

1 Shaun Setareh (SBN 204514)  
shaun@setarehlaw.com  
2 Thomas Segal (SBN 222791)  
thomas@setarehlaw.com  
3 Farrah Grant (SBN 293898)  
farrah@setarehlaw.com  
4 SETAREH LAW GROUP  
9665 Wilshire Blvd. Suite 430  
5 Beverly Hills, California 90212  
Telephone (310) 888-7771  
6 Facsimile (310) 888-0109  
Attorneys for Plaintiff,  
7 JOHN UTNE AND ALFRED PINTO

8  
9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 JOHN UTNE, on behalf of himself, all others  
12 similarly situated, and the general public,  
Plaintiff,

13 vs.

14 HOME DEPOT U.S.A., INC., a Delaware  
15 corporation; and DOES 1-50, inclusive,

16 Defendants.  
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CASE NO. 3:16-CV-01854-RS

**DECLARATION OF KAREN UTNE IN  
SUPPORT OF MOTION FOR FINAL  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

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**DECLARATION OF KAREN UTNE**

1. I, Karen Utne, declare I am over 18 years of age. The following facts are stated from my personal knowledge, except those facts stated on information and belief, which I believe to be true and correct, and if called as a witness, I could and would testify competently thereto under oath. I am a named plaintiff and class representative in this class action against Defendant Home Depot U.S.A. Inc.

2. I make this declaration in support of my late husband, John Utne, in support of Plaintiffs’ Motion for Final Approval of Class Action Settlement. My husband, John Utne, was the original names plaintiff and class representative in this action against Defendant Home Depot.

3. John was hired to work by Home Depot in California. John contacted his attorneys about the conditions of his employment and is ultimately responsible for the initiation of the lawsuit. John spent a lot of time working on this case for years. John was dedicated to pursuing this case and very much cared about this case.

4. I am his closest surviving relative and successor in interest. My purpose in this action and Settlement is to stand in my husbands’ shoes to finish the process of settlement that he started before he died and to honor his memory by seeking recognition of his service to the Class.

5. My husband John Utne’s attorneys have provided me with information regarding class actions, how they work, and the role that John played as a class representative in this action. I understand that a class representative has certain duties and responsibilities to the class, and based on information and belief, my husband fairly represented the interests of all class members during the course of this action.

6. I understand that the Settlement in this case is subject to this Court’s approval to ensure that it is in the best interest of the class as a whole. To the best of my knowledge, my husband John Utne had no conflicts with the members of the class.

7. I understand that John’s attorneys in this case are submitting an application to this Court for an enhancement award on John’s behalf to compensate him for his unique contributions to the success of this action in the amount of \$25,000.00. This amount is only .03% of the total settlement amount of \$72,500,000. I believe this amount is fair and reasonable compensation for the efforts and the risks John undertook in pursuing a fair recovery for the class in this case and

1 would honor his memory and service to the class. As the successor to my late husband, I would  
2 be the person receiving any enhancement award granted to John, as his right to have an  
3 enhancement award requested on his behalf was vested in him upon the Parties' settlement of the  
4 Action.

5 8. I am informed that, as a class representative, John assumed a fiduciary role to the class. I am  
6 further informed that this meant he agreed to: (1) consider the interests of the class just as he would  
7 consider his own interests and, in some cases, to put the interests of the class before his own  
8 interests; (2) actively participate in the lawsuit, as necessary, by among other things, answering  
9 interrogatories, producing documents to Defendants, and giving depositions and trial testimony, if  
10 requested; (3) travel to give such testimony; (4) recognize and accept that any resolution of the  
11 lawsuit by dismissal or settlement, would be subject to court approval, and must be designed in  
12 the best interest of the class as a whole; (5) follow the progress of the lawsuit and provide all  
13 relevant facts to his attorneys; (6) champion many other people with similar claims and injuries  
14 because of the importance of the case and the necessity that all class members benefit from the  
15 lawsuit; and (7) fight for a resolution in which the individual recoveries to each class member,  
16 including him, maybe relatively small. I understand that John Utne agreed to shoulder all of these  
17 responsibilities in exchange for a proportionate share of funds made available for distribution to  
18 the class and that he had no guarantee of an enhancement award. Upon information and belief,  
19 until his death, John Utne worked diligently in his capacity as class representative, obtaining and  
20 communicating with his counsel, gathering documents related to the case, cooperating with Class  
21 Counsel in their investigations into this case, sending videos he took on his cellphone at Home  
22 Depot to his attorneys, being deposed, providing the relevant facts giving rise to this action,  
23 participating in the lawsuit and attending the first mediation when he was already over 80 years  
24 old and having health problems. My husband worked tirelessly on this case, spending hours  
25 poring over documents. Even when he was very sick, John continued to work on the case. John  
26 even reviewed documents when he was ill in the hospital.

27 9. Further, if the case was lost, I am informed that John Utne could have been ordered to pay  
28 Defendant's costs and even attorneys' fees in this case, which could have been thousands of

1 dollars by the end.

2 10. John filed this case against Home Depot when he was still a current employee of Home  
3 Depot, which potentially risked his employment with Home Depot.

4 11. Because John filed a lawsuit, there is a public record at the Court showing that he served  
5 as a class representative in a class action lawsuit against his former employer. I believe that the  
6 payment of the enhancement award of \$25,000.00 would not have been equal to the harm to my  
7 husband's future career prospects that this case could conceivably have caused him. While these  
8 risks mean little after his death, at the initiation of this lawsuit, these were real potential risks that  
9 he chose to undertake for the sake of other class members.

10 12. I am informed by John Utne's attorneys that there have been cases where courts have  
11 granted enhancement awards to surviving family members if the class representative died before  
12 the case concluded. I respectfully ask the Court to grant the award requested on John Utne's  
13 behalf, which I would receive, as his successor and closest surviving relative, for all of the work  
14 and risks my husband undertook to benefit the class in this action and to honor his memory.

15 I declare under the penalty of perjury of the laws of the State of California and the United  
16 State of America that the foregoing is true and correct to the best of my knowledge. Executed

17 11/9/2023.

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ID: jKEN8w4beYeVEnlInzBcZVGki

Karen Utne

## eSignature Details

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<b>Signer ID:</b>	<b>jKFN8w4heYeVFoUnzRcZVGki</b>
Signed by:	Karen Utne
Sent to email:	kutne@yahoo.com
IP Address:	108.236.76.98
Signed at:	Nov 9 2023, 12:12 pm PST