

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA

NOTICE OF PROPOSED CLASS SETTLEMENT

If you are blind and purchased or attempted to purchase goods with a debit card at a lululemon athletic store, lululemon athletica showroom, ivivva store or ivivva showroom (the “Lululemon Stores”) between January 1, 2010, and January 14, 2015, and were unable to independently use the point of sale equipment (the “POS Device”) to conclude your purchase because the POS Device was not tactile enabled, your rights may be affected by a proposed class action settlement. Excluded from the Settlement Class are officers, directors, and employees of lululemon usa, inc. and its parents and subsidiaries (collectively, “Lululemon”), as well as judicial officers and employees of the Court.

A federal court authorized this notice. This is not a solicitation from a lawyer.

- The Settlement resolves a lawsuit over Lululemon’s use of a touch screen POS Device in Lululemon Stores that impedes blind patrons’ ability to independently make a debit card purchase.
- Lululemon has agreed to replace the POS Devices in all Lululemon Stores with new, tactile enabled devices that will be programmed to allow blind patrons to use the devices in the same manner as fully-sighted patrons.
- Your legal rights are affected whether you act or do not act. Please read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
EXCLUDE YOURSELF BY NOVEMBER 6, 2015	You will not be giving up your right to sue Lululemon, but you cannot object and you will not be a part of the Settlement.
OBJECT BY NOVEMBER 6, 2015	Write to the Court about why you do not like the Settlement.
GO TO A HEARING ON DECEMBER 3, 2015	Ask to speak in Court about the Settlement.
DO NOTHING	You give up the right to sue on your own regarding any claims that are part of the Settlement.

- These rights and options—and **the deadlines to exercise them**—are explained below.
- The Court in charge of this case has preliminarily approved the Settlement, but still must decide whether to give final approval. The relief to be provided to settlement class members will only be provided if the Court gives final approval to the Settlement and after any appeals are resolved. *Please be patient.*

BACKGROUND INFORMATION

1. Why did I get this notice?

If you are blind or visually impaired and attempted to or did use a debit card to purchase goods at a Lululemon Store between January 1, 2010, and January 14, 2015, but could not do so independently because of the POS Device used in the Lululemon Store, then your rights could be affected under the proposed settlement that has been reached in a class action lawsuit against Lululemon.

The Court directed that this Notice be posted because settlement class members have a right to know about the proposed settlement, and about all of their options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after objections and appeals are resolved, Lululemon will implement the benefits that the Settlement provides.

This Notice explains the nature of the lawsuit, the general terms of the proposed settlement, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of this case is the United States District Court for the Southern District of Florida, and the case is known as *David New and Access Now, Inc. v. Lululemon USA, Inc.*, Case No. 1:14-CV-20589-DPG. The person and entity who sued, David New and Access Now, Inc., are called "Plaintiffs" and the company they sued, Lululemon USA, Inc., is called the "Defendant."

2. What is this lawsuit about?

The lawsuit claimed, among other things, that the POS Devices Defendant uses in the Lululemon Stores are inaccessible to blind patrons of the store because the POS Devices are not tactile enabled. As a consequence, blind patrons cannot independently use the POS Devices. Plaintiffs contend that Defendant's use of the POS Devices discriminates against blind patrons. **Defendant denies any wrongdoing and any liability whatsoever, and no court or other entity has made any judgment or other determination of any liability.**

The above description of the lawsuit is general and does not cover all of the issues and proceedings that have occurred. In order to see the complete file for the Action, you should visit the website of the Administrative Office of the U.S. Courts, PACER Service Center, located at <http://www.pacer.gov/>. You can also review a number of documents pertinent to this case, including the Stipulation of Settlement at www.accessnowsettlement.com.

3. Why is this a class action?

In a class action, one or more individuals and or entities, called class representatives (in this case Plaintiffs David New and Access Now, Inc.), sue on behalf of people who have similar claims. All these people are a class or class members. One court resolves the issues for all class members, except those who exclude themselves from the class. U.S. District Court Judge Darrin P. Gayles is in charge of this class action.

4. Why is there a settlement?

The Court has not decided in favor of Plaintiffs or Defendant. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial, and the Settlement Class Members receive relief now rather than years from now, if at all. The Class Representatives and their attorneys believe the settlement is in the best interest of the settlement class.

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

You first have to decide if you are a settlement class member.

As described above, the Court decided that everyone who fits this description is a settlement class member:

Each blind person in the United States and its territories who from January 1, 2010 to January 14, 2015 purchased or attempted to purchase goods at a Lululemon Store with a debit card and was unable to independently use the POS Device in the Lululemon Store to complete their purchase. Excluded from the Settlement Class are officers, directors, and employees of Lululemon and its parents and subsidiaries, as well as judicial officers and employees of the Court.

THE PROPOSED SETTLEMENT

6. What does the Settlement provide?

Lululemon has agreed to replace all POS Devices in Lululemon Stores with new, tactile enabled devices that will be programmed to allow blind patrons to independently use all functions of the device to the same extent as fully sighted patrons.

To read more about the new devices, visit the website, www.accessnowsettlement.com.

7. When will the class receive this benefit?

The Court will hold a hearing on December 3, 2015 to decide whether to approve the Settlement. If Judge Gayles approves the Settlement after that, there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. Please be patient.

DISMISSAL OF ACTION AND RELEASE OF ALL CLAIMS

8. What am I giving up to receive these benefits or stay in the class?

Unless you exclude yourself, you are staying in the Settlement Class, and that means you cannot sue, continue to sue, or be part of any other lawsuit against Defendant about the legal issues in *this* case. It also means that all of the Court's orders will apply to you and legally bind you. If you do not exclude yourself, upon the "Effective Date," you will release all "Released Claims" (as defined below) against the "Releasees" (as defined below).

"Released Claims" means all claims, actions, causes of action, administrative claims, demands, debts, damages, costs, attorney's fees, obligations, judgments, expenses, or liabilities, in law or in equity, whether now known or unknown, contingent or absolute, other than claims for personal injury, that Plaintiffs or any member of the Settlement Class now have or, absent this Stipulation, may in the future have had, against Releasees, or any of them, by reason of any act, omission, harm, matter, cause, or event whatsoever that has occurred at any time up to and including the entry of the Preliminary Approval Order, that has been alleged in this Lawsuit or could have been alleged in the Lawsuit or in another court action, and relates (i) to any of the alleged inadequacies, misstatements, or issues of or associated with the POS Devices alleged in this Lawsuit or (ii) to any act, omission, damage, matter, cause, or event whatsoever arising out of or related to the initiation, defense, or settlement of the Lawsuit or the claims or defenses asserted or that could have been asserted in the Lawsuit. Claims under any state disability law are specifically excluded from the Released Claims.

"Releasees" means (a) Lululemon, together with its respective predecessors and successors in interest, parents, subsidiaries, affiliates, and assigns, past, present, and future officers, directors, agents, representatives, employees, attorneys, and insurers; and (b) all suppliers, distributors, dealers, retailers, trade partners, licensors, licensees, franchisees, public relations firms, advertising and production agencies, and other entities, whether foreign or domestic, who were or are in the chain of or played any role in, the design, testing, manufacture, assembly, distribution, marketing, sale, lease, installation, or servicing of the POS Devices or their component parts.

The "Effective Date" will occur when an order entered by the Court approving the Settlement becomes final and not subject to appeal.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment from this settlement, but you want to keep any right you may have to sue or continue to sue the Defendant and the other Releasees, on your own, about the Released Claims, then you must take steps to get out. This is called excluding yourself — or is sometimes referred to as "opting out" of the settlement class.

9. How do I get out of the Settlement?

To exclude yourself from the Settlement Class, you must send a letter or postcard stating: (a) the name of the Action, *David New and Access Now, Inc. v. Lululemon USA*,

Inc., Case No. 1:14-CV-20589-DPG; (b) your full name, address, telephone number, and signature; and (c) a statement that you want to be excluded from the Settlement, postmarked no later than November 6, 2015 to the Claims Administrator at:

Lululemon POS Device Class Settlement
Claims Administrator
P.O. Box 40007
College Station, TX 77842-4007

You cannot exclude yourself on the phone or by e-mail. If you ask to be excluded, you cannot object to the Settlement. However, you will not be legally bound by anything that happens in this lawsuit.

10. If I do not exclude myself, can I sue the Defendant and the other Releasees for the same thing later?

No. Unless you exclude yourself, you give up the right to sue Defendant for the claims that the Settlement resolves. If you have a pending lawsuit, speak to your lawyer in that pending lawsuit immediately. You must exclude yourself from *this* Settlement Class to continue your own lawsuit. Remember, the exclusion deadline is November 6, 2015.

THE LAWYERS REPRESENTING THE CLASS

11. Do I have a lawyer in this case?

The Court ordered that the law firm of Leon Cosgrove, LLP in Coral Gables, FL will represent the Settlement Class. Those lawyers are called 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.

12. How will the lawyers be paid?

Class Counsel will ask the Court for up to \$37,000.00 to cover all of their attorneys' fees and costs and for payment of up to \$7,000.00 face value in Lululemon gift cards to the Plaintiffs David New and Access Now, Inc. jointly for their services as class representatives. The Court may award less than these amounts. Defendant will separately pay the attorneys' fees and expenses and plaintiff payments that the Court awards and no additional payments will be required from the Settlement Class Members. Defendant has agreed not to oppose these attorneys' fees and expenses and plaintiff payment. Defendant will also separately pay the costs to administer the Settlement.

Copies of Class Counsel's applications for attorneys' fees, expenses, and plaintiff award will be available on the settlement website, www.accessnowsettlement.com.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the settlement or some part of it.

13. How do I tell the Court that I do not like the settlement?

If you are a settlement class member, you can object to the settlement if you do not like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views.

To object, you must send a signed letter stating that you object to the proposed settlement in *David New and Access Now, Inc. v. Lululemon USA, Inc.*, Case No. 1:14-CV-20589-DPG. Your written objection must include: (i) your name, address, and telephone number; (ii) the full case name and number (*David New and Access Now, Inc. v. Lululemon USA, Inc.*, Case No. 1:14-CV-20589-DPG); (iii) a statement that you are a Settlement class member; (iv) a statement of each objection asserted; (v) a detailed description of the facts underlying each objection; (vi) a detailed description of the legal authorities supporting each objection; (vii) a statement of whether you intend to appear and speak at the Fairness Hearing and, if so, how much time you anticipate needing to present the objection; (viii) a list of the exhibits that you may offer during the Fairness Hearing, along with copies of such exhibits; and (ix) your signature. In addition, if applicable, please include: (i) the identity of all counsel who represent you, including any former or current counsel who may be entitled to compensation for any reason related to your objection; (ii) the number of times in which you, your counsel (if any), or your counsel's law firm (if any) has objected to a class action settlement within the three years preceding the date that the objector files the objection and the caption of each case in which such objection was made; and (iii) a statement disclosing any consideration that you, your counsel (if any), or your counsel's law firm (if any) has received in connection with the resolution or dismissal of an objection to a class action settlement within the three years preceding the date that the objector files the objection. The deadline to file your objection is November 6, 2015. The objection must be **filed** with the Court by that date. The address to file your written objection with the United States District Court is:

Clerk of the Court
U.S. District Court for the Southern District of Florida
Wilkie D. Ferguson, Jr. United States Courthouse
400 North Miami Avenue
Miami, FL 33128

You must also send a copy of your written objection to counsel for both parties at the addresses below:

CLASS COUNSEL:	DEFENDANT'S COUNSEL:
Andrew Boese, Esq. Leon Cosgrove, LLP 255 Alhambra Circle, Suite 424 Coral Gables, FL 33134	Fredrick McClure, Esq. DLA Piper LLP (US) 100 North Tampa Street, Suite 2200 Tampa, FL 33602-5809

If you do not timely make your objection, you will be deemed to have waived all objections and will not be entitled to speak at the fairness hearing.

14. What is the difference between objecting and excluding?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you remain a settlement class member. Excluding

yourself is telling the Court that you do not want to be a part of the case and wish to forgo the relief provided by the Settlement. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court has preliminarily approved the Settlement Agreement and will hold a hearing on December 3, 2015 to decide whether to give final approval to the proposed settlement. You may attend and you may ask to speak, but you do not have to.

15. When and where will the Court decide whether to approve the proposed settlement?

The Court will hold the Fairness Hearing at 9:30 a.m. on December 3, 2015 at the Wilkie D. Ferguson, Jr. United States Courthouse, 400 North Miami Avenue, Miami, Florida 33128 in Room 11-2. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate.

If there are objections, the Court will consider them. Judge Gayles will listen to people who have asked to speak at the hearing. *See* question 17 for more information about speaking at the hearing. After the Fairness Hearing, the Court will decide whether to approve the Settlement and whether to award any attorneys' fees and expenses and awards to Plaintiffs David New and Access Now, Inc. We do not know how long these decisions will take.

16. Do I have to come to the hearing?

No. Class Counsel will answer questions Judge Gayles may have. But, you are welcome to come at your own expense. If you send an objection, you do not have to come to the Court to talk about it. As long as you filed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary. Settlement class members do not need to appear at the hearing or take any other action to indicate their approval.

17. May I speak at the hearing?

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 in *David New and Access Now, Inc. v. Lululemon USA, Inc.*, Case No. 1:14-CV-20589-DPG." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be postmarked no later than November 6, 2015, and be sent to the Clerk of the Court, Class Counsel, and Defense Counsel, at the three addresses in question 13. Unless otherwise ordered by the Court, you cannot speak at the Fairness Hearing if you excluded yourself from the Settlement Class or if you have not provided written notice of your intention to speak at the Fairness Hearing by the deadline identified, and in accordance with the procedures described in this section and question 13 above.

IF YOU DO NOTHING

18. What happens if I do nothing at all?

If you do nothing, you will not be able to start a lawsuit, continue with a lawsuit, or be a party to any other lawsuit against Defendant and the other Releasees about the legal issues in this case, ever again.

GETTING MORE INFORMATION

19. Are there more details about the Settlement?

This notice summarizes the proposed settlement. More detailed terms are in the signed Stipulation. You can get a copy of the Stipulation by writing to Class Counsel at the address above or by visiting www.accessnowsettlement.com, where you will also find answers to common questions about the Settlement, Class Counsel's papers in support of the Settlement and their applications for attorneys' fees, expenses, and plaintiff awards (after they are filed), and other documents. All other papers that have been filed in the Action may be inspected at the Office of the Clerk of the Court of the United States District Court for the Southern District of Florida, Wilkie D. Ferguson, Jr. United States Courthouse, 400 North Miami Avenue, Miami, FL 33128, during regular business hours.

PLEASE DO NOT CALL THE COURT OR THE CLERK OF COURT FOR ADDITIONAL INFORMATION ABOUT THE SETTLEMENT.