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27 UNITED STATES DISTRICT COURT
28 CENTRAL DISTRICT OF CALIFORNIA

29 STEVEN RUSSELL, et al.
30
31 Plaintiff,
32
33 vs.
34
35 KOHL'S DEPARTMENT STORES,
36 INC., et al.,
37
38 Defendants.

Case No. 5:15-cv-01143-RSK-SP

**AMENDED CLASS ACTION
SETTLEMENT AGREEMENT**

Courtroom: 850
Judge: Hon. R. Gary Klausner
Action Filed: June 11, 2015

1 WHEREAS, on December 4, 2015, the Court entered an order in which it
2 certified the following for class purposes of injunctive relief:

3 All persons who, while in the State of California, and
4 between June 11, 2011, and the present (the “Class
5 Period”), purchased from Kohl’s one or more items at any
6 Kohl’s store in the State of California at a discount of at
7 least 30% off of the stated “original” or “regular” price,
8 and who have not received a refund or credit for their
9 purchase(s).

10 WHEREAS, Class Representatives and their counsel have pursued this
11 litigation believing that it is meritorious. They have conducted a thorough
12 investigation into the facts of this case and have diligently pursued an investigation
13 of Kohl’s price comparison advertising policies and practices, including, but not
14 limited to, (i) researching the applicable law and the potential defenses;
15 (ii) reviewing and analyzing Kohl’s public filings and internal documents
16 concerning its advertising, pricing and promotional practices, and reviewing and
17 analyzing Kohl’s sales data; (iii) conducting in-store and online reviews to
18 determine and document Kohl’s pricing practices; (iv) hiring and consulting with
19 experts; (v) developing arguments for class certification; (vi) briefing numerous
20 motions; (vii) obtaining class certification; (viii) attending an all-day in-person
21 mediation and conducting several follow up telephonic sessions; and (x) preparing
22 for pretrial litigation tasks and trial. Based on their own independent investigation
23 and evaluation, Class Counsel (defined below) is of the opinion that the Settlement
24 is fair, reasonable, and adequate and is in the best interests of the Settlement Class
25 Members as well as future California consumers, in light of all known facts and
26 circumstances, including the risk of significant delay, the defenses asserted by
27 Kohl’s, trial risk and appellate risk;

1 WHEREAS, Kohl's denies liability and wrongdoing of any kind associated
2 with the claims alleged and contends that this Litigation is not appropriate for class
3 treatment. Kohl's continues to assert that the Class Representatives will not be able
4 to establish any monetary remedy or injunctive relief. Kohl's continues to assert
5 that it has complied with all applicable price comparison advertising laws. Kohl's
6 further states that despite its good faith belief that it is not liable for any of the
7 claims asserted, and despite its good faith belief that certification was not
8 appropriate, Kohl's will not oppose the District Court's certification of the
9 Settlement Class contemplated by this Amended Agreement solely for purposes of
10 effectuating this Settlement. Kohl's agreement to certification of the Settlement
11 Class is without prejudice to Kohl's rights to oppose certification of a class or
12 oppose any other claim (i) in this Litigation, should the Amended Agreement not
13 be approved or implemented for any reason; or (ii) in any other litigation, whether
14 pending in California or elsewhere;

15 WHEREAS, in the event the Amended Agreement is not approved or is
16 otherwise terminated, this Amended Agreement shall be deemed null and void and
17 be of no further force or effect and may not be used by any Party for any purpose in
18 this Litigation or any other action;

19 WHEREAS, the entry of Final Judgment in this Litigation shall dismiss with
20 prejudice all claims which were or which could have been alleged in the Litigation
21 by Settlement Class Members against Kohl's, with the exception of any individual
22 claims that might be retained by Settlement Class Members who exclude
23 themselves from the Settlement, if any;

24 WHEREAS, the Parties agree to cooperate and take all reasonable steps
25 necessary and appropriate to obtain preliminary and final approval of this
26 Settlement, to effectuate its terms, and to dismiss this Litigation with prejudice.
27
28

1 **1. Definitions**

2 1.1 The term “Amended Agreement” as used herein means this Amended
3 Class Action Settlement Agreement.

4 1.2 The term “Attorneys’ Fees and Costs” as used herein means the
5 attorneys’ fees and costs to be requested by Class Counsel subject to Court approval
6 in accordance with the provisions below.

7 1.3 The term “Claim” as used herein means a Claim submitted by way of a
8 Claim Form in accordance with this Amended Agreement.

9 1.4 The term “Claim Form” as used herein means the Claim Form for the
10 Settlement Class attached hereto as Exhibit 1, which is agreed to by the Parties
11 subject to Court approval as the method by which a Class Member may submit a
12 Claim. Only those Settlement Class Members who submit a Claim Form, in the
13 manner set forth in this Amended Agreement, shall be eligible to recover a share of
14 the Settlement proceeds.

15 1.5 The term “Claimant” as used herein means any Settlement Class
16 Member who submits a Claim Form.

17 1.6 The term “Claims Administrator” as used herein means KCC LLC, or
18 another entity subsequently selected, which, subject to Court approval, shall
19 perform the duties of, among other things: (i) providing Notice, Claim Forms and
20 Opt-Out Request Forms to Settlement Class Members; (ii) publishing the
21 Publication Notice; (iii) providing notice as required by the Class Action Fairness
22 Act, 28 U.S.C. § 1715; (iv) tracking returned Claim Forms and Opt-Out Requests;
23 (v) notifying the Parties of determinations regarding submitted Claim Forms and
24 Opt-Out Requests consistent with this Amended Agreement; (vi) distributing Gift
25 Card Credits; and (vii) other notice and administration duties in accordance with
26 this Amended Agreement and the Court’s orders.

27 1.7 The term “Class Counsel” as used herein means the following counsel
28 who have appeared on behalf of the Class Representatives: DOUGLAS CAIAFA,

1 A Professional Law Corporation, and LAW OFFICE OF CHRISTOPHER J.
2 MOROSOFF.

3 1.8 The term “Class List” as used herein means the customers, and their
4 email or physical addresses as known, who purchased during the Settlement Class
5 Period from Kohl’s one or more items at a discount of at least 30% off of the stated
6 “original” or “regular” price, and who have not received a refund or credit for their
7 purchase(s).

8 1.9 The term “Class Representatives” as used herein means Steven Russell
9 and Donna Caffey.

10 1.10 The term “Class Representative Enhancement Payment” as used herein
11 means the amount Class Counsel shall request be paid as set forth below.

12 1.11 The term “Email Notice” as used herein means a document
13 substantially in the form of attached hereto as Exhibit 3, which has been agreed to
14 by the Parties subject to Court approval and which will be sent to potential
15 Settlement Class Members as an email where an email exists on the Class List.

16 1.12 The term “Final Judgment” as used herein refers to the Final Judgment
17 and Order approving the Settlement and dismissing the Litigation with prejudice as
18 against Kohl’s, which this Settlement contemplates will be entered and approved by
19 the District Court.

20 1.13 The term “Gift Card Credit” as used herein means a credit
21 redeemable for purchases at any Kohl’s store or www.Kohls.com. Each Gift Card
22 Credit shall be fully transferable, stackable and may be used in connection with any
23 promotional discount(s) that are otherwise available with the use of Gift Cards.
24 Gift Card Credits have no expiration date and need not be used in full at any time.
25 They will maintain a running balance that is depleted based on use until the balance
26 is zero, but are not redeemable for cash, except where required by law.

27 1.14 The term “Litigation” means the underlying litigation between the
28 Parties as identified in the above caption.

1 1.15 The term “Monetary Component” as used herein means \$6,150,000 to
2 be made available by Kohl’s pursuant to this Settlement, which represents Kohl’s
3 total monetary liability under this Amended Agreement.

4 1.16 The term “Notice” as used herein means a document substantially in
5 the form of the Notice of Proposed Class Action Settlement Between Plaintiff and
6 Kohl’s attached hereto as Exhibit 2, which has been agreed to by the Parties subject
7 to Court approval and which the Claims Administrator will make available through
8 the Settlement Website, explaining the terms of the Settlement and the Claims, Opt-
9 Out, and objection processes.

10 1.17 The term “Notice and Administration Costs” as used herein means the
11 costs to send notice and administer the Settlement as contemplated by this Amended
12 Agreement.

13 1.18 The term “Opt-Out Request Form” as used herein means a form that
14 will be available for download on the Settlement Website, which can be used by
15 Settlement Class Members to Request to Opt Out. Settlement Class Members are
16 not required to use the Opt-Out Request Form in order to communicate their desire
17 to opt out of the Settlement.

18 1.19 The term “Parties” as used herein means the Class Representatives, the
19 Settlement Class, and Settling Defendant.

20 1.20 The term “Postcard Notice” as used herein means a document
21 substantially in the form attached hereto as Exhibit 4, which has been agreed to by
22 the Parties subject to Court approval and which will be sent to potential Settlement
23 Class Members in the U.S. mail where a physical address exists on the Class List
24 but an email address does not.

25 1.21 The term “Publication Notice” as used herein means a document
26 substantially in the form attached hereto as Exhibit 5, which has been agreed to by
27 the Parties subject to Court approval.

28

1 1.22 The terms “Qualified Settlement Fund” or “QSF” as used herein means
2 the Qualified Settlement Fund to be set up in accordance with the terms below.

3 1.23 The term “Releasing Settlement Class Members” as used herein means
4 the Class Representative and all Settlement Class Members, other than those who
5 submit Requests to Opt Out.

6 1.24 The term “Requests to Opt Out” as used herein means requests sent by
7 any Settlement Class member not wishing to remain in the Settlement Class.

8 1.25 The term “Settlement” as used herein means the compromise and
9 settlement of the Litigation as contemplated by this Amended Agreement.

10 1.26 The term “Settlement Class” as used herein means all persons who,
11 while in the State of California, and between June 11, 2011, and the present (the
12 “Class Period”), purchased from Kohl’s one or more items at a discount of at least
13 30% off of the stated “original” or “regular” price, and who have not received a
14 refund or credit for their purchase(s). Excluded from the Settlement Class are
15 Defendant, as well as its officers, employees, agents or affiliates, and any judge who
16 presides over this action, as well as all past and present employees, officers and
17 directors of Kohl’s.

18 1.27 The term “Settlement Class Member Released Claims” as used herein
19 means the claims, rights, penalties, demands, damages, debts, accounts, duties, costs
20 and expenses (other than those costs and expenses required to be paid pursuant to
21 this Amended Settlement Agreement), liens, charges, complaints, causes of action,
22 obligations, or liabilities that are released, acquitted and discharged as described
23 below.

24 1.28 The term “Settlement Class Members,” as used herein means the Class
25 Representatives and all members of the Settlement Class.

26 1.29 The term “Settlement Class Period” as used herein means the period of
27 time between June 11, 2011, and the present.
28

1 1.30 The term “Settlement Effective Date” as used herein means the first
2 day following the last of the following occurrences:

3 1.30.1 The date the time to appeal or seek permission to appeal or seek
4 other judicial review of the entry of the Final Judgment approving the Settlement and
5 dismissing this Litigation with prejudice as to Kohl’s has expired with no appeal or
6 other judicial review having been taken or sought; or

7 1.30.2 If an appeal or other judicial review has been taken or
8 sought, the latest of: (i) the date the Final Judgment is finally affirmed by an
9 appellate court with no possibility of subsequent appeal or other judicial review
10 therefrom; or (ii) the date the appeal(s) or other judicial review therefrom are finally
11 dismissed with no possibility of subsequent appeal or other judicial review; or (iii) if
12 remanded to the District Court following an appeal or other review, the date the Final
13 Judgment is entered by the District Court after remand and the time to appeal or
14 seek permission to appeal or seek other judicial review of the entry of that Final
15 Judgment has expired with no further appeal or other judicial review having been
16 taken or sought. If further appeal is sought after a remand, the time periods in this
17 sub-section shall apply.

18 1.31 The term “Settlement Website” as used herein means an Internet
19 website maintained by the Claims Administrator containing the Notice, Claim Form,
20 Opt-Out Request Form, Settlement Class Member information about their individual
21 allocation of the Settlement, instructions on how to submit a Claim Form and/or
22 additional receipts providing evidence of additional qualifying purchases, and where
23 Gift Card Credits may be obtained.

24 1.32 The term “Verified Claims” as used herein means those Claims which
25 are approved by the Claims Administrator for payment after the deadline for audits
26 allowable has expired, or, if an audit or objection is made, after all audits or
27 objections have been resolved in accordance with the provisions below.

1 **2. Settlement Class**

2 2.1 The Parties agree that, for purposes of this Amended Agreement only,
3 Class Representatives shall request, and Kohl’s will not oppose, certification of the
4 Settlement Class (defined above) pursuant to Federal Rule of Civil Procedure
5 23(b)(3), to which Kohl’s will provide settlement consideration and from which
6 Kohl’s will obtain a release of claims, subject to the Court’s preliminary approval of
7 this Amended Agreement, the provision of Notice to members of the Settlement
8 Class, and the Court’s final approval of the notice provided and this Amended
9 Agreement.

10 2.2 The Parties agree that, for purposes of this Amended Agreement only,
11 Class Representatives shall request, and Kohl’s will not oppose, the Court’s
12 appointment of Class Counsel as counsel for the Settlement Class, and the
13 appointment of the Class Representatives as representatives of the Settlement Class.

14 2.3 The Parties further agree that, for purposes of this Amended
15 Agreement only, the definition of the proposed class in the Litigation is amended to
16 be the same as the Settlement Class, and that the Court’s orders preliminarily and
17 finally approving the Amended Agreement shall so amend the operative complaint in
18 the Litigation. The Parties also agree that the operative complaint in this Litigation
19 can and shall be further amended as necessary and/or as required by the Court to
20 effectuate the terms of this Amended Agreement.

21 2.4 The Settlement is conditioned on the Court certifying the Settlement
22 Class. The Parties and Class Counsel agree that, if approved, certification of the
23 Settlement Class is a conditional certification for settlement purposes only, and if for
24 any reason the District Court does not grant final approval of the Settlement, or if
25 final approval is not granted following appeal of any order by the District Court, the
26 certification of the Settlement Class shall be deemed null and void, and each Party
27 shall retain all their respective rights as they existed prior to the execution of the
28 Amended Settlement Agreement and the Settlement Agreement Term Sheet.

1 **3. Settlement Consideration**

2 Monetary Component for Class

3 3.1 Subject to the other terms and conditions of this Amended Agreement,
4 and subject to Court approval, Kohl’s will contribute \$6,150,000 for the Monetary
5 Component of the settlement. This Monetary Component will be comprised of the
6 following:

7 3.1.1 Following approval of a final settlement agreement by the
8 Court and after the deductions described in Paragraphs 3.1.2 through 3.1.4 below, the
9 remaining value of the Monetary Component will be distributed on a pro rata basis in
10 the form of Kohl’s Gift Card Credits to members of the Settlement Class who submit
11 a valid Claim. The value of each Gift Card Credit shall be determined by dividing the
12 remaining value of the Monetary Component by the number of Class Members who
13 submit a valid Claim.

14 3.1.2 The actual Notice and Administration Costs incurred in
15 accordance with this Amended Agreement, up to \$1,000,000 (“Administrative Costs
16 Portion”). The Administrative Costs Portion shall be deposited by Kohl’s into the
17 QSF for purposes of paying administrative costs within a reasonable time period
18 following preliminary approval of the Settlement by the District Court.

19 3.1.3 Class Counsel may apply to the Court for an award of
20 reasonable Attorneys’ Fees and Costs not to exceed 25% of the Monetary Component
21 of the settlement. Kohl’s will not oppose an application for a reasonable award of
22 Attorneys’ Fees and Costs sought in accordance with this Amended Agreement. In
23 the event that the Court does not approve the award of Attorneys’ Fees and Costs
24 requested by Class Counsel, or if the Court awards Attorneys’ Fees and Costs in an
25 amount less than that requested by Class Counsel, the amount that is not awarded will
26 be available for distribution to the Class, and the Court’s decision shall not affect the
27 validity and enforceability of the Settlement and shall not be a basis for anyone to
28 seek to void the Settlement or for rendering the entire Settlement null, void, or

1 unenforceable. Class Counsel retain their right to appeal any decision by the Court
2 regarding the Court's award of Attorneys' Fees and Costs.

3 3.1.4 Class Counsel intends to seek \$7,500 for the Class
4 Representatives as the Class Representative Enhancement Payment. Kohl's will not
5 oppose the application. Any request made by Class Counsel in accordance with this
6 Section is without prejudice to the Class Representative's right to file a Claim as a
7 Settlement Class Member. In the event that the Court does not approve the Class
8 Representative Enhancement Payment, or the Court awards an amount that is less
9 than sought, the amount that is not awarded will be available for distribution to the
10 Class and shall not affect the validity and enforceability of the Settlement and shall
11 not be a basis for anyone to seek to void the Settlement or for rendering the entire
12 Settlement null, void, or unenforceable.

13 3.2 The payments identified in Paragraphs 3.1.1 through 3.1.4 of this
14 Amended Agreement shall be paid solely from the Monetary Component. The
15 \$6,150,000 Monetary Component as described above shall be the total amount owed
16 by Kohl's in settlement. Kohl's will not be obligated to pay any additional sums, and
17 shall have no other monetary liability for any costs or expenses related to this
18 Settlement, including without limitation the costs of administering the Settlement,
19 preparation of Notice, oversight and reporting of the Notice program, establishing the
20 appropriate website, any escrow or QSF expenses, tax filing and distributions. All
21 such costs shall be included within and paid from the Administrative Costs Portion of
22 the Monetary Component. For clarity, all costs of the QSF, as described in
23 Paragraphs 9.1 through 9.8 of this Amended Agreement, shall be paid from said
24 Monetary Component.

25 3.3 Each Claimant who receives any value paid in accordance with this
26 Amended Agreement is responsible for any taxes associated with the monies received
27 by that recipient. If required by applicable law, the QSF shall issue 1099s to Class
28 Counsel (for payments of Attorneys' Fees and Costs awarded by the Court) and to the

1 Class Representative for any Class Representative Enhancement Payment authorized
2 by the Court.

3 Injunctive Relief

4 3.4 As a direct result of this Litigation, Kohl's agrees that its comparative
5 advertising and pricing practices, as of the date of this Amended Settlement
6 Agreement, and continuing forward, will not violate Federal or California law,
7 including California's specific price-comparison advertising statutes. As a direct
8 result of this Litigation, Kohl's shall continue to enhance and expand programs
9 intended to promote pricing compliance with legal requirements, including those
10 requirements set forth in the Federal Trade Commission's guidelines for the use of
11 price comparisons in advertising (16 C.F.R. 233.1) and the relevant comparative
12 advertising provisions within California's Business and Professions Code (Section
13 17501) and California Civil Code Section 1770 (a)(13). More specifically,
14 commencing within six (6) months, Kohl's compliance program enhancements shall
15 include the development and roll-out of enhanced pricing compliance computer
16 systems. In addition, commencing within six (6) months and continuing for a period
17 of at least four (4) years from the date of this Amended Settlement Agreement Kohl's
18 will also implement pricing compliance training targeted at relevant buying office
19 personnel, which shall be offered on a regular basis, no less than annually, to ensure
20 that new hires are also appropriately trained on price-comparison advertising
21 requirements.

22 **4. Notice to the Class**

23 4.1 Given the expected size of the Settlement Class, the Parties agree that
24 direct notice via email is the best practicable notice for those Settlement Class
25 Members for which such information exists. Where only a mailing address is
26 available for a Settlement Class member, or for all Settlement Class members whose
27 Email Notice was not deliverable and a physical address is known, a Postcard Notice
28 shall be mailed by first class mail. Recognizing that there are Settlement Class

1 Members for whom neither email nor physical mailing addresses are available, notice
2 by print publication as agreed to by the Parties and authorized by the Court will be
3 used to supplement the Email and Postcard notices. Class Counsel agrees to use their
4 best efforts to obtain preliminary approval of a notice plan to achieve the best
5 practicable notice consistent with this section.

6 4.1.1 The Email and Postcard notices shall advise Settlement Class
7 Members of the deadline for submitting Claim Forms, their right to opt out of the
8 Settlement or to object to the Settlement, the process by which such opt-outs or
9 objections must be made, and the date set by the District Court for a hearing on final
10 approval of the Settlement. Subject to Court approval, the Email and Postcard
11 Notices shall be substantially in the form attached hereto as Exhibits 3 and 4,
12 respectively.

13 4.1.2 Because some of the sales data during the Settlement Class
14 Period do not have corresponding customer names or addresses, the Parties agree that
15 notice by publication would be the best practicable notice for the balance of the
16 Settlement Class. This "Publication Notice" shall include instructions as to how to
17 access the Settlement Website and how to request a Claim Form and instructions on
18 how to submit it. The Publication Notice shall also advise Settlement Class Members
19 of their right to opt out of the Settlement or to object to the Settlement, the process
20 and deadlines by which such opt-outs or objection must be made and the date set by
21 the Court for a hearing on final approval of the Settlement. Subject to Court
22 approval, the Publication Notice shall be substantially in the form attached hereto as
23 Exhibit 5.

24 4.2 Kohl's will provide the Class List to the Claims Administrator in
25 sufficient time for Notice to go out. Kohl's and Plaintiff agree that all Class List
26 information shall be treated as highly confidential proprietary information, and that
27 the contents of the Class List shall not be shared with third parties other than the
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1 Claims Administrator and that the Claims Administrator shall be required to preserve
2 the confidentiality of the Class List.

3 4.3 The Email Notice shall be sent to Settlement Class Members within
4 thirty (30) days following the Court's preliminary approval of the Settlement,
5 provided that any challenges or other barriers to the use of Email Notice have been
6 resolved. The Postcard Notice shall be sent to Settlement Class Members within
7 fifty (50) days following the Court's preliminary approval of the Settlement. The
8 Publication Notice shall be published on the soonest practicable date after preliminary
9 approval, but in no event shall it commence more than ten (10) days after the
10 Postcard Notice is sent.

11 4.4 The Email and Postcard Notices, Claim Form, Opt-Out Request
12 Form, FAC, original Settlement Agreement, Amended Settlement Agreement and
13 other materials as agreed to by the Parties shall be available on the Settlement
14 Website. The Claims Administrator shall also establish a toll-free phone line and an
15 email box to respond to inquiries from Settlement Class Members. The Settlement
16 Website address, toll-free phone number, and email box address will be included in
17 all notices to the class.

18 **5. Submission of Claims**

19 5.1 In order to be eligible to receive a share of the Monetary Component, a
20 Settlement Class Member must submit a completed Claim Form within ninety (90)
21 days from the date Notice is disseminated. Only those Settlement Class Members
22 who submit an approved Claim Form shall be eligible to receive a Gift Card Credit.
23 In order for a Claim Form to be considered timely, the Claims Administrator must
24 receive the completed Claim Form by 11:59 p.m. Pacific Time on the ninetieth (90th)
25 day from the date Notice is disseminated. These deadlines shall be set forth clearly in
26 the Notice.

27 5.2 In order for a Claim Form to be approved, the Claimant must meet the
28 following criteria:

1 5.2.1 Claim Forms shall be executed under penalty of perjury, but
2 need not be notarized.

3 5.2.2 Claimants will be directed to submit their Claim Forms
4 electronically on the Settlement Website, but also may submit them by regular mail.

5 5.3 Claim Forms and Opt-Out Request Forms shall be available on the
6 Settlement Website. The Email Notice, the Postcard Notice and Publication Notice
7 shall direct Settlement Class Members to the Settlement Website which shall contain
8 the Claim Forms, Opt-Out Request Form and other documentation concerning the
9 Litigation and Settlement.

10 5.4 Submission of more than one Claim Form, or submission of an
11 incomplete Claim Form, may render the Claim Form submitted by that Settlement
12 Class Member invalid. The Claims Administrator shall send to all Settlement Class
13 Members who have submitted an incomplete or duplicative Claim Form a notice of
14 deficiency with instructions on how to cure the deficiency. Settlement Class
15 Members will have thirty (30) days to cure deficiencies.

16 5.5 Within twenty (20) days after the deadline to submit Claim Forms,
17 the Claims Administrator shall provide a spreadsheet to Class Counsel and to
18 Kohl's that contains sufficient information for the Parties to determine the
19 number of approved Claims made by the members of the Settlement Class. The
20 Claims Administrator shall also provide information regarding rejected Claims,
21 as well as the reasons why each Claim was rejected. The Claims Administrator
22 shall retain the originals of all Claim Forms (including any envelopes with the
23 postmarks) received from Claimants, and shall make copies or the originals
24 available to Kohl's or Class Counsel within three (3) business days upon
25 request.

26 5.6 Class Counsel and Kohl's shall each have the right to audit the
27 information provided in any Claim Form, and to challenge the Claims
28

1 Administrator's determinations regarding approval or denial of each Claim Form, in
2 accordance with the following procedures:

3 5.6.1 Within fourteen (14) days of having received the
4 information contemplated by Paragraph 5.5 of this Amended Agreement, Class
5 Counsel and Kohl's counsel shall meet and confer regarding any issues that either
6 Class Counsel or Kohl's believes need to be raised with the Claims Administrator.
7 Class Counsel and Kohl's agree to use their best efforts to resolve any disputes. If
8 Class Counsel and Kohl's cannot resolve these issues within twenty-eight (28) days
9 of having received the information contemplated by Paragraph 5.5 of this Amended
10 Agreement, then Class Counsel or Kohl's may, within five (5) days of the expiration
11 of the above twenty-eight (28) day period, provide written notice of their intent to
12 audit the Claims Administrator's determinations with respect to a particular Claim or
13 Claims.

14 5.6.2 If the audit is filed with the Claims Administrator, the
15 decision of the Claims Administrator may be appealed, within fourteen (14) days of
16 receipt of the Claims Administrator's decision, to the District Court. All decisions by
17 the District Court, or such person as the Court may direct, regarding audits shall be
18 made expeditiously and are binding, final decisions which shall not be subject to
19 appeal by any party. If a decision by the Claims Administrators is not presented to
20 the District Court or to such person as the Court may direct, within fourteen (14) days
21 of issuance, the decision of the Claims Administrator becomes a binding, final
22 decision not subject to further appeal.

23 5.6.3 Class Counsel and Kohl's may invoke their rights under these
24 paragraphs by providing written notice to each other and to the Claims
25 Administrator. The notice shall identify the Claims that are the subject of the audit,
26 and may be accompanied by supporting papers of no more than two (2) pages,
27 double-spaced, 12-point type (excluding exhibits).

1 5.6.4 Within fourteen (14) days of receipt of the notice and
2 supporting papers, the non-auditing party may submit a written response of no more
3 than two (2) pages, double-spaced, 12-point type (excluding exhibits).

4 5.6.5 Given the cost of the audit process relative to the size of the
5 individual claims, the Parties shall only appeal an audit decision to the Court, or to
6 such person as the Court may direct, if the audit decision affects at least 10,000
7 claims. Audit decisions by the Claims Administrator affecting less than 10,000
8 claims shall be final and non-appealable.

9 5.6.6 Notice of audits, any paperwork submitted in support of, or in
10 response to, any audit, and the decisions by the Claims Administrator may be served
11 by e-mail or United States Mail.

12 **6. Opt-Out Process**

13 6.1 A Settlement Class Member who wishes to exclude himself or herself
14 from this Settlement and from the release of claims pursuant to this Settlement shall
15 submit a Request to Opt Out. For a Request to Opt Out to be accepted, it must be
16 timely and valid. To be timely, it must be postmarked by the date which is ninety
17 (90) days after the last date Notice is disseminated. To be valid, the Request to Opt
18 Out must be signed and dated. Opt-Out Request Forms, substantially similar to the
19 attached Exhibit 6, shall be available for download from the Settlement Website and,
20 upon request by a Settlement Class Member, made available by the Claims
21 Administrator through First Class Mail.

22 6.2 A Settlement Class Member who submits a Request to Opt Out is not
23 eligible to recover a share of the Class Settlement Amount, except that if any
24 Settlement Class Member submits both a Request to Opt Out and a Claim Form, the
25 Request to Opt Out will be rejected, the Settlement Class Member will be treated as if
26 they are still a member of the class, and the Claim Form will be treated as valid and
27 processed.

1 6.3 The Claims Administrator shall maintain a list of persons who have
2 excluded themselves and shall provide such list to the Parties upon request. The
3 Claims Administrator shall retain the originals of all Requests to Opt Out (including
4 the envelopes with the postmarks) received from Settlement Class Members, and
5 shall make copies or the originals available to Kohl's or Class Counsel within three
6 (3) business days upon request.

7 6.4 Kohl's, at its sole discretion, has the right to terminate this Settlement
8 if more than 2% of the Settlement Class opt out, with the class size based on the
9 estimated number of California purchasers within the Settlement Class as provided
10 to Class Counsel during the Settlement negotiations.

11 **7. Objection Process**

12 7.1 A Settlement Class Member who wishes to object to the Settlement
13 must notify the District Court of his or her objection, in writing, within ninety (90)
14 days of the last date Notice is disseminated.

15 7.2 To be considered valid, an objection must be in writing, must
16 include the objector's name and address, and must include the basis for the objection
17 (including why the objector believes the Settlement is not in the best interests of the
18 Settlement Class), along with any and all documents that support the objection. The
19 objection must also indicate whether or not the objector intends to appear at the
20 hearing on the motion for final approval of the Settlement. The objection must be
21 filed with the Court on or before the deadline. Additional instructions regarding how
22 to object to the Settlement are contained in the Notices.

23 7.3 Settlement Class Members who do not file a timely written objection in
24 accordance with the procedures set forth in this Amended Agreement and the Notices
25 shall be deemed to have waived any objections to the Settlement and shall forever be
26 foreclosed from making any objection (whether by appeal or otherwise) to the
27 Settlement, or any aspect of the Settlement, including, without limitation, the fairness,
28 reasonableness, or adequacy of the Settlement, or any award of Attorneys' Fees and

1 Costs, reimbursement of costs and expenses and/or the Class Representative
2 Enhancement Payment.

3 **8. Distribution Process**

4 8.1 The Class Settlement Amount shall be funded through the QSF in
5 accordance with the provisions below. The timing of the payments by Kohl's to the
6 QSF shall be as follows:

7 8.1.1 Within ten (10) business days following the date on which the
8 District Court enters an order granting Preliminary Approval of the Settlement, or
9 within ten (10) business days of the date on which the District Court enters an order
10 approving the QSF, whichever is later, Kohl's shall transfer to the QSF 75% of
11 the Administrative Costs Portion of the Monetary Component of the Settlement.
12 Kohl's shall continue to periodically fund the QSF to cover additional Notice
13 and Administration Costs, if required, up to the amount provided in Paragraph
14 [3.1.2](#). In the event that the Settlement Effective Date does not occur, any
15 amounts actually used by the Claim Administrator for notice and administration
16 shall not be refundable to Kohl's. If, however, Kohl's has paid into the QSF
17 monies for Notice and Administration, those amounts not used by the Claims
18 Administrator shall be refunded to Kohl's.

19 8.1.2 Within ten (10) business days following the
20 Settlement Effective Date, Kohl's shall transfer to the QSF amounts sufficient
21 to cover that portion of the Monetary Component comprising the Attorneys'
22 Fees and Costs and Class Representative Enhancement Payment awarded by the
23 Court.

24 8.1.3 With the assistance of the Claims Administrator and to keep the
25 Administrative Costs Portion of the Monetary Component as low as possible, the
26 Parties shall agree on a reasonable and cost effective process to provide Gift Card
27 Credits to Claimants.

28 8.2 Distributions from the QSF shall be handled as follows:

1 8.2.1 Other than for purposes of paying invoices submitted by the
2 Claims Administrator, the QSF shall not distribute any payments required under this
3 Amended Agreement until after the Settlement Effective Date has occurred.

4 8.2.2 Attorneys' Fees and Costs awarded by the Court and the Class
5 Representative Enhancement Payment awarded by the Court shall be paid to the
6 individuals or entities specified by the Court.

7 **9. Qualified Settlement Fund**

8 9.1 At the times required by this Amended Agreement, Kohl's shall
9 transfer to a trustee selected jointly by Class Counsel and Kohl's (the "Trustee") the
10 required portions of the Class Settlement Amount to be held in the QSF, which shall
11 be a separate trust organized and operated as a qualified settlement fund as described
12 in Treasury Regulation § 1.468B-1. Class Counsel and Kohl's jointly shall cause
13 the Trustee and the Claims Administrator, as applicable, to take such steps as
14 necessary to qualify the QSF as a qualified settlement fund under § 468B of the
15 Internal Revenue Code, 26 U.S.C. § 468B, and the regulations promulgated
16 pursuant thereto. Kohl's shall be considered the "transferor" within the meaning
17 of Treasury Regulation § 1.468B-1(d)(1). The Claims Administrator shall be the
18 "administrator" within the meaning of Treasury Regulation § 1.468B-2(k)(3). The
19 Parties shall cooperate in securing an order of the Court to establish the QSF in
20 accordance with the terms hereof in conjunction with its preliminary Approval of the
21 Settlement and Notice.

22 9.2 The Court shall retain jurisdiction over the administration of the QSF.
23 Kohl's shall supply to the Claims Administrator the statement described in Treasury
24 Regulation § 1.468B-3(e)(2) no later than February 15 of the year following each
25 calendar year in which Kohl's makes a transfer to the QSF. In accordance with
26 Treasury Regulation § 1.468B-3(c), the transfers to the QSF will satisfy the "all
27 events test" and the "economic performance" requirement of § 1.461(h)(1) of the
28 Internal Revenue Code, and Treasury Regulation 1.461-1(a)(2). Accordingly,

1 Kohl's shall not include the income of the QSF in its income. Rather, in accordance
2 with Treasury Regulation § 1.468B-2, the QSF shall be taxed on its modified gross
3 income, excluding the sums transferred to it, and shall make payment of resulting
4 taxes from its own funds. In computing the QSF's modified gross income,
5 deductions shall be allowed for its administrative costs and other deductible expenses
6 incurred in connection with the operation of the QSF as permissible pursuant to
7 Treasury Regulation § 1.468B-2(b), including, without limitation, state and local
8 taxes, and legal, accounting, and other fees relating to the operation of the QSF.

9 9.3 Upon establishment of the QSF, the Trustee or Claims Administrator,
10 as appropriate, shall apply for an employer identification number for the QSF
11 utilizing Internal Revenue Service Form SS-4 and in accordance with Treasury
12 Regulation § 1.468B-2(k)(4).

13 9.4 If requested by either Kohl's or the Claims Administrator, the Claims
14 Administrator, the Trustee and Kohl's shall fully cooperate in filing a relation-back
15 election under Treasury Regulation § 1.468B-1(j)(2) to treat the QSF as coming
16 into existence as a settlement fund as of the earliest possible date.

17 9.5 Following its deposits as described in this Amended Agreement,
18 Kohl's shall have no responsibility, financial obligation, or liability whatsoever with
19 respect to the notifications to the Class required hereunder, the processing of Claims
20 and Opt-Out Requests, the allowance or disallowance of claims by Claimants,
21 payments to Class Counsel, investment of QSF funds, payment of federal, state, and
22 local income, employment, unemployment, excise, and other taxes imposed on the
23 QSF or its disbursements, or payment of the administrative, legal, accounting, or
24 other costs occasioned by the use or administration of the QSF, since it is agreed
25 that such deposits shall fully discharge Kohl's obligations to Claimants and Class
26 Counsel and for expenses of administration in respect to the disposition of the
27 Monetary Component hereunder. Rather, the Claims Administrator shall have sole
28 authority and responsibility for the administration of such funds and income

1 thereon, disbursement to Claimants and Class Counsel, and payment of taxes and
2 administrative costs in accordance with the provisions hereof, subject only to the
3 rights of Kohl's or Class Counsel to audit determinations of the Claims
4 Administrator in accordance with this Amended Agreement or to seek redress for
5 any breach of the terms hereof.

6 9.6 The Claims Administrator shall cause to be timely and properly filed,
7 on behalf of the QSF, all required federal, state, and local tax returns, information
8 returns and tax withholdings statements in accordance with the provisions of
9 Treasury Regulation § 1.468B-2(k) and Treasury Regulation § 1.468B-2(1)(2), as
10 well as the timely and proper payments of any federal, state, or local taxes
11 (including estimated taxes) and associated tax-related penalties and interest for
12 which the QSF may be liable. The Claims Administrator shall also be responsible
13 for the timely and proper response to any questions from, or audits regarding, such
14 taxes by the IRS or any state or local tax authority, as well as compliance with any
15 other tax-related requirements. The Claims Administrator may, at its own expense,
16 retain legal counsel and an independent, certified public accountant to consult with
17 and advise the Claims Administrator or the Trustee with respect to the preparation
18 and filing of such materials and the federal, state and local tax compliance of the
19 QSF. Either Kohl's or the Claims Administrator, independently or jointly, may, but
20 are not required to, apply to the Internal Revenue Service and/or any applicable
21 state taxing authority for an advance ruling as to any issue pertinent to the
22 qualification of the QSF under Internal Revenue Code § 468B and Treasury
23 Regulations promulgated thereunder, its tax status under applicable state law, and/or
24 its tax payment, reporting and withholding duties. Settlement Class Members shall
25 be responsible for payment of appropriate federal, state, and local income taxes on
26 any claim paid out pursuant to this Amended Agreement. If, in any such ruling or
27 otherwise, it is determined that Kohl's has any responsibility whatsoever for
28 payment of any federal, state or local tax on any claim paid out pursuant to this

1 Amended Agreement, then Kohl's shall have the right to terminate this Amended
2 Agreement. The Parties agree that no portion of any distributions from the QSF to
3 the Settlement Class Members is made in satisfaction of any excluded liability as
4 described in Treasury Regulation § 1.468B-1(g) related to Qualified Settlement
5 Funds. Notwithstanding any effort, or failure, of the Parties, the Trustee or the
6 Claims Administrator to treat the QSF as a qualified settlement fund within the
7 meaning of Treasury Regulation § 1.468B-1, any additional tax liability, interest, or
8 penalties incurred by Kohl's resulting from income earned by the QSF shall be
9 reimbursed from the QSF in the amount of such additional tax liability, interest or
10 penalties upon Kohl's written request to the Claims Administrator.

11 9.7 The taxable year of the QSF shall be the calendar year in accordance
12 with Treasury Regulation § 1.468B-2(j). The QSF shall utilize the accrual method
13 of accounting within the meaning of § 446 (c) of the Internal Revenue Code.

14 9.8 The Claims Administrator may amend, either in whole or in part,
15 any administrative provision of this Section or the trust instrument through which
16 the QSF is established to maintain the qualification of the QSF pursuant to the
17 above described authorities provided that the rights and liabilities of the Parties
18 hereto and the Class are not altered thereby in any material respect.

19 **10. Comprehensive Waiver, Release, and Dismissal**

20 10.1 Settlement Class Member Released Claims - Released by Settlement
21 Class Members:

22 10.1.1 Subject to final approval by the Court of the Settlement and
23 other than for those payments, costs and expenses required to be paid pursuant to this
24 Amended Agreement, and for good and valuable consideration set forth herein, the
25 receipt and sufficiency of which is hereby acknowledged, all Releasing Settlement
26 Class Members do hereby irrevocably release, acquit, and forever discharge Kohl's
27 (and all affiliates, parents or subsidiaries, officers, employees, agents, and attorneys)
28 against any and all claims, rights, penalties, demands, damages, costs and expenses

1 (including attorneys' fees and costs, other than those costs and expenses required to
2 be paid pursuant to this Amended Agreement), causes of action, or liability of any
3 kind arising out of or in connection with all of the claims or causes of action that were
4 made or could have been made in this Litigation or in any other forum relating, in
5 whole or in part, to the alleged acts, omissions, facts, matters, transactions,
6 circumstances asserted by in the Litigation, including assertions that Kohl's
7 improperly inflated or misstated its original and/or regular prices in order to make its
8 sale prices appear more attractive and thereby harmed consumers.

9 10.1.2 The Settlement Class Member Released Claims includes a
10 release of all claims for Attorneys' Fees and Costs incurred by Releasing Settlement
11 Class Members or by Class Counsel or any other attorney in connection with the
12 Litigation and this Settlement.

13 10.1.3 Releasing Settlement Class Members understand and agree that
14 the release of the Settlement Class Member Released Claims is a full and final
15 general release applying to both those Settlement Class Member Released Claims that
16 are currently known, anticipated, or disclosed to Releasing Settlement Class Members
17 and to all those Settlement Class Member Released Claims that are presently
18 unknown, unanticipated, or undisclosed to any Releasing Settlement Class Members
19 arising out of the alleged facts, circumstances, and occurrences underlying: (i) the
20 claims set forth in the Litigation; or (ii) Kohl's conduct with respect to the Litigation.
21 Releasing Settlement Class Members acknowledge that the facts could be different
22 than they now know or suspect to be the case, but they are nonetheless releasing all
23 such unknown claims. In exchange for the good and valuable consideration set forth
24 herein, all Releasing Settlement Class Members further waive any and all rights or
25 benefits that they as individuals or the class may now have as a result of the alleged
26 facts, circumstances, and occurrences underlying the claims set forth in the Litigation
27 under the terms of § 1542 of the California Civil Code (or similar statute in effect in
28 any other jurisdiction), which provides as follows:

1 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**
2 **WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO**
3 **EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING**
4 **THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST**
5 **HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT**
6 **WITH DEBTOR.**

7 10.2 Kohl's Released Claims - Release by Kohl's:

8 10.2.1 Subject to final approval by the Court of the Settlement, and for
9 good and valuable consideration set forth herein, the receipt and sufficiency of which
10 is hereby acknowledged, Kohl's does hereby irrevocably release, acquit, and forever
11 discharge all Releasing Settlement Class Members of and from any and all claims,
12 rights, penalties, demands, damages, debts, accounts, duties, attorneys' fees, costs and
13 expenses (other than those costs and expenses required to be paid pursuant to this
14 Amended Agreement), liens, charges, complaints, causes of action, obligations, or
15 liability that could have been asserted but were not asserted as a compulsory
16 counterclaim against Releasing Settlement Class Members in this Litigation.

17 10.2.2 Kohl's understands and agrees that the release of the Kohl's
18 Released Claims is a full and final general release applying to both those Kohl's
19 Released Claims that are currently known, anticipated, or disclosed to Kohl's and to
20 all those Kohl's Released Claims that are presently unknown, unanticipated, or
21 undisclosed to Kohl's arising out of the alleged facts, circumstances, and occurrences,
22 underlying any compulsory counterclaim that could have been asserted in the
23 Litigation. Kohl's acknowledges that the facts could be different than it now knows
24 or suspects to be the case, but it is nonetheless releasing all such unknown
25 counterclaims. In exchange for the good and valuable consideration set forth herein,
26 Kohl's further waives any and all rights or benefits that it may now have as a result of
27 the alleged facts, circumstances, and occurrences underlying such a potential
28

1 compulsory counterclaim under the terms of § 1542 (a) of the California Civil Code
2 (or similar statute in effect in any other jurisdiction), which provides as follows:

3 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**
4 **WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO**
5 **EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING**
6 **THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST**
7 **HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT**
8 **WITH DEBTOR.**

9 10.3 The Parties acknowledge that this Settlement, including the releases
10 provided in this section, reflects a compromise of disputed claims.

11 10.4 The Final Judgment shall dismiss the Litigation with prejudice as to
12 Kohl's and shall incorporate the terms of this release.

13 **11. Duties Of The Parties With Respect To Preliminary Court Approval**

14 11.1 On or before March 14, 2016, or such other date as the Court approves,
15 Class Counsel shall apply to the District Court for the entry of an order granting
16 preliminary approval of the Settlement substantially in the following form:

17 11.1.1 Conditionally Certifying the Settlement Class;

18 11.1.2 Preliminarily approving the Settlement;

19 11.1.3 Approving as to form and content the proposed notices and
20 notice plan, including the Email, Postcard and Publication Notices, Claim Form and
21 Opt-Out Request Form;

22 11.1.4 Scheduling a fairness hearing on the question of whether the
23 proposed Settlement should be finally approved as fair, reasonable, and adequate as
24 to the Settlement Class;

25 11.1.5 Approving Steven Russell and Donna Caffey as Settlement
26 Class Representatives;

1 11.1.6 Approving DOUGLAS CAIAFA, A Professional Law
2 Corporation, and LAW OFFICE OF CHRISTOPHER J. MOROSOFF as Class
3 Counsel for the Settlement Class; and

4 11.1.7 Approving KCC LLC as Claims Administrator.

5 11.2 Kohl's shall cooperate with Class Counsel as reasonably necessary to
6 obtain Preliminary Approval.

7 **12. Duties Of The Parties Following Preliminary Court Approval**

8 12.1 Following preliminary approval by the District Court of the Settlement,
9 and prior to the final fairness hearing, Class Counsel will submit a proposed Final
10 Judgment that will be agreed to by the Parties. The proposed Final Judgment shall:

11 12.1.1 Approve the Settlement, adjudging the terms thereof to be fair,
12 reasonable, and adequate, and directing consummation of its terms and provisions;

13 12.1.2 Approve Class Counsel's application for an award of
14 Attorneys' Fees and Costs;

15 12.1.3 Approve the Class Representative Enhancement Payment;

16 12.1.4 Certify the Settlement Class for Settlement purposes in
17 accordance with applicable legal standards and this Amended Agreement; and

18 12.1.5 Dismiss this Litigation between the Class Representatives and
19 the Settlement Class Members, on the one hand, and Kohl's on the other hand, on the
20 merits and with prejudice and permanently bar the Class Representatives, and all
21 Settlement Class Members (other than those who timely filed valid Opt-Out
22 Requests) from further prosecuting any of the Settlement Class Member Released
23 Claims against Kohl's.

24 12.2 Kohl's shall cooperate with Class Counsel as necessary to obtain final
25 approval and the dismissal of the Litigation as to Kohl's.

26 12.3 The Final Judgment shall not be considered final until the occurrence
27 of the Settlement Effective Date.

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1 **13. Mutual Full Cooperation**

2 13.1 The Parties agree to cooperate fully with each other to accomplish the
3 terms of this Settlement, including but not limited to execution of all necessary
4 documents, and to take such other action as may reasonably be necessary to
5 implement the terms of this Settlement. The Parties shall use their best efforts,
6 including all efforts contemplated by this Settlement and any other efforts that may
7 become necessary by order of the Court or otherwise, to effectuate the terms of this
8 Settlement. As soon as practicable after execution of this Settlement, Class Counsel
9 shall, with the assistance and cooperation of Kohl's and its counsel, take all necessary
10 steps to secure the Court's Final Judgment.

11 **14. Statement of No Admission**

12 14.1 Nothing contained in this Amended Agreement shall be construed or
13 deemed an admission of liability, culpability, or wrongdoing. Kohl's expressly
14 denies liability for the claims asserted and specifically denies and does not admit any
15 of the pleaded facts not admitted in its pleadings in the Litigation. Nor shall this
16 Amended Agreement constitute an admission by Kohl's as to any interpretation of
17 laws or as to the merits, validity, or accuracy of any claims made against it in the
18 Litigation. Likewise, nothing in this Amended Agreement shall be construed or
19 deemed an admission by Class Representatives or the Settlement Class with regard to
20 the validity of any of Kohl's defenses or affirmative defenses. Each of the Parties has
21 entered into this Settlement with the intention to avoid further disputes and litigation
22 with the attendant inconvenience and expenses.

23 14.2 This Amended Agreement, and all related documents, including the
24 Settlement Agreement Term Sheet, the original Settlement Agreement, the
25 certification for settlement purposes entered pursuant to this Amended Agreement,
26 and any Claim Forms, Requests to Opt-Out or Objections submitted by Settlement
27 Class Members and all other actions taken in implementation of the Settlement,
28 including any statements, discussions, or communications, and any materials

1 prepared, exchanged, issued, or used during the course of the negotiations leading to
2 this Amended Agreement, are settlement documents and shall be inadmissible in
3 evidence and shall not be used for any purpose in this Litigation or any other
4 judicial, arbitral, administrative, investigative, or other court tribunal, forum, or
5 proceeding, or any other litigation against Kohl's, for any purpose, except in an
6 action or proceeding to approve, interpret, or enforce the terms of this Amended
7 Agreement.

8 14.3 The Claim Forms, Opt-Out Requests or Objections, or other evidence
9 produced or created by any Settlement Class Member in connection with the claims
10 resolution procedures pursuant to this Settlement, and any actions taken by Kohl's in
11 response to such Claim Forms, Opt-Out Requests, Objections, or other evidence, do
12 not constitute, and will not be deemed to constitute an admission by Kohl's of any
13 violation of any federal, state, or local law, statute, ordinance, regulation, rule, or
14 executive order, or any obligation or duty at law or in equity.

15 **15. Voiding The Amended Agreement**

16 15.1 In the event that this Settlement is not approved, or if for any reason
17 the Settlement Effective Date does not occur, the Settlement Amended Agreement
18 shall be deemed null, void, and unenforceable and shall not be used nor shall it be
19 admissible in any subsequent proceedings either in this Court or in any other judicial,
20 arbitral, administrative, investigative, or other court, tribunal, forum, or other
21 proceeding, or other litigation against Kohl's.

22 15.2 In the event that the Court does not approve the Attorneys' Fees and
23 Costs in the amount request by Class Counsel, or in the event that the Attorneys' Fees
24 and Costs requested by Class Counsel are reduced, that finding shall not be a basis for
25 rendering the entire Amended Settlement Agreement null, void, or unenforceable.
26 Class Counsel retains their right to appeal any decision by the Court regarding the
27 Attorneys' Fees and Costs or Enhancement Award.

1 **16. Authority To Execute**

2 16.1 The respective signatories to this Amended Agreement each represent
3 that they are fully authorized to enter into this Settlement on behalf of the respective
4 Parties for submission to the Court for preliminary and final approval.

5 **17. No Prior Assignments**

6 17.1 The Parties represent, covenant, and warrant that they have not directly
7 or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or
8 encumber, to any person or entity any portion of any liability, claim, demand, action,
9 cause of action, or right released and discharged in this Settlement.

10 **18. Miscellaneous Provisions**

11 18.1 Construction. The Parties agree that the terms and conditions of this
12 Settlement are the result of lengthy, intensive arms-length negotiations between the
13 Parties and that this Settlement shall not be construed in favor of or against any party
14 by reason of the extent to which any party or her or his counsel participated in the
15 drafting of this Settlement.

16 18.2 Captions and Interpretations. Paragraph titles or captions contained in
17 this Amended Agreement are a matter of convenience and for reference, and in no
18 way define, limit, extend, or describe the scope of this Settlement or any provision of
19 this Amended Agreement. Each term of this Amended Agreement is contractual and
20 not merely a recital.

21 18.3 Modification. This Amended Agreement may not be changed, altered,
22 or modified, except in a writing signed by the Parties and approved by the Court.
23 Notwithstanding the foregoing, the Parties agree that any dates contained in this
24 Amended Agreement may be modified by agreement of the Parties without Court
25 approval if the Parties agree and cause exists for such modification. This Settlement
26 may not be discharged except by performance in accordance with its terms or by a
27 writing signed by the Parties.

1 18.4 Integration Clause. This Amended Agreement, the Exhibits hereto,
2 and any other documents delivered pursuant hereto contain the entire agreement
3 between the Parties relating to the resolution of the Litigation, and all prior or
4 contemporaneous agreements, understandings, representations, and statements,
5 whether oral or written and whether by a Party or such Party's legal counsel, are
6 merged in this Amended Agreement, except that this Amended Agreement
7 supersedes in its entirety the Settlement Agreement Term Sheet entered into and as
8 exchanged as an executed version on February 16, 2016, by and between the Parties,
9 as well as the original Settlement Agreement. No rights under this Settlement may be
10 waived except in writing and signed by the Party against whom such waiver is to be
11 enforced.

12 18.5 Binding on Assigns. This Settlement shall be binding upon, and insure
13 to the benefit of, the Parties and their respective heirs, trustee, executors,
14 administrators, successors, and assigns.

15 18.6 Class Counsel Signatories. It is agreed that because the Settlement
16 Class Member are so numerous, it is impossible or impractical to have each
17 Settlement Class Member execute this Settlement. The Email, Postcard, and
18 Publication Notices will provide all Settlement Class Members with a summary of the
19 Settlement, and will advise all Settlement Class Members of the binding nature of the
20 release. Excepting only those Settlement Class Members who timely submit an Opt-
21 Out Request, the Email, Postcard, and Publication Notice shall have the same force
22 and effect as if this Settlement was executed by each Settlement Class Member.

23 18.7 Counterparts. This Amended Agreement may be executed by
24 facsimile signature and in any number of counterparts, and when each party has
25 signed and delivered to each other at least one such counterpart, each counterpart
26 shall be deemed an original, and, when taken together with other signed counterparts,
27 shall constitute one and the same Amended Agreement, which shall be binding upon
28 and effective as to all Parties.

1 18.8 Applicable Law. This Amended Agreement shall be governed by
2 California law without regard to its choice of law or conflicts of law principles or
3 provisions.

4 **19. Disputes**

5 19.1 Mediation. The Parties agree that they will first attempt to resolve any
6 disagreements or disputes over the implementation of the terms of the Settlement, this
7 Amended Agreement, or any other documents necessary to effectuate the Settlement
8 through mediation with Judge Eugene Lynch (Ret.) or through another mediator who
9 is mutually agreeable to the Parties. In the event that one or more of the Parties
10 institutes a legal action, arbitration or other proceeding against any other party or
11 parties to enforce the provisions of this Settlement or to declare rights and/or
12 obligations under this Settlement, they will bear their own costs, expenses and
13 attorney's fees.

14 **20. Confidentiality**

15 20.1 Any and all negotiations related to this Amended Agreement
16 (including the negotiations related to the drafting of this Amended Agreement, and
17 any negotiations prior to preliminary approval or between the time of preliminary and
18 final approval) will remain strictly confidential and shall not be discussed with
19 anyone other than the Class Representatives and Kohl's, their retained attorneys, their
20 accountants and financial or tax advisers, the retained consultants, the Court, and the
21 mediator Hon. Eugene Lynch and his staff, unless otherwise agreed to by Class
22 Counsel and Kohl's or unless otherwise ordered by the Court. The Parties will not
23 issue any press release or equivalent, nor will they respond to any press or media
24 inquiry, other than to state that the case has been settled and to direct any member of
25 the press or media to the Settlement Website, this Amended Agreement, the original
26 Settlement Agreement and the documents filed in the Litigation. This provision does
27 not prohibit the Parties from presenting to the Court as much information about their
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1 settlement negotiations as they mutually agree is necessary, or as the Court requires,
2 to procure approval of this Settlement.

3 **21. Documents And Discovery**

4 21.1 Within thirty (30) days after a final, non-appealable Judgment is
5 entered disposing of all claims in the Litigation, Class Counsel agrees to take steps
6 necessary to destroy or erase all documents and data provided by Kohl's in the
7 Litigation. Upon request from Kohl's, Class Counsel shall certify in writing to
8 Kohl's their compliance with this provision. Nothing in this provision or Amended
9 Agreement shall prohibit Class Counsel from retaining a case file, including all
10 pleadings, motion papers, court filings, deposition transcripts, legal memoranda,
11 correspondence, notes, and work product, so long as any exhibits to such documents
12 which contain documents or data marked "CONFIDENTIAL" continue to be treated
13 as such under the Protective Order in this case.

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1 FOR PLAINTIFFS AND THE PLAINTIFF CLASS

2 Dated: _____

By: _____

3 Christopher J. Morosoff
4 Law Office of Christopher J. Morosoff
5 Counsel for the Class

6 Dated: _____

By: _____

7 Douglas Caiafa
8 Douglas Caiafa, A Professional Law Corporation
9 Counsel for the Class

10 Dated: _____

By: _____

11 Steven Russell

12 Dated: _____

By: _____

13 Donna Caffey

14 FOR DEFENDANT

15 Dated: _____

16 By: _____

17 Kohl's Department Stores, Inc.

18 By: _____

19 Its: _____

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FOR PLAINTIFFS AND THE PLAINTIFF CLASS

Dated: 5/2/16

By: 


Christopher J. Morosoff
Law Office of Christopher J. Morosoff
Counsel for the Class

Dated: 5/3/16

By: 

Douglas Caiafa
Douglas Caiafa, A Professional Law Corporation
Counsel for the Class

Dated: 5-2-2016

By: 

Steven Russell

Dated: _____

By: 

Donna Caffey

FOR DEFENDANT

Dated: _____

By: _____

Kohl's Department Stores, Inc.

By: _____

Its: _____

1 FOR PLAINTIFFS AND THE PLAINTIFF CLASS

2 Dated: _____

3 By: _____

4 Christopher J. Morosoff
5 Law Office of Christopher J. Morosoff
6 Counsel for the Class

7 Dated: _____

8 By: _____

9 Douglas Caiafa
10 Douglas Caiafa, A Professional Law Corporation
11 Counsel for the Class

12 Dated: _____

13 By: _____

14 Steven Russell

15 Dated: _____

16 By: _____

17 Donna Caffey

18 FOR DEFENDANT

19 Dated: 5/2/14

20 By: 

21 Kohl's Department Stores, Inc.

22 By: Jason Kibroy

23 Its: Executive Vice President, General Counsel

EXHIBIT 1

Kohl's Settlement Claim Form

If you purchased one or more items from Kohl's while in California between June 11, 2011, and [DATE] that were advertised at a discount of at least 30% off of the stated "original" or "regular" price, and you have not received a refund or credit for your purchase, you may be eligible to receive benefits from a Settlement with Kohl's. You need to submit this Claim Form if you want to receive a credit that can be used to purchase items at Kohl's. The deadline to file a claim is [DATE].

The amount of the store credit will be determined based on the number of people who file a claim, as detailed in the Settlement Agreement and in the Notice of Class Action Settlement. Additional information regarding the formula and the Settlement can be found at www._____.

To claim a store credit you may submit the Claim Form online at www._____, or if you are unable to submit online, you may send by U.S. Mail. If submitting by U.S. Mail, print and complete this Claim Form and mail it to the following address postmarked on or before _____.

Claims Administrator
[Address]

Please Complete Each Section On The Following Page In The Space Provided

SECTION I- CONTACT INFORMATION	
Name (First/Last)	
Street Address	
City, State, Zip Code	
Phone Numbers (primary)	
Current E-Mail Address	

SECTION II: AWARD DELIVERY PROCESS
<p>You will receive an electronic store credit delivered in an email to the email address provided as part of this process, unless you check the following box below to indicate that you prefer your store credit to be delivered through the U.S. Mail.</p> <p>I prefer to receive my store credit though the U.S. Mail rather than by email: <input type="checkbox"/></p>

SECTION III: AFFIRMATION
<p>I hereby affirm, under penalty of perjury, that I purchased at least one item between June 11, 2011, and [DATE] from Kohl's while in California that were advertised at a discount of at least 30% off of the stated "original" or "regular" price, and that I have not received a refund or credit for my purchase. The information I have provided in this Claim Form is true and correct to the best of my knowledge and this is the only Kohl's Claim Form that I have submitted. I further understand, acknowledge, and agree that I am eligible to receive only ONE payment from this Settlement based on all my purchases from Kohl's. I further understand, acknowledge, and agree that the amount I will receive shall be calculated according to the terms of the Settlement Agreement and subject to the terms of the Settlement Agreement, including the release of claims.</p> <p>Date: _____ Signature: _____</p>

EXHIBIT 2

LONG FORM NOTICE (WEBSITE)

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

If you made a purchase at Kohl's or Kohls.com while in California, your rights may be affected by and you could receive a store credit from a class action settlement.

A federal Court authorized this Notice. This is not a solicitation from a lawyer.

- A class action settlement has been reached in a lawsuit that alleges Kohl's Department Stores, Inc. ("Kohl's") used false "regular" and "original" prices in advertising its products. Kohl's denies that it used false price comparison advertising or that it has done anything wrong. The Court has not decided who is right.
- You may be included in the Settlement if you purchased one or more items from Kohl's while in California between June 11, 2011, and [DATE] that were advertised at a discount of at least 30% off of the stated "original" or "regular" price, and you have not received a refund or credit for your purchase
- Your legal rights are affected whether you act or not. This Notice includes information on the Settlement and your rights. Please read the entire Notice carefully.
- The Court in charge of the case still has to decide whether to approve the Settlement with Kohl's.

Your Rights and Options in this Settlement:		
FILE A CLAIM FORM	This is the only option that allows you to get a store credit if you qualify.	See Question __
OBJECT	Write to the Court with reasons why you do not like the Settlement and why you do not think it should be approved.	See Question _
GO TO A HEARING	Go to a court hearing and ask to speak about the Settlement.	See Question _
ASK TO BE EXCLUDED	This is the only option that allows you to be part of a separate lawsuit against Kohl's for the claims resolved by this Settlement.	See Question _
DO NOTHING	You will not get a store credit from this Settlement and you will give up certain legal rights.	See Question _

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BASIC INFORMATION

1. Why is this notice being provided?

You have the right to know about the lawsuit and about your legal rights and options before the Court decides whether to approve the Settlement.

The Court in charge of the case is the United States District Court for the Central District of California, and the case is called *Steven Russell and Donna Caffery v. Kohl's Department Stores, Inc.*, Case No. 5:15-cv-01143-RGK-SP. The persons who sued are called the Plaintiffs, and the company they sued, Kohl's Department Stores, Inc. is called the Defendant or Kohl's.

For More Information: Call 1-800-000-0000 or
Visit www._____.com

2. What is the lawsuit about?

The lawsuit alleges that Kohl's engaged in false price comparison advertising by using false "original" and/or "regular" prices to advertise its products between June 11, 2011, and [DATE] in violation of various California laws that prohibit false advertising and unfair competition. Kohl's denies: (1) that it used false price comparison advertising; (2) that it has done anything wrong; and (3) that the Plaintiffs or consumers have been harmed in any way. The Court has not decided who is right.

3. What is a class action?

In a class action, one or more people, called Class Representatives (in this case, Steven Russell and Donna Caffery) sue on behalf of people who have similar claims. All of the people with similar claims comprise the "Class" and are referred to as "Class Members," except for those who exclude themselves from the class. U.S. District Judge R. Gary Klausner in the United States District Court for the Central District of California is in charge of this class action.

4. Why is there a Settlement?

This case has been pending since June 2015. Kohl's is not admitting that it did anything wrong, but both sides want to avoid the cost and risk of further litigation. The Court has not decided the merits of the action in favor of the Plaintiffs or Kohl's. The Class Representatives and their attorneys think the Settlement is best for everyone who is affected. The Settlement provides the opportunity for benefits to Class Members.

THE SETTLEMENT CLASS – WHO IS INCLUDED

5. How do I know if I am part of the Settlement?

The Settlement Class includes the following persons: All persons who, while in the State of California, and between June 11, 2011, and the present (the "Class Period"), purchased from Kohl's one or more items at a discount of at least 30% off of the stated "original" or "regular" price, and who have not received a refund or credit for their purchase(s).

6. Are there exceptions to being included?

Yes. Excluded from the Settlement Class are Defendant, as well as its officers, employees, agents or affiliates, and any judge who presides over this action, as well as all past and present employees, officers and directors of Kohl's.

7. What does the Settlement provide?

Class Members will receive Kohl's Gift Card Credit paid from what is remaining of a \$6,150,000 settlement fund after deducting the costs of administering the Settlement of up to \$1,000,000, court-approved attorneys' fees and costs of up to 25% of the settlement fund (\$1,462,500 in fees and costs up to \$75,000), and payments to the Class Representatives (up to \$7,500 per Class Representative for a total of \$15,000). The amount of the Kohl's Gift Card Credit will be based on the amount of money left in the settlement fund after making the deductions listed above and the total number of valid claims filed (see Question __).

8. Tell me more about the Gift Card Credits.

Gift Card Credits can be used for any on-line or in-store purchase where you could otherwise use a gift card. More than one Gift Card Credit may be used at a time and they may be used in conjunction with other promotional discounts that are otherwise available with the use of Gift Cards. Gift Card Credits do not expire. You may give your Gift Card Credit to someone else, but you cannot be resold or exchanged for cash.

9. How can I get benefits?

To ask for benefits, you need to complete and submit or mail a Claim Form by **[DATE]**. Claim Forms may be submitted online at www._____.com or printed from the website and mailed to the address on the form. Claim Forms are also available by calling 1-800-000-0000. Please read the Claim Form instructions carefully.

10. When will I get benefits?

Benefits will be distributed to Class Members after the Court grants "final approval" of the Settlement and after any appeals are resolved. The final approval hearing is scheduled to occur on [DATE]. If there are appeals to the final approval order, they can take time to resolve.

11. What am I giving up to get a store credit or to stay in the Settlement Class?

Unless you exclude yourself, you are staying in the Settlement Class. This means that you will no longer be able to sue, continue to sue, or be part of any other lawsuit against Kohl's about the claims made in this lawsuit and released by the Settlement Agreement. You will be legally bound by all of the Court's orders, as well as the "Released Claims" (see next question).

12. What are the Released Claims?

Released Claims means that all members of the Settlement Class who do not exclude themselves will irrevocably release, acquit, and forever discharge Kohl's (and all affiliates, parents or

subsidiaries, officers, employees, agents, and attorneys) against any and all claims, rights, penalties, demands, damages, costs and expenses (including attorneys' fees and costs, other than those costs and expenses required to be paid pursuant to this Agreement), causes of action, or liability of any kind arising out of or in connection with all of the claims or causes of action that were made or could have been made in this Litigation or in any other forum relating, in whole or in part, to the alleged acts, omissions, facts, matters, transactions, circumstances asserted by in the Litigation, including assertions that Kohl's improperly inflated or misstated its stated "original" and/or "regular" prices in order to make its sale prices appear more attractive and thereby harmed consumers.

The Settlement Agreement, available at www._____.com describes the Released Claims and provides specific details about the Settlement.

EXCLUDING YOURSELF FROM THE SETTLEMENT CLASS

13. What if I don't want to be part of the Settlement?

If you wish to keep your individual right to sue Kohl's about the claims in this case and released by this Settlement you must exclude yourself from the Settlement Class.

14. How do I exclude myself from the Settlement?

To exclude yourself from the Settlement Class, you must complete an Opt-Out Form. Opt-Out Forms are available at www._____.com or by calling 1-____-____-____. You mail also send a letter by mail stating:

- Your name, address, and telephone number,
- The name of the case (*Russell v. Kohl's*),
- A statement that you want to be excluded from this Settlement; and
- Your signature and date.

Your Opt-Out For or letter must be mailed so it is postmarked no later than **Month 00, 2016**, to:

Kohl's Settlement Exclusions
P.O. 0000
City, ST 00000

15. If I exclude myself, can I still get a store credit from the Settlement?

No. If you exclude yourself, do not send in a Claim Form to ask for a Gift Card Credit. Once you exclude yourself, you are no longer eligible for the benefits that this Settlement provides. If you submit an Opt-Out Form or letter and a Claim Form your exclusion request will be rejected and your Claim Form will be processed.

16. If I do not exclude myself, can I sue Kohl's for the same thing later?

No. Unless you exclude yourself, you give up any right to individually sue Kohl's for the claims made in this lawsuit and released by the Settlement Agreement.

OBJECTING TO THE SETTLEMENT

17. How do I tell the Court if I disagree with part of the Settlement?

If you are a Class Member, you can object to the Settlement if you do not like it or a portion of it. You can give reasons why you think the Court should not approve the Settlement. The Court will consider your views before making a decision. To object, you must file a written objection with the Court. Your written objection must to include:

- Your name and address;
- The name of the case (*Russell v. Kohl's*);
- The reasons why you object to the Settlement;
- Copies of all documents that support your objection, if applicable;
- A statement indicating whether you intend to appear at the Fairness Hearing (see Question); and
- Your signature.

Your objection must be postmarked no later than **Month 00, 2016** and mailed to:

The United States District Court for the Central District of California
Courtroom 850
255 East Temple Street
Los Angeles, CA 90012

You cannot object to the Settlement if you exclude yourself from the Settlement Class.

18. What is the difference between objecting and excluding myself from the Settlement?

Objecting is telling the Court that you do not like something about the proposed Settlement. Excluding yourself is telling the Court that you do not want to be part of the Class in this Settlement. If you exclude yourself, you have no basis to object or file a claim because the Settlement no longer applies to you.

IF YOU DO NOTHING

19. What happens if I do not do anything?

If you do nothing, you will not a Gift Card Credit from this Settlement. If the Court approves the Settlement, you will be bound by the Settlement Agreement and the Released Claims. This means, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Kohl's about the issues resolved by this Settlement and released by the Settlement Agreement.

THE LAWYERS REPRESENTING YOU

20. Do I have a lawyer in this case?

Yes. The Court has appointed Douglas Caiafa, of Douglas Caiafa, A Professional Law Corporation, and Christopher J. Morosoff, of the Law Office of Christopher J. Morosoff to represent you and all Class Members as “Class Counsel”. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

21. How will the lawyers get paid?

Class Counsel will ask the Court to award them up to \$1,462,500, plus their out-of-pocket costs and expenses of \$75,000 for their work in this case (25% of the settlement fund). If approved, these amounts, as well as a \$7,500 to each of the two Class Representatives will be paid out of Settlement fund before issuing Gift Card Credits to Class Members. Class Counsel’s motion for Attorneys’ Fees and Costs is available for viewing on the settlement website at www._____.com.

THE COURT’S FAIRNESS HEARING

22. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing at __:___.m. on Month 00, 2016, at the United States District Court for the Central District of California, located at 255 East Temple Street, Los Angeles, California, in Courtroom 850. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. The Court will also consider how much to pay Class Counsel and the Class Representatives. If there are objections, the Court will consider them. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

The hearing may be moved to a different date, time or location without additional notice, so it is a good idea to check www._____.com.

23. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. But, you are welcome to come at your own expense. If you file an objection, you don’t have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay another lawyer to attend, but it’s not required.

24. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your “Notice of Intention to Appear.” Your letter must also include:

- Your name, address, and telephone number;
- The name of the case (*Russell v. Kohl's*);
- The name, address, and telephone number of any attorney(s) who will be appearing on your behalf at the Fairness Hearing, if applicable;
- A brief statement detailing what you will be presenting to the Court; and
- Your signature.

You must mail your Notice of Intention to Appear postmarked no later than **Month 00, 2016**, to:

The United States District Court for the Central District of California
Courtroom 850
255 East Temple Street
Los Angeles, CA 90012

GETTING MORE INFORMATION

25. How do I get more Information?

The Notice summarizes the lawsuit and the proposed Settlement. You can get more information about the lawsuit and Settlement at www._____.com. You may also write with questions to: _____, P.O. Box 0000, City, State 00000, or by email at _____[.com](mailto:_____). You can also get a Claim Form or Opt-Out Request at the website, or by calling this toll free number, _____.

EXHIBIT 3

SUMMARY NOTICE - EMAIL

To:
From: administrator@_____.com
Subject: Kohl's Pricing Class Action Settlement

If you made a purchase at Kohl's or Kohls.com while in California, you could receive a store credit from a class action settlement.

Para una notification en Español, llamar [add phone number] o visitar nuestro website [add website address]

A settlement has been reached in a class action alleging that Kohl's Department Stores, Inc.'s used false "regular" and "original" prices in advertising its products. Kohl's denies that it used false price comparison advertising or that it has done anything wrong. The Court has not decided who is right.

You are included in the settlement as a "Class Member" if, while in California, you purchased one or more items advertised as 30% or more off of the stated "original" or "regular" price from a Kohl's store or Kohls.com between June 11, 2011, and [DATE], and you have not received a refund or credit for that purchase. If you are eligible, you may be able to receive a store credit ("Gift Card Credit") that may be used toward purchases at any Kohl's store or at Kohls.com. More than one Gift Card Credit may be used at a time and they may be used in conjunction with other promotional discounts that are otherwise available with the use of Gift Cards. Gift Card Credits do not expire. You may give your Gift Card Credit to someone else, but they cannot be resold or exchanged for cash.

The Gift Card Credits will be paid from what remains of a \$6,150,000 settlement fund after deducting the costs of administering the settlement (up to \$1,000,000), court-approved attorneys' fees and costs of up to 25% of the settlement fund (\$1,462,500 in fees and costs up to \$75,000), and payments to the Class Representatives (up to \$7,500 per Class Representative for a total of \$15,000). The amount of the Gift Card Credit will be determined by dividing the remainder of the settlement fund among the total number of Class Members who submit valid claims.

To receive the Gift Card Credit, you must file a claim by [DATE]. Claim Forms may be submitted online at www._____.com, printed from the website and mailed to the address on the form, or obtained by calling 1-____-____-____.

If you file a claim or do nothing and the Court approves the settlement, you will give up your right to sue Kohl's for any of the claims released by this settlement. If you don't want to receive a store credit, but you want to keep your right to sue Kohl's individually for the same claims resolved by this settlement, you must exclude yourself by [DATE]. If you do not exclude yourself from the settlement, you may object and notify the Court that you or your lawyer intends to appear at the Court's fairness hearing. Objections and intentions to appear are due [DATE]. For more information, including the Detailed Notice and Settlement Agreement, call or go to www._____.com.

The Court will hold a hearing on [DATE] to determine whether to approve: the settlement; how much to award in fees and costs to Class Counsel; and how much to award the Class Representatives. You or your attorney may attend, but you don't have to. The date of the hearing may change without further notice, so please check www._____.com for updates.

This is only a summary. The details regarding the settlement, your rights, the claim form, and scheduling information can be found at www._____.com. You may also call _____ or email _____ with any questions.

The lawsuit is known as *Russell, et al. v. Kohl's Department Stores, Inc.*, Case No. 5:15-cv-01143-RGK-SP, pending in the U.S. District Court for the Central District of California.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

EXHIBIT 4

SUMMARY NOTICE -- POSTCARD

LEGAL NOTICE

**If you made a
purchase at Kohl's
or Kohls.com while
in California, you
could receive a store
credit from a class
action settlement.**

*Para una notification en Español,
llamar [add phone number] o visitar
nuestro website [add website address]*

1-800-000-0000

www._____.com

A settlement has been reached in a class action alleging that Kohl's Department Stores, Inc.'s ("Kohl's") used false "regular" and "original" prices in advertising its products. Kohl's denies that it used false price comparison advertising or that it has done anything wrong. The Court has not decided who is right.

You are included in the settlement as a "Class Member" if, while in California, you purchased one or more items advertised as 30% or more off the stated "original" or "regular" price from a Kohl's store or kohls.com between June 11, 2011, and [DATE] and you have not received a refund or credit for that purchase.

The settlement will provide store credit in the form of Gift Card Credits to eligible Class Members that submit a valid Claim Form. The Gift Card Credits will be paid from what remains of a \$6,150,000 settlement fund after deducting the costs of administering the settlement (up to \$1,000,000), court-approved attorneys' fees and costs of up to 25% of the settlement fund (\$1,462,500 in fees and costs up to \$75,000), and a \$7,500 payment for each Class Representative (Steven Russell and Donna Caffey). The amount of the Gift Card Credit will be determined by dividing the remainder of the settlement fund among Class Members who submit valid claims. A Gift Card Credit is store credit that may be used toward purchases at any Kohl's store or at Kohls.com. More than one Gift Card Credit may be used at a time and they may be used in conjunction with other promotional discounts that are otherwise available with the use of Gift Cards. Gift Card Credits do not expire. You may give your Gift Card Credit to someone else, but they cannot be resold or exchanged for cash.

To receive a Gift Card Credit, you must file a claim by [DATE]. Claim forms may be filed online, printed from the website and mailed to the address on the form, or obtained by calling 1-____-____-____. If you file a claim or do nothing and the Court approves the settlement, you will give up your right to sue Kohl's for any of the claims released in the settlement. If you don't want to participate in the settlement, you must exclude yourself by [DATE]. If you exclude yourself, you will not receive a Gift Card Credit, but you will keep your right to sue Kohl's individually for the same claims resolved by this settlement. If you do not exclude yourself from the settlement, you may object and notify the Court that you or your lawyer intends to appear at the Court's fairness hearing. Objections are due [DATE]. For more information, including the Detailed Notice and Settlement Agreement, call or go to the website below.

The U.S. District Court for the Central District of California will hold a hearing in this case, *Russell, et al. v. Kohl's Department Stores, Inc.*, Case No. 5:15-cv-01143-RGK-SP, on [DATE]. At the hearing, the Court will determine whether to approve: the settlement; attorneys' fees and costs; and payments to the Class Representatives. You or your attorney may attend, but you don't have to.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS. THEY CANNOT ANSWER ANY QUESTIONS.

EXHIBIT 5

SUMMARY NOTICE - PUBLICATION NOTICE

LEGAL NOTICE

If you made a purchase at Kohl's or Kohls.com while in California, you could receive a store credit from a class action settlement.

Para una notificación en Español, llamar [add phone number] o visitar nuestro website [add website address].

A settlement has been reached in a class action alleging that Kohl's Department Stores, Inc.'s used false "regular" and "original" prices in advertising its products. Kohl's denies that it used false price comparison advertising or that it has done anything wrong. The Court has not decided who is right.

Who's included? You are included in the settlement as a "Class Member" if, while in California, you purchased one or more items advertised as 30% or more off of the stated "original" or "regular" price from a Kohl's store or Kohls.com between June 11, 2011, and [DATE], and you have not received a refund or credit for your purchase. If you are eligible, you may be able to receive a store credit for use at any Kohl's store or on its e-commerce website ("Gift Card Credit"). Gift Card Credits do not expire. You may give your Gift Card Credit to someone else, but you cannot be resold or exchanged for cash.

What does the settlement provide? If you are eligible, you may be able to receive a store credit ("Gift Card Credit") for use at any Kohl's store or Kohls.com. A Gift Card Credit is store credit that may be used toward purchases at any Kohl's store or at Kohls.com. More than one Gift Card Credit may be used at a time and they may be used in conjunction with other promotional discounts that are otherwise available with the use of Gift Cards. The Gift Card Credits will be paid from what remains of a \$6,150,000 settlement fund after deducting the costs of administering the settlement (up to \$1,000,000), court-approved attorneys' fees and costs of up to 25% of the settlement fund (\$1,462,500 in fees and costs up to \$75,000), and payments to the Class Representatives (up to \$7,500 per Class Representative for a total of \$15,000). The amount of the Gift Card Credit will be determined by dividing the remainder of the settlement fund among the total number of Class Members who submit valid claims.

How to get a store credit. To receive the Gift Card Credit, you must file a claim by [DATE]. Claim Forms may be submitted online at www._____.com, printed from the website and mailed to the address on the form, or obtained by calling 1-____-____-____.

Your other options. If you file a claim or do nothing and the Court approves the settlement, you will give up your right to sue Kohl's for any of the claims released in the settlement. If you don't want to receive a store credit, but you want to keep your right to sue Kohl's separately for the same claims resolved by this settlement, you must exclude yourself by [DATE]. If you do not exclude yourself from the settlement, you may object and notify the Court that you or your lawyer intends to appear at the Court's fairness hearing. Objections and intentions to appear are due [DATE]. For more information, including the Detailed Notice and Settlement Agreement, call or go to www._____.com.

The Court will hold a hearing on [DATE] to determine whether to approve: the settlement; Class Counsels request for fees, costs and expenses; and payments to the Class Representatives. The lawsuit is known as *Russell, et al. v. Kohl's Department Stores, Inc.*, Case No. 5:15-cv-01143-RGK-SP, pending in the U.S. District Court for the Central District of California.

Want more? This is only a summary. The details regarding the settlement (including the Settlement Agreement), your rights, the claim form, and scheduling information can be found at www._____.com. You may also call _____ or email _____ with any questions.

EXHIBIT 6

United States District Court for the Central District of California
STEVEN RUSSELL AND DONNA CHAFFEY v. KOHL'S DEPARTMENT STORES, INC.
Case No. 5:15-CV-01143-RGK-SP

OPT-OUT FORM

I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE CASE OF STEVEN RUSSELL AND DONNA CHAFFEY v. KOHL'S DEPARTMENT STORES, INC. CASE NO. 5:15-CV-01143-RGK-SP. I UNDERSTAND THAT BY REQUESTING EXCLUSION FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY SHARE OF THE SETTLEMENT BENEFITS. I confirm that I have received written notice of the proposed Settlement in this action. I have decided to exclude myself from the Settlement Class and not to participate in any portion of the proposed Settlement.

Date: _____

Signature: _____

Printed Name: _____

Street Address: _____

City, State, Zip Code: _____

**THIS FORM MUST BE COMPLETED AND SENT VIA U.S. MAIL WITH A POSTMARK
DATED NO LATER THAN _____ TO:**

**CLAIMS ADMINISTRATOR
ADDRESS
CITY, STATE ZIP**

TOLL FREE TELEPHONE