

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

BARTHOLOMEW, et. al, v. LOWE'S,
CASE NO.: 2:19-cv-00695-JLB-MRM

NOTICE OF PENDENCY OF LAWSUIT AND CONSENT TO JOIN

*****IMPORTANT NOTICE ADVISING YOU OF YOUR LEGAL RIGHTS*****

To: All former and current Lowe's employees throughout the United States who received a Spiff Commission Allowance ("Allowance") from Lowe's from February 2012 through at least August 1, 2019. If you were employed by Lowe's as of August 1, 2019 and were aged 40 or more years on August 1, 2019 (i.e. you were born before August 1, 1979), you are eligible to participate in the lawsuit and you might be entitled to monetary compensation. In order to be eligible for monetary compensation from this lawsuit, you must affirmatively opt-in to the lawsuit.

I. Introduction. The purpose of this Notice is to advise you of a collective action lawsuit and to further advise you of certain rights you may have concerning it. This Notice is only for the purpose of determining the identity of those persons who wish to be involved in this case and has no other purpose.

II. The Lawsuit. On September 20, 2019, several Lowe's sales associates (also referred to as sales "specialists"), who had received the Allowance from Lowe's since 2012, brought this lawsuit on behalf of themselves and all others similarly situated sales associates ("the Lawsuit"). These individuals, referred to as the "Plaintiffs," filed their Lawsuit seeking to prevent the end of the Allowance and/or to recover monetary damages if Lowe's ended the Allowance effective February 1, 2020. Plaintiffs allege that Lowe's discriminated against them and other collective action members on the basis of age by ending the Allowance program in violation of the Age Discrimination in Employment Act ("ADEA"). Plaintiffs allege that Lowe's elimination of the Allowance resulted in disparate impact age discrimination on employees over the age of 40. Plaintiffs contend they did what was required of them to keep receiving the Allowance through the end of their employment, namely, by maintaining an hourly (and non-salaried) position.

Plaintiffs are seeking money damages in an amount equal to the respective Allowance amounts they believe they should have been paid by Lowe's from February 1, 2020 onward, as well as an equal amount as liquidated damages, as well as interest, attorney's fees, and costs, from Lowe's. Plaintiffs are also seeking a judgment declaring that Lowe's assurances, promises, practices and omissions, ending the Allowances of Plaintiffs who were 40 years of age or older when the decision was made, violates the ADEA.

Lowe's denies Plaintiffs' allegations and denies that Plaintiffs' are entitled to the damages and relief they seek. Lowe's states that it ended the Allowance program for all employees who were receiving it and thus all employees who had been receiving the Allowance were treated and impacted exactly the same regardless of age. Lowe's position is that it is permitted to change the elements of its compensation program and that it did not engage in age discrimination by ending the Allowance program. Lowe's is represented by the law firm McGuireWoods LLP.

You may join this Lawsuit if: You were employed by Lowe's as of August 1, 2019, had received the Allowance from February 2012 through at least August 1, 2019, and were at least 40 years old as of August 1, 2019.

III. How This Lawsuit Affects Your Rights. This Notice is meant to advise you of your right to participate in this Lawsuit. You have the right to join the Lawsuit by following the procedure outlined below. If you join the Lawsuit, you may be required to participate in discovery, including possibly producing documents and/or appear for depositions or trial (trial, if it occurs, will take place in the Middle District of Florida (Fort Myers Division) and is presently scheduled for November 2022)).

You have a right to consult with an attorney about this matter. The named Plaintiffs, Diane Bartholomew and Michael Sherry and current opt-in Plaintiffs, hired the Salas Law Firm, P.A. to represent their interests, and those who opt-in may elect to have this Firm represent them as well. If you elect for the Salas Law Firm, P.A. to represent you, you will not have to pay any attorneys' fees to the Salas Law Firm, P.A. unless money is recovered for you. If there is a recovery, the Salas Law Firm, P.A. either will receive a percentage of that recovery or will seek to have their fees paid by Lowe's. You are not required by law to hire the Salas Law Firm, P.A. and you may represent yourself or independently hire your own firm. Further information about this Lawsuit may be obtained by writing or calling counsel for the named Plaintiffs, the Salas Law Firm.

If you join the Lawsuit and the Lawsuit is unsuccessful, Lowe's may in certain circumstances seek to recover its defense costs and attorney's fees from Plaintiffs and individuals who opt-in to the Lawsuit.

IV. Your Right To Participate In The Lawsuit. If you wish to participate in the Lawsuit (or if your Estate wishes to do so, for instance, if the would-be collective action member has died) you must have the enclosed “Consent to Join” form filed with the Clerk of Court for the Middle District of Florida. If you do not sign and return the “Consent to Join” form to the address listed below by April 30, 2022, you will not be permitted to seek compensation for age discrimination in this case. You have the following options:

If you wish to participate in this age discrimination Lawsuit, by April 30, 2022, you must sign and return the enclosed Consent to Join form to Simpluris via mail, email, fax, or website. If you choose to consent to join the Lawsuit via mail, included herewith is an envelope with pre-paid return postage for the purpose of returning the filled-in Consent To Join form.

Option 1. You may join the lawsuit by mailing, emailing, or faxing the enclosed Plaintiff Consent Form to Simpluris (Simpluris is handling the opt-in notices/consents for Plaintiffs):

Bartholomew et. al v. Lowe’s
c/o Administrator
P.O. Box 26170
Santa Ana, California 92799
Fax: (714) 824-8591
Email: LowesAllowanceLawsuit@simpluris.com
Phone Number (Claims Call Center): (833) 200-7005

Option 2. You may join the lawsuit online at: www.LowesAllowanceLawsuit.com (follow prompts to “Consent to Join” form. The site is maintained by Simpluris, and not the Court).

V. No Retaliation. Federal law prohibits Lowe’s from retaliating against individuals for joining this Lawsuit by opting in. Lowe’s will not retaliate against you because you decide to join in this Lawsuit.

VI. Court Endorsement. By approving this Notice, the Court is not endorsing the merits of the Lawsuit or advising you as to whether to participate in this Lawsuit. You are under no obligation to respond to this Notice.

Dated: February 14, 2022.