 Peachtree Street, NE
Atlanta, GA 30309-3521

Only Current HD Supply Stockholders who have filed with the Court and sent to the Settling Parties' counsel valid and timely written notices of objection will be entitled to be heard at the hearing, unless the Court orders otherwise.

11. Any Current HD Supply Stockholder who does not make an objection in the manner provided herein shall be deemed to have waived any such objection and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the Settlement, unless otherwise ordered by the Court, but shall be otherwise bound by the Judgment to be entered and the releases to be given.

12. All papers in support of the Settlement and the Fee and Expense Award shall be filed with the Court and served at least _____ (___) calendar days prior to the Settlement Hearing. Any replies to any objections shall be filed with the Court and served at least seven (7) calendar days prior to the Settlement Hearing.

13. All proceedings in the Action are stayed until further order of the Court, except as may be necessary to implement the Settlement or comply with the terms of the Stipulation.

14. Pending final determination of whether the Settlement should be approved, no HD Supply shareholder, either directly, representatively, or in any

other capacity, shall commence or prosecute against any of the Released Persons any action or proceeding in any court or tribunal asserting any of the Released Claims.

15. This Court may, for good cause, extend any of the deadlines set forth in this Preliminary Approval Order without further notice to Current HD Supply Stockholders.

16. Neither the Stipulation nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement: (i) is or may be deemed to be or may be offered, attempted to be offered or used in any way by the Settling Parties or any other Person as a presumption, a concession or an admission of, or evidence of, any fault, wrongdoing, or liability of the Settling Parties or Released Persons, or of the validity of any Released Claims; or (ii) is intended by the Settling Parties to be offered or received as evidence or used by any other person in any other actions or proceedings, whether civil, criminal, or administrative, other than to enforce the terms therein.

IT IS SO ORDERED.

DATED: _____

MICHAEL L. BROWN
U.S. DISTRICT JUDGE

EXHIBIT B-1

BASED ON REPRESENTATIONS MADE TO THE COURT BY COUNSEL FOR THE PARTIES.

YOU ARE HEREBY NOTIFIED, pursuant to an Order of the U.S. District Court for the Northern District of Georgia (the "Court"), that a proposed Settlement has been reached between the Parties to the above-captioned shareholder derivative action (the "Federal Derivative Action") and the shareholder derivative action styled *Hendren v. DeAngelo, et al.*, C.A. No. 2018-0643-AGB (Del. Ch.) (the "Delaware Action, and together with the Federal Derivative Action, the "Derivative Actions") brought on behalf of HD Supply, which would resolve the Derivative Actions and certain pre-suit demands sent to the Board of Directors (the "Board") of HD Supply, collectively referred to as the "Derivative Matters."

As explained below, on _____, 20____, at _____.m., the Court will hold a hearing (the "Settlement Hearing") to determine: (i) whether the terms of the Settlement are fair, reasonable, and adequate and should be approved; (ii) whether a final judgment should be entered; (iii) whether the Court should award the requested attorneys' fees and reimbursement of expenses for Plaintiffs' Counsel and service awards to Plaintiffs; and (iv) such other matters as may be necessary or proper under the circumstances.

The terms of the Settlement are set forth in a Stipulation and Agreement of Settlement dated December 4, 2020 (the "Stipulation"). The Settlement provides for

corporate governance reforms that are designed to strengthen the Company's internal controls and protect the Company going forward. If approved by the Court, the Settlement will fully resolve the Derivative Matters on the terms set forth in the Stipulation and summarized in this notice, including the dismissal of the Derivative Actions with prejudice. For a more detailed statement regarding the Derivative Matters, the Settlement, and the terms discussed in this notice, the Stipulation may be inspected at the Clerk of Court's office at the Richard B. Russell Federal Building & U.S. Courthouse, 75 Ted Turner Drive, SW, Atlanta, GA 30303-3309. The Stipulation is also available for viewing on the Investors portion of HD Supply's website at <https://ir.hdsupply.com/>.

This notice is not intended to be an expression of any opinion by the Court with respect to the merits of the claims made in the Derivative Matters, but is merely to advise you of the pendency and Settlement of the Derivative Matters.

There is No Claims Procedure. This case was brought to protect the interests of HD Supply on behalf of its shareholders. The Settlement will result in changes to the Company's corporate governance, not in payments to individuals, and accordingly, there will be no claims procedure.

I. THE DERIVATIVE MATTERS

The Derivative Matters are brought by Plaintiffs solely on behalf of and for the benefit of HD Supply and against the Individual Defendants. Plaintiffs generally allege, among other things, that the Individual Defendants breached their fiduciary duties, wasted corporate assets, and were unjustly enriched in connection with allegedly improper public statements and insider stock sales. In the above-captioned Federal Derivative Action, claims have also been asserted for alleged violations of Section 14(a) of the Securities Exchange Act of 1934.

A. The Federal Derivative Action

The Federal Derivative Action was initiated on August 8, 2017, when Sean Zhou (“Zhou”) and James Calderaro (“Calderaro”) filed two separate stockholder derivative actions in the Court (the “*Zhou* Derivative Action” and the “*Calderaro* Derivative Action,” respectively) on behalf of HD Supply that alleged claims for, among other things, violations of Section 14(a) of the Securities Exchange Act of 1934, breach of fiduciary duties, waste of corporate assets, unjust enrichment, and breach of fiduciary duties for insider selling and misappropriation of corporate information, and requesting other relief in the discretion of the Court. By Court order dated October 17, 2017, co-lead counsel was appointed (“Federal Derivative Action Lead Counsel”), and the *Zhou* Derivative Action and the *Calderaro*

Derivative Action were consolidated under the caption *In re HD Supply Holdings, Inc. Derivative Litigation*, Case No. 1:17-cv-02977-ELR (N.D. Ga.).

In an effort to preserve judicial resources and the resources of the parties, on December 1, 2017, the parties in the Federal Derivative Action submitted a motion seeking deferral of proceedings in the Federal Derivative Action pending the resolution of an anticipated motion to dismiss to be filed by defendants in the related securities class action filed in the U.S. District Court for the Northern District of Georgia styled *In re HD Supply Holdings, Inc. Securities Litigation*, No. 1:17-cv-02587-ELR (N.D. Ga.) (the “Securities Class Action”). The Court granted the parties’ joint motion for deferral of proceedings on December 5, 2017.

On September 19, 2018, the Court entered an Order in the Securities Class Action granting in part and denying in part defendants’ motion to dismiss. Accordingly, after the parties in the Federal Derivative Action met and conferred, the parties submitted a Joint Motion to Continue Deferral of Litigation on October 19, 2018, which requested that the Federal Derivative Action continue to be deferred until the earlier of: (i) an order from the Court on any summary judgment motion(s) that may be filed in the Securities Class Action; (ii) notification that there has been a settlement reached in the Securities Class Action; or (iii) until otherwise agreed to by the parties in the Federal Derivative Action, and provided, among other things,

that Defendants would produce to Plaintiffs in the Federal Derivative Action copies of written discovery responses and documents produced by the defendants in the Securities Class Action. The Court granted the parties' joint motion on October 22, 2018.

Following the Court's October 22, 2018 order continuing the deferral of the Federal Derivative Action, Zhou and Calderaro, respectively, sold their HD Supply stock, and thus lost standing to sue derivatively on behalf of the Company. On December 19, 2019, Plaintiff Mark Hittinger ("Hittinger") submitted an unopposed motion to intervene as a representative stockholder plaintiff, either as a matter of right pursuant to Federal Rule of Civil Procedure 24(a)(2), or in the alternative, permissively, under Rule 24(b)(1)(B), to take the place of plaintiffs Zhou and Calderaro. The Court granted the foregoing motion on January 9, 2020 and further ordered that the Federal Derivative Action remain deferred and administratively closed per the Court's October 22, 2018 Order.

During the pendency of the deferral, Federal Derivative Action Lead Counsel reviewed and evaluated certain relevant documents from the more than four million pages of documents produced by HD Supply in the Securities Class Action, pursuant to the Court's October 22, 2018 order continuing the deferral of the Federal Derivative Action.

B. The Delaware Action

On March 9, 2018, Plaintiff Eric Hendren (“Hendren”) issued a demand through his counsel to inspect certain HD Supply books and records pursuant to 8 Del. C. §220 (the “*Hendren* §220 Demand”). The *Hendren* §220 Demand sought documents relating to, among other things, (i) the Company’s FM Supply Division; (ii) defendant Joseph DeAngelo’s stock sales during 2017; and (iii) documents relating to the Company’s supply chain.

On March 21, 2018, the Company responded to the *Hendren* §220 Demand by offering to discuss providing an “appropriately circumscribed set of documents responsive” to the *Hendren* §220 Demand. Following meet and conferral discussions, Plaintiff Hendren and the Company agreed to a production of specified categories of documents. The Company produced the agreed-upon documents on May 28, 2018.

Counsel for Plaintiff Hendren reviewed the §220 documents and subsequently, on August 29, 2018, Plaintiff Hendren filed the Delaware Derivative Action in the Delaware Chancery Court, nominally for the benefit of HD Supply against the Individual Defendants for breach of fiduciary duty, unjust enrichment, and insider trading. On November 2, 2018, the Individual Defendants and HD Supply filed a motion to dismiss the Delaware Derivative Action. Following this

filing and after discussions between counsel for the Defendants and Plaintiff Hendren, the parties agreed to stay the Delaware Derivative Action on substantially similar terms as had already been agreed to in the Federal Derivative Action and filed a joint motion to stay the Delaware Derivative Action on January 11, 2019. The Delaware Chancery Court granted the motion to stay on January 14, 2019.

Pursuant to the terms of the stay, Plaintiff Hendren, through counsel, also reviewed and evaluated certain relevant documents from the more than four million pages of documents produced by HD Supply in the Securities Class Action while the Delaware Derivative Action was stayed.

C. The Demands

On September 26, 2017, Michael C. Hilton, M.D. (“Dr. Hilton”) issued a demand through his counsel to inspect certain HD Supply books and records pursuant to 8 Del. C. §220 (the “*Hilton* §220 Demand”). The *Hilton* §220 Demand sought documents relating to, among other things, (i) the Company’s FM Supply Division; (ii) defendant Joseph DeAngelo’s stock sales during 2017; and (iii) documents relating to the Company’s supply chain.

On October 4, 2017, the Company responded to the *Hilton* §220 Demand by offering to discuss providing documents responsive to the *Hilton* §220 Demand. Following meet and conferral discussions, Dr. Hilton and the Company agreed to a

production of specified categories of documents. The Company produced the agreed-upon documents on February 22, 2018. Counsel for Dr. Hilton reviewed certain relevant documents produced in response to the *Hilton* §220 Demand.

Subsequently, on December 4, 2018, Dr. Hilton sent a litigation demand directed to HD Supply's Board demanding that the Board take action to remediate alleged breaches of fiduciary duties by certain of the Company's officers and directors (the "*Hilton* Demand"). The Company responded on December 18, 2018 acknowledging receipt of the *Hilton* Demand and requesting documentation establishing Dr. Hilton's continuous ownership of HD Supply stock. After providing the requested information, discussions between counsel for Dr. Hilton and counsel for the Defendants ensued.

Thereafter, Dr. Hilton and the Company entered into an agreement to defer proceedings concerning the *Hilton* Demand pending a settlement in the Securities Class Action or a ruling on any summary judgment motion in the Securities Class Action, whichever occurred earlier. The agreement also required the Company to provide Dr. Hilton with copies of written discovery responses and documents produced by the defendants in the Securities Class Action and the right to participate in any mediation or formal settlement meeting related to the Securities Class Action.

In addition to the Hilton Demand, on or about October 16, 2018, the Company received a litigation demand directed to HD Supply's Board from counsel representing Kevin Ortenzio, demanding that the Board take action to remediate alleged breaches of fiduciary duties by certain of the Company's officers and directors (the "Ortenzio Demand"). The Settlement also resolves the issues raised in the Ortenzio Demand.

D. Settlement Negotiations

On August 12, 2019, Defendants' Counsel invited Plaintiffs' Counsel to attend a mediation alongside the parties in the Securities Class Action which was scheduled for September 10, 2019 in New York, New York, with Jed Melnick, Esq., a nationally recognized mediator with extensive experience mediating complex stockholder disputes similar to the Derivative Matters.

Thereafter, on August 30, 2019, Federal Derivative Action Lead Counsel issued a confidential settlement demand to Defendants' Counsel, which outlined a proposed framework for settlement of the Federal Derivative Action and included, among other things, comprehensive corporate governance reforms tailored to directly address the alleged wrongdoing in the Federal Derivative Action.

On September 4, 2019, counsel for Plaintiff Hendren issued a confidential settlement demand to Defendants' Counsel, which outlined a proposed framework

for settlement of the Delaware Derivative Action. Plaintiff Hendren's settlement demand included a comprehensive set of corporate governance reforms which addressed the alleged wrongdoing in the Delaware Derivative Action and the governance issues identified by Plaintiff Hendren in his review of the §220 documents produced by the Company in May 2018.

On September 10, 2019, Federal Derivative Action Lead Counsel, counsel for Hendren, and counsel for Dr. Hilton attended an all-day mediation in New York City before Mr. Melnick. In connection with the mediation, Federal Derivative Action Lead Counsel also submitted a confidential mediation statement and relevant exhibits to Mr. Melnick. Counsel for Hendren and Defendants' Counsel submitted a joint confidential mediation statement to Mr. Melnick on September 4, 2019, prior to the September 10, 2019 mediation. Counsel for Dr. Hilton and Defendants' Counsel submitted a joint confidential mediation statement to Mr. Melnick on August 30, 2019, prior to the September 10, 2019 mediation.

Although neither the Securities Class Action nor the Derivative Matters were resolved at the September 10, 2019 mediation, a second mediation was scheduled for October 22, 2019 with Mr. Melnick in New York City. On October 22, 2019, Federal Derivative Action Lead Counsel, counsel for Hendren, and counsel for Dr. Hilton attended the second mediation. Although no settlement was reached at the

October 22, 2019 mediation, some progress was made. On October 30, 2019, counsel for Hendren and counsel for Dr. Hilton sent a joint confidential settlement demand to Defendants' counsel which outlined a proposed framework for settlement including a comprehensive set of corporate governance reforms.

In the months following the second mediation on October 22, 2019, Federal Derivative Action Lead Counsel, counsel for Hendren, counsel for Dr. Hilton, and Defendants' Counsel continued to engage in confidential settlement negotiations regarding the substantive terms of the Settlement, including the corporate governance reforms ("Corporate Governance Reforms"), via numerous written and telephonic communications.

On or about August 6, 2020, Plaintiffs in the Derivative Actions, Dr. Hilton, and Defendants reached an agreement in principle regarding the material substantive terms of the Settlement, including the Corporate Governance Reforms, other than the attorneys' fees and expenses to be paid to Plaintiffs' Counsel.

II. TERMS OF SETTLEMENT

The principal terms, conditions, and other matters that are part of the Settlement, which is subject to approval by the Court, are summarized below. This summary should be read in conjunction with, and is qualified in its entirety by

reference to, the text of the Stipulation, including that all capitalized terms used herein shall bear the same meaning as used in the Stipulation.

HD Supply and its Board have acknowledged that Plaintiffs and Plaintiffs' Counsel's initiation and prosecution of the Derivative Matters were factors in the Company's ability to resolve the Securities Class Action within insurance policy limits. In addition, the HD Supply Board, on behalf of HD Supply, will adopt the Corporate Governance Reforms set forth in Exhibit A to the Stipulation at the first regularly scheduled meeting of the Board following the Effective Date, and will maintain the Corporate Governance Reforms for a period of at least four (4) years following the later of (i) their adoption or (ii) the Effective Date of the Settlement (the "Minimum Term"); provided, however, that HD Supply's Board may alter or discontinue any of the Corporate Governance Reforms prior to the end of the Minimum Term if the Board, in a good faith exercise of its business judgment, determines that such Corporate Governance Reforms: (a) are no longer necessary or advisable; (b) conflict with any law, regulation, or rule applicable to the Company; or (c) conflict with any amendment to the Company's articles of incorporation or bylaws approved by the Company's stockholders. Any changes deemed material to the Company by the Board that are made pursuant to the above shall be reported on

an annual basis either in the Company's SEC Form 10-K or SEC Form 14(a) Proxy Statement.

The independent members of the Company's Board have unanimously approved a resolution reflecting their determination, in a good faith exercise of their business judgment, that: (a) Plaintiffs, through their initiation and prosecution of the Derivative Matters, were the cause of the Board's agreement to adopt, implement, and/or maintain for the Minimum Term the Corporate Governance Reforms set forth in Section IV of Exhibit A to the Stipulation; (b) Plaintiffs, through their initiation and prosecution of the Derivative Matters, were a significant and material factor in the Board's agreement to adopt, implement, and/or maintain for the Minimum Term the Corporate Governance Reforms set forth in Section III of Exhibit A to the Stipulation; (c) the Corporate Governance Reforms confer substantial benefits on the Company and its stockholders; and (d) the Settlement is in the best interests of the Company and its stockholders.

This notice provides a summary of the Corporate Governance Reforms that the Board of HD Supply has agreed to adopt as consideration for the Settlement. For a complete description of all of the Corporate Governance Reforms, please see the Stipulation and Exhibit A thereto.

III. DISMISSAL AND RELEASES

The Settlement is conditioned, among other things, upon: entry of an order by the Court approving the Settlement and dismissing the Federal Derivative Action with prejudice. The Settlement will not become effective until such an order has been entered and become final and non-appealable (the "Effective Date"). The Settlement also provides that, within five (5) business days following the Effective Date, the parties in the Delaware Action shall file a stipulation of dismissal with prejudice as to all Defendants and the Hilton Demand shall be withdrawn with prejudice.

Upon the Effective Date, Plaintiffs, all other Current HD Supply Stockholders, Plaintiffs' Counsel, and HD Supply shall be deemed to have, and by operation of the Judgment shall have fully, finally, and forever released, relinquished, and discharged and will be forever barred and enjoined from commencing, instituting, or prosecuting any of the Plaintiffs' Released Claims (including Unknown Claims) against HD Supply, the Individual Defendants, and all other Released Persons (as defined in the Stipulation).

Further, upon the Effective Date, HD Supply and the Individual Defendants shall be deemed to have, and by operation of the Judgment shall have fully, finally, and forever released, relinquished, and discharged Plaintiffs and Plaintiffs' Counsel

from all claims (including Unknown Claims), arising out of, relating to, or in connection with the institution, prosecution, assertion, settlement, or resolution of the Derivative Actions.

These releases, however, shall not in any way impair or restrict the rights of any Settling Party to enforce the terms of the Stipulation or the Judgment. In addition, nothing in the Stipulation constitutes or reflects a waiver or release of any rights or claims of Defendants against their insurers, or their insurers' subsidiaries, predecessors, successors, assigns, affiliates, or representatives, including, but not limited to, any rights or claims of Defendants under any directors' and officers' liability insurance or other applicable insurance coverage maintained by the Company. Likewise, nothing in the Stipulation constitutes or reflects a waiver or release of any rights or claims of the Individual Defendants relating in any way to indemnification or advancement of attorneys' fees relating to the Derivative Actions or the Released Claims, whether under any written indemnification or advancement agreement, or under the Company's charter, by-laws, or under applicable law.

IV. ATTORNEYS' FEES AND EXPENSES

After Plaintiffs in the Derivative Actions, Dr. Hilton, and the Defendants reached an agreement in principle regarding the material substantive terms of the Settlement, including the Corporate Governance Reforms, the Plaintiffs in the

Derivative Actions, Dr. Hilton, and Defendants commenced negotiations through Mr. Melnick regarding the attorneys' fees and expenses to be paid to Plaintiffs' Counsel. On September 7, 2020, after several weeks of negotiations, Mr. Melnick issued a mediator's proposal for a fee in the amount of one million nine hundred thousand dollars (\$1,900,000) to be paid to Plaintiffs' Counsel as attorneys' fees and expenses by the Individual Defendants' insurer(s) (the "Fee and Expense Amount"), based on the substantial benefit conferred on HD Supply by the Settlement, subject to approval of the Court. Plaintiffs in the Derivative Actions, Dr. Hilton, and Defendants agreed to the mediator's recommendation regarding the Fee and Expense Amount on September 8, 2020.

Plaintiffs' Counsel shall request approval by the Court of the Fee and Expense Amount at the Settlement Hearing. To date, Plaintiffs' Counsel have neither received any payment for their services in pursuing the Derivative Matters, nor have Plaintiffs' Counsel been reimbursed for their out-of-pocket litigation expenses incurred. Plaintiffs' Counsel believe that the Fee and Expense Amount is within the range of fees and expenses awarded to plaintiffs' counsel under similar circumstances in litigation of this type.

Plaintiffs Hittinger, Hendren, and Dr. Hilton may also apply for Court approval of service awards in the amount of \$2,500 for each Plaintiff (the "Service

Awards”), in light of the benefits they have helped to create for HD Supply and Current HD Supply Stockholders. The Service Awards, to the extent that they are applied for and approved by the Court in whole or in part, shall be funded solely from the Fee and Expense Amount to Plaintiffs’ Counsel and any application for the Service Awards shall not increase the amount of the Fee and Expense Amount.

V. REASONS FOR THE SETTLEMENT

Counsel for the Settling Parties believe that the Settlement is in the best interests of the Plaintiffs, Individual Defendants, HD Supply, and Current HD Supply Stockholders.

A. Why Did Plaintiffs Agree to Settle?

Plaintiffs believe that the Derivative Matters have substantial merit, and Plaintiffs' entry into the Stipulation and this Settlement is not intended to be and shall not be construed as an admission or concession concerning the relative strength or merit of the claims alleged in the Derivative Matters. Plaintiffs and their counsel also acknowledge the significant risk, expense, and length of continued proceedings necessary to prosecute the Derivative Matters against the Defendants through trial(s) and through possible appeals. Plaintiffs' Counsel have also taken into account the substantial risks, costs, and delays involved in complex shareholder derivative litigation, generally, as well as the unique challenges presented by the Derivative

Matters, including establishing that demand on the Board would be futile in the Derivative Actions, establishing that the Board's response to either or both of the Demands was wrongful, and the exculpation and indemnification rights afforded the director Defendants pursuant to Delaware General Corporate Law §102(b)(7).

Based on Plaintiffs' Counsel's thorough review and analysis of the relevant facts and the circumstances, allegations, defenses, and controlling legal principles, Plaintiffs' Counsel have determined that the Settlement set forth in the Stipulation is fair, reasonable, and adequate, and confers substantial benefits upon HD Supply and its shareholders. Based on their evaluation, Plaintiffs and their counsel believe that the Settlement is in the best interests of HD Supply and Current HD Supply Stockholders and have agreed to settle the Derivative Matters upon the terms and subject to the conditions set forth herein.

B. Why Did the Defendants Agree to Settle?

Defendants have denied and continue to deny each and all of the claims, contentions, and allegations made against them or that could have been made against them in the Derivative Matters, and believe the Derivative Matters have no merit. The Individual Defendants expressly assert that they have satisfied their fiduciary duties and have acted in good faith and in the best interests of HD Supply and its shareholders at all relevant times and deny each and every one of the claims,

contentions, and allegations of wrongdoing made against them or that could have been made against them in the Derivative Matters, and expressly deny all charges of wrongdoing or liability against them. Nonetheless, Defendants have taken into account the uncertainty and risks inherent in any litigation, especially in complex actions such as the Derivative Matters, as well as the continuing expense, inconvenience, and distraction of ongoing litigation. Defendants have, therefore, determined that it is desirable for the Derivative Matters to be fully and finally settled in the matter and upon the terms and conditions set forth in this Stipulation. Further, the independent members of HD Supply's Board have determined, in a good faith exercise of their business judgment, that the Corporate Governance Reforms confer substantial benefits on the Company and its stockholders and that the Settlement is in the best interests of the Company and its stockholders.

VI. THE SETTLEMENT HEARING AND YOUR RIGHT TO BE HEARD

On _____, 20____, at _____ .m., the Court will hold the Settlement Hearing at the U.S. District Court for the Northern District of Georgia, Atlanta Division, located at Richard B. Russell Federal Building & U.S. Courthouse, 75 Ted Turner Drive, SW, Atlanta, GA 30303-3309. The Settlement Hearing may be continued by the Court without further notice.

At the Settlement Hearing, the Court will consider: (i) whether the terms of the Settlement are fair, reasonable, and adequate and should be approved; (ii) whether a final judgment should be entered; (iii) whether the Court should award the requested attorneys' fees and reimbursement of expenses for Plaintiffs' Counsel and service awards to Plaintiffs; and (iv) such other matters as may be necessary or proper under the circumstances.

You have the right, but are not required, to appear in person or through counsel at the Settlement Hearing to object to the terms of the proposed Settlement or otherwise present evidence or argument that may be proper and relevant. However, no Current HD Supply Stockholders shall be heard or entitled to contest the approval of the proposed Settlement, or, if approved, the Judgment to be entered hereon, unless that Current HD Supply Stockholder has, ***at least fourteen (14) calendar days prior to the Settlement Hearing***, filed with the Clerk of the Court a written objection to the Settlement setting forth: (i) a written notice of objection with the Person's name, address, and telephone number, along with a representation as to whether such Person intends to appear at the Settlement Hearing; (ii) competent evidence that such Person held shares of HD Supply common stock as of the date the Stipulation was signed, December 4, 2020 and continuing through the date the objection is made; (iii) a statement of objections to any matters before the Court, the grounds therefor,

or the reasons for such Person desiring to appear and be heard, as well as all documents or writings such Person desires the Court to consider; and (iv) the identities of any witnesses such Person plans on calling at the Settlement Hearing, along with a summary description of their expected testimony.

YOUR WRITTEN OBJECTIONS MUST BE ON FILE WITH THE CLERK OF THE COURT NO LATER THAN _____, 20___. The Court Clerk's address is:

Clerk of the Court
U.S. District Court for the Northern District of Georgia
Richard B. Russell Federal Building & U.S. Courthouse
75 Ted Turner Drive, SW
Atlanta, GA 30303-3309

YOU ALSO MUST DELIVER COPIES OF THE MATERIALS TO PLAINTIFFS' COUNSEL AND DEFENDANTS' COUNSEL SO THEY ARE RECEIVED NO LATER THAN _____, 20___. Counsel's addresses are:

Counsel for Plaintiffs

Michael I. Fistel, Jr.
JOHNSON FISTEL LLP
40 Powder Springs Street
Marietta, GA 30064

Counsel for Defendants

M. Robert Thornton
Benjamin Lee
KING & SPALDING LLP
1180 Peachtree Street, NE
Atlanta, GA 30309-3521

Unless the Court orders otherwise, your objection will not be considered unless it is timely filed with the Court and delivered to Plaintiffs' Counsel and Defendants' Counsel. Any Person or entity who fails to object or otherwise request to be heard in the manner prescribed above will be deemed to have waived the right to object to any aspect of the Settlement or otherwise request to be heard (including the right to appeal) and will be forever barred from raising such objection or request to be heard in this or any other action or proceeding.

VII. HOW TO OBTAIN ADDITIONAL INFORMATION

This notice summarizes the Stipulation. It is not a complete statement of the events of the Derivative Matters or the Stipulation.

There is additional information concerning the Settlement available in the Stipulation, which may be viewed on the Investors portion of the Company's website at <https://ir.hdsupply.com/>. You may also inspect the Stipulation during business hours at the office of the Clerk of the Court office at the Richard B. Russell Federal Building & U.S. Courthouse, 75 Ted Turner Drive, SW, Atlanta, GA 30303-3309.

However, you must appear in person to inspect these documents. The Clerk's office will not mail copies to you.

For more information concerning the Settlement, you may also call or write to: Michael I. Fistel, Jr., Johnson Fistel, LLP, 40 Powder Springs Street, Marietta, Georgia 30064, Telephone: (470) 632-6000.

PLEASE DO NOT CALL, WRITE, OR OTHERWISE DIRECT QUESTIONS TO EITHER THE COURT OR THE CLERK'S OFFICE.

DATED: _____, 202__.

BY ORDER OF THE COURT
U.S. DISTRICT COURT FOR THE
NORTHERN DISTRICT OF
GEORGIA

EXHIBIT B-2

The Derivative Actions are brought by Plaintiffs solely on behalf of and for the benefit of HD Supply and against the Individual Defendants. Plaintiffs generally allege, among other things, that the Individual Defendants breached their fiduciary duties, wasted corporate assets, and were unjustly enriched in connection with allegedly improper public statements and insider stock sales.

On _____, 20____, at _____ .m., the Court will hold the Settlement Hearing at the U.S. District Court for the Northern District of Georgia, Atlanta Division, located at Richard B. Russell Federal Building & U.S. Courthouse, Atlanta, GA 30303-3309 to determine: (i) whether the terms of the Settlement are fair, reasonable, and adequate and should be approved; (ii) whether a final judgment should be entered; (iii) whether the Court should award the requested attorneys' fees and reimbursement of expenses for Plaintiffs' Counsel and service awards to Plaintiffs; and (iv) such other matters as may be necessary or proper under the circumstances. The Court may adjourn the Settlement Hearing without further notice to HD Supply shareholders.

PLEASE READ THIS SUMMARY NOTICE CAREFULLY AND IN ITS ENTIRETY. IF YOU ARE A CURRENT HD SUPPLY STOCKHOLDER, YOUR RIGHTS MAY BE AFFECTED BY THE SETTLEMENT OF THE DERIVATIVE MATTERS.

This is a summary notice only. For additional information about the claims asserted in the Derivative Matters and the terms of the proposed Settlement, please

refer to the documents filed in the respective Derivative Actions, the Stipulation, and the full-length Notice of Proposed Settlement (the “Long-Form Notice”). The Stipulation and Long-Form Notice may be viewed on the “Investors” section of HD Supply’s website at <https://ir.hdsupply.com/>.

You have the right, but are not required, to appear in person or through counsel at the Settlement Hearing to object to the terms of the proposed Settlement or otherwise present evidence or argument that may be proper and relevant. However, no Current HD Supply Stockholders shall be heard or entitled to contest the approval of the proposed Settlement, or, if approved, the Judgment to be entered hereon, unless that Current HD Supply Stockholder has, ***at least fourteen (14) calendar days prior to the Settlement Hearing***, filed with the Clerk of the Court a written objection to the Settlement setting forth: (i) a written notice of objection with the Person's name, address, and telephone number, along with a representation as to whether such Person intends to appear at the Settlement Hearing; (ii) competent evidence that such Person held shares of HD Supply common stock as of the date the Stipulation was signed, December 4, 2020 and continuing through the date the objection is made; (iii) a statement of objections to any matters before the Court, the grounds therefor, or the reasons for such Person desiring to appear and be heard, as well as all documents or writings such Person desires the Court to consider; and (iv) the

identities of any witnesses such Person plans on calling at the Settlement Hearing, along with a summary description of their likely testimony.

YOUR WRITTEN OBJECTIONS MUST BE ON FILE WITH THE CLERK OF THE COURT NO LATER THAN _____, 20____. The Court Clerk's address is:

Clerk of the Court
U.S. District Court for the Northern District of Georgia
Richard B. Russell Federal Building & U.S. Courthouse
75 Ted Turner Drive, SW
Atlanta, GA 30303-3309

YOU ALSO MUST DELIVER COPIES OF THE MATERIALS TO PLAINTIFFS' COUNSEL AND COUNSEL FOR DEFENDANTS SO THEY ARE RECEIVED NO LATER THAN _____, 20____. Counsel's addresses are:

Counsel for Plaintiffs

Michael I. Fistel, Jr.
JOHNSON FISTEL LLP
40 Powder Springs Street
Marietta, GA 30064

Counsel for Defendants

M. Robert Thornton
Benjamin Lee
KING & SPALDING LLP
1180 Peachtree Street, NE
Atlanta, GA 30309-3521

Unless the Court orders otherwise, your objection will not be considered unless it is timely filed with the Court and delivered to Plaintiffs' Counsel and counsel for Defendants. Any Person or entity who fails to object or otherwise request to be heard in the manner prescribed above will be deemed to have waived the right to object to any aspect of the Settlement or otherwise request to be heard (including the right to appeal) and will be forever barred from raising such objection or request to be heard in this or any other action or proceeding.

**PLEASE DO NOT TELEPHONE THE COURT REGARDING
THIS NOTICE**

EXHIBIT C

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE HD SUPPLY HOLDINGS, INC. DERIVATIVE LITIGATION	}	Lead Case No.: 1:17-cv-02977-MLB (Derivative Action)
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[PROPOSED] ORDER AND FINAL JUDGMENT

This matter came before the Court for hearing pursuant to the Order of this Court, dated _____, 202__ ("Preliminary Approval Order"), on the application of the Settling Parties for approval of the Settlement set forth in the Stipulation and Agreement of Settlement dated December 4, 2020 (the "Stipulation"). Due and adequate notice having been given to HD Supply Holdings, Inc. ("HD Supply" or the "Company") stockholders as required in said Preliminary Approval Order, and the Court having considered all papers filed and proceedings and otherwise being fully informed in the premises and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Judgment incorporates herein the Stipulation, including all exhibits thereto. Unless otherwise defined herein, all capitalized terms used herein shall have the same meanings as set forth in the Stipulation.

2. This Court has jurisdiction over the subject matter of the above-captioned Federal Derivative Action, including all matters necessary to effectuate the Settlement, and the Settling Parties have consented to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation.

3. The Court finds that the Long-Form Notice and the Summary Notice provided to Current HD Supply Stockholders constituted the best notice practicable under the circumstances. The Long-Form Notice and the Summary Notice fully satisfied the requirements of Federal Rule of Civil Procedure 23.1 and the requirements of due process.

4. The Court finds that the Settlement as set forth in the Stipulation is fair, reasonable, adequate, and in the best interests of HD Supply and Current HD Supply Stockholders. The Court hereby finally approves the Settlement in all respects and orders the Settling Parties to perform its terms to the extent the Settling Parties have not already done so.

5. The above-captioned Federal Derivative Action and all claims contained therein, as well as all of the Released Claims (including Unknown Claims), are dismissed on the merits and with prejudice. The Settling Parties are to bear their own costs, except as otherwise provided in the Stipulation.

6. Upon the Effective Date, the Releasing Persons shall be deemed to have fully, finally, and forever released, relinquished, and discharged the Released Claims (including Unknown Claims) against the Released Persons.

7. Upon the Effective Date, each of the Released Persons shall be deemed to have fully, finally, and forever released, relinquished, and discharged Plaintiffs, Plaintiffs' Counsel, and HD Supply from all claims (including Unknown Claims), arising out of, relating to, or in connection with the institution, prosecution, assertion, settlement, or resolution of the Derivative Matters or the Released Claims.

8. Nothing in this Judgment constitutes or reflects a waiver or release of any rights or claims of Defendants against their insurers, or their insurers' subsidiaries, predecessors, successors, assigns, affiliates, or representatives, including, but not limited to, any rights or claims of Defendants under any directors' and officers' liability insurance or other applicable insurance coverage maintained by the Company. Nothing in this Judgment constitutes or reflects a waiver or release of any rights or claims of the Individual Defendants relating in any way to indemnification or advancement of attorneys' fees relating to the Derivative Actions or the Released Claims, whether under any written indemnification or advancement agreement, or under the Company's charter, by-laws, or under applicable law.

9. During the course of the Derivative Matters, all parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11, and all other similar rules, laws, or statutes.

10. Neither the Stipulation nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement: (i) is or may be deemed to be or may be offered, attempted to be offered, or used in any way by the Settling Parties or any other Person as a presumption, a concession, or an admission of, or evidence of, any fault, wrongdoing, or liability of the Settling Parties or Released Persons, or of the validity of any Released Claims; or (ii) may be offered or received as evidence or used by any other person in any other actions or proceedings, whether civil, criminal, or administrative, other than to enforce the terms therein.

11. The Released Persons may file the Stipulation and/or this Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, full faith and credit, release, standing, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim. The Settling Parties may also file the Stipulation and documents

executed pursuant and in furtherance thereto in any action to enforce the Settlement and/or this Judgment.

12. Plaintiffs and/or any HD Supply stockholder derivatively on behalf of HD Supply are permanently barred and enjoined from commencing, prosecuting, instituting, or in any way participating in the commencement or prosecution of any action asserting any Released Claims against any of the Released Persons.

13. In the event the Effective Date does not occur, or if the Stipulation is in any way canceled, terminated, or fails to become Final in accordance with its terms, and if counsel for the Settling Parties do not otherwise mutually agree in writing to proceed with the Stipulation: (i) all Settling Parties and Released Persons shall be restored to their respective positions prior to execution of this Stipulation; (ii) all releases delivered in connection with the Stipulation shall be null and void, except as otherwise provided for in the Stipulation; (iii) the Fee and Expense Amount paid to Plaintiffs' Counsel shall be refunded and returned to the insurers that made such payment within ten (10) business days of notice that the Settlement failed to become effective; and (iv) all negotiations, proceedings, documents prepared, and statements made in connection herewith shall be without prejudice to the Settling Parties, shall not be deemed or construed to be an admission by a Settling Party of any act, matter, or proposition, and shall not be used in any manner for any purpose in any

subsequent proceeding in the Derivative Matters or in any other action or proceeding. In such event, the terms and provisions of the Stipulation shall have no further force and effect with respect to the Settling Parties and shall not be used in the Derivative Matters or in any other proceeding for any purpose.

14. The Court hereby approves the sum of \$1,900,000 for the payment of fees and expenses to Plaintiffs' Counsel (the "Fee and Expense Amount") and finds that the Fee and Expense Amount is fair and reasonable. No other fees, costs, or expenses may be awarded to Plaintiffs' Counsel in connection with the Settlement. The Fee and Expense Amount shall be distributed in accordance with the terms of the Stipulation.

15. Plaintiffs Mark Hittinger, Eric Hendren, and Michael C. Hilton, M.D. are each hereby awarded a service award in the amount of \$_____ to be funded solely from the Fee and Expense Amount.

16. Without affecting the finality of this Judgment in any way, this Court hereby retains continuing jurisdiction with respect to implementation and enforcement of the terms of the Stipulation.

17. This Judgment is a final, appealable judgment and should be entered forthwith by the Clerk.

IT IS SO ORDERED.

DATED: _____

MICHAEL L. BROWN
UNITED STATES DISTRICT JUDGE