

DANIEL FRIEDMAN et al.,
PLAINTIFFS
v.
24 HOUR FITNESS USA, INC.
DEFENDANT.

CLASS ACTION
**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND
FINAL FAIRNESS HEARING**

IF YOU WERE CHARGED DUES BETWEEN OCTOBER 2, 2002 AND FEBRUARY 28, 2010 FOR A MONTHLY MEMBERSHIP AT 24 HOUR FITNESS ON OR AFTER THE DAY 24 HOUR FITNESS RECEIVED A NOTICE OF CANCELLATION FOR THE MEMBERSHIP (CHARGE AT ISSUE), YOU MAY BE ENTITLED TO THE FOLLOWING BENEFIT FOR EACH CHARGE AT ISSUE FROM THIS PROPOSED CLASS ACTION SETTLEMENT:

- o A payment of Twenty Dollars (\$20); OR**
o A Three Month Club Access Certificate entitling you to use any 24 Hour Fitness club for three consecutive months (valued at \$149.99 to \$199.99)

You must decide whether to submit the enclosed Claim Form by June 18, 2010 for the payment of twenty dollars (\$20). If you do not submit the Claim Form by June 18, 2010, you will automatically receive the Three Month Club Access Certificate. If you receive the Certificate, you will **not** have to give 24 Hour Fitness any bank account information or renew a membership at the end of the three month period. If you incurred more than one Charge at Issue, you may receive one benefit for each Charge at Issue incurred as described in greater detail below.

This Notice contains important information about this Settlement and how to claim your benefit. Please read it.

YOUR MEMBER NUMBER: [MEMBER NUMBER]

I. SUMMARY OF THE LAWSUIT, THIS NOTICE AND YOUR RIGHTS

The Court has ordered this Notice be sent to you because you are a potential member of the Settlement Class. The purpose of this Notice is to: a) provide a brief description of the lawsuit; b) inform you of the proposed Settlement; and c) discuss your rights and options as a member of the Settlement Class.

Plaintiffs filed a class action lawsuit against Defendant, (also referred to as "24 Hour" or "24 Hour Fitness") claiming that 24 Hour Fitness' practice of charging for a monthly gym membership by electronic fund transfer after 24 Hour Fitness received a notice of cancellation for the membership violated federal and state laws. 24 Hour denies that it has done anything wrong, and the Court has not made any determination that 24 Hour has done anything wrong. This notice is to inform you that Plaintiffs and 24 Hour Fitness have entered into a Class Action Settlement Agreement ("Settlement") to settle the case, *Daniel Friedman et al. v. 24 Hour Fitness USA, Inc.* (the "Litigation"), and the United States District Court for the Central District of California (the "Court"), has granted preliminary approval for the settlement.

According to the terms of the Settlement, 24 Hour Fitness will:

- o provide either a payment of Twenty Dollars (\$20) or a Three Month Club Access Certificate for every Claim Form submitted by a Settlement Class Member;**
- o make incentive award payments to each of the named Class Representative Plaintiffs who brought this Litigation;**
- o pay the total cost for administering this Settlement;**
- o pay Class Counsel's attorneys' fees and costs (such payment does not reduce any payment to the Settlement Class Members);**
- o stop collecting dues charges for monthly dues after 24 Hour Fitness receives a request for cancellation or termination of a monthly membership.**

The proposed Settlement will also resolve any claim you might have against 24 Hour Fitness, or the other released parties described below, in connection with the Litigation. If you do not want to be a part of this Settlement, you also have the right to opt out or to object by following the procedures described below. If you opt out of the Settlement you will not receive the benefits of this Settlement and will retain whatever rights you may have against 24 Hour Fitness. **You will automatically be considered a Settlement Class Member unless you specifically request to opt out of the Settlement.**

II. DESCRIPTION OF THE LAWSUIT

Plaintiffs filed a class action lawsuit against 24 Hour Fitness regarding its practice of charging monthly membership dues on or after 24 Hour Fitness recorded a request to cancel or terminate the corresponding club membership. According to Plaintiffs, the disputed charges were made using electronic fund transfers ("EFTs"), whereby 24 Hour Fitness automatically withdrew funds from a Settlement Class Member's bank or credit card account after 24 Hour recorded a request to cancel or terminate the corresponding monthly membership. According to Plaintiffs, 24 Hour Fitness took this money by fraudulently representing to its payment processors (entities that process electronic payments on behalf of 24 Hour Fitness) that it had authorization to withdraw these membership dues from Settlement Class Members' bank or credit card accounts. 24 Hour Fitness contends that it did have such authorization. Plaintiffs' complaint claims, among other things, that this conduct by 24 Hour Fitness violates the Racketeer Influenced and Corrupt Organizations Act ("RICO"), the Electronic Fund Transfer Act ("EFTA") and state consumer protection laws. The Court certified Plaintiffs' RICO and EFTA claims to proceed as a class action. The Court denied class certification of Plaintiffs' state law claims without prejudice.

Please Do Not Contact the Clerk of the Court or the Judge.

24 Hour Fitness denies all liability for such claims and asserts that it acted lawfully, that it has made no misrepresentations to payment processors, to its members, or to anyone else, and that Settlement Class Members authorized the charges involved in this case in their membership agreements. 24 Hour Fitness has also asserted many other defenses to Plaintiffs' claims. Nonetheless, recognizing the burden and expense of protracted litigation, 24 Hour Fitness has entered into the Settlement. The proposed Settlement reflects a compromise of disputed claims and does not mean that 24 Hour Fitness or any of its related entities violated any law or are liable for any of the allegations made by Plaintiffs. The Court has granted preliminary approval of the proposed Settlement and will decide whether to give final approval to the Settlement at a hearing scheduled for July 12, 2010, at 10:00 a.m., in Courtroom 14, located at 312 N. Spring Street, Los Angeles, CA 90012.

III. THE SETTLEMENT CLASS

The Settlement Class is defined as follows:

All Persons who incurred Charges at Issue during the Class Period. "Charges at Issue" means an electronic funds transfer ("EFT") from a Person's bank account or credit/debit/charge card for Dues Charges where 24 Hour's membership database file reflects the payment by EFT on or after the date in 24 Hour's membership database file for a Request for Cancellation or Termination of the Settlement Class Member's or Club Membership Holder's Monthly Membership Agreement. "Charges at Issue" do not include: (1) pre-paid last months' dues; (2) Dues Charges paid by EFT on a date before the date in 24 Hour's membership database file for a Request for Cancellation or Termination of a Monthly Membership Agreement; or (3) Dues Charges paid by EFT after a Request for Cancellation or Termination that were charged by 24 Hour in order to reinstate a previously cancelled Monthly Membership Agreement or to pay Dues Charges on a new Monthly Membership Agreement. The "Class Period" means the time from October 2, 2002 through February 28, 2010. Excluded from this Settlement Class are (1) Persons who did not pre-pay last month dues and/or for whom 24 Hour's membership database file reflects a full refund or return of the Charges at Issue; (2) Persons who were and remain members of the certified settlement class in the matter of *Weir v. 24 Hour Fitness USA, Inc.*, San Francisco Superior Ct. Case Number CGC-05-438478; (3) 24 Hour, its subsidiaries and affiliates, officers, directors, and employees; and (4) any judge to whom this matter is assigned, his or her court staff, and his or her immediate family.

IV. YOUR LEGAL RIGHTS

If you fit within the definition of the class, you are a Settlement Class Member and you have several options. Each option will have its consequences, which you should understand before making your decision. Your rights under each option, and the procedure you must follow to select each option, are explained below.

1. You Can Remain a Member of the Class and Participate in the Settlement.

You will automatically be considered a Settlement Class Member unless you specifically request to be excluded from the Settlement. As a Settlement Class Member you are entitled to one of the benefits described in V.1. below. If you choose to participate in the Settlement, you will be bound by all the terms set forth in the Settlement, including a release of claims that will prevent you (or anyone suing on your behalf) from separately suing 24 Hour Fitness or any of the other released parties, for the matters being settled in this Litigation.

2. You Can Opt Out of the Class.

If you do not want to remain a member of the Class, you can request exclusion from the Class (i.e., opt out). You can opt out of the Class by mailing a written, signed request for exclusion to the Settlement Administrator at the following address: 24 Hour Fitness Settlement Administrator, PO Box 2313, Faribault, MN 55021-9013, such that it is postmarked no later than June 11, 2010. This request for exclusion must contain the following information: (a) the name of the lawsuit, i.e., *Friedman, et al. v. 24 Hour Fitness USA, Inc.*, (b) your full name, address, and telephone number, (c) your member number, which is located on the first page of this Notice; (d) a statement that you wish to be excluded from the Settlement Class and from participating in the proposed Settlement (e.g., "I elect to exclude myself from the class in *Friedman v. 24 Hour Fitness U.S.A., Inc.* and I understand that by requesting exclusion, I will not be eligible to receive any payment or other benefit from the settlement"), and (e) your signature. If you opt out of the Class, you will no longer be a member of the Class, you will be barred from participating in this Settlement, you will be unable to object to the Settlement, and you will receive no benefit from this Settlement. By opting out of the Class, you will retain whatever rights or claims you may have, if any, against 24 Hour Fitness, and you will be free to pursue them on an individual basis, if you choose to do so.

3. You Can Object to the Settlement.

If you are a Settlement Class Member who does not opt out of the Class, you may object to the Settlement, personally or through an attorney, by submitting your objection to the Court by mailing it to: Clerk of Court, U.S. District Court for the Central District of California, 312 N. Spring Street, Los Angeles, CA 90012. To be valid, all objections must also be mailed to Class Counsel and Defense Counsel at their respective addresses below. Objections must be filed and served on or before June 11, 2010. Unless otherwise ordered by the Court, the objection must contain: (1) your full name, address and telephone number; (2) your member number, which is located on the first page of this Notice; (3) a written statement of all grounds for the objection accompanied by any legal support for the objection; (4) copies of any papers, briefs, or other documents upon which the objection is based; (5) a list of all persons who will be called to testify in support of the objection (if any); (6) a statement of whether the Settlement Class Member intends to appear at the Settlement Hearing; and (7) the signature of the Settlement Class Member or his/her counsel.

To appeal from any provision of the order approving the Settlement as fair, reasonable and adequate, the award of payments to the Representative Plaintiffs, or to the award of attorneys' fees and expenses paid by 24 Hour Fitness to Class Counsel, an objecting Settlement Class Member must appear in person, or through counsel at the Settlement Hearing, or seek and obtain leave of Court excusing such appearance prior to the Settlement Hearing, or as otherwise may be permitted by the Court at the Settlement Hearing. If an objecting Settlement Class Member intends to appear at the Settlement Hearing through counsel, the written objection must also state the identity of all attorneys representing the objecting Settlement Class Member who will appear at the Settlement Hearing. Settlement Class Members who do not timely make their objections in this manner will be deemed to have waived all objections and shall not be heard or have the right to appeal approval of the Settlement. If you object to the Settlement and if the Court approves the Settlement as set forth in the Settlement Agreement, you will be bound by the terms of the Settlement in the same way as a Settlement Class Member who does not object.

V. SUMMARY OF TERMS OF SETTLEMENT

The principal terms of the Settlement reached between Plaintiffs and 24 Hour Fitness are summarized in this Notice. You may see a complete copy of the Settlement Agreement at www.friedmanclassaction.com or request a copy from the Settlement Administrator.

1. Class Benefits.

24 Hour Fitness will agree to the certification of the Class for settlement purposes only, conditioned upon the Court granting Final Approval of the Settlement. The Settlement provides that 24 Hour shall pay the following:

- **Payments To Settlement Class Members Who Do Not Opt-Out.** Each Settlement Class Member who does not opt out receives one of two valuable benefits pursuant to the terms of the Settlement. Each Settlement Class Member decides whether to submit the enclosed Claim Form to redeem a payment of Twenty Dollars (\$20), or whether to receive a Three Month Club Access Certificate (valued at \$149.99 to \$199.99) giving the user a free pass for any 24 Hour Fitness club for three consecutive months pursuant to terms explained in the Settlement Agreement. Those terms provide that the Settlement Class Member will have to sign a free Club Access Agreement, the terms of which are provided in an Exhibit to the Settlement Agreement, but will not be required to give 24 Hour Fitness any bank account information and will have no obligation to renew the membership after the three months are completed. **Any Settlement Class Member who does not submit the enclosed Claim Form, postmarked on or before June 18, 2010, will automatically receive a Three Month Club Access Certificate. The Settlement Class Member's check for \$20 or Three Month Club Access Certificate will only be mailed out after the Court gives final approval to the Settlement, as described below.**

Please Do Not Contact the Clerk of the Court or the Judge.

Some Settlement Class Members may have paid more than one Charge at Issue. Those Settlement Class Members may receive \$20.00 for each valid Claim Form timely returned. Settlement Class Members who incurred more than one Charge at Issue and do not return a valid and timely Claim Form for each charge, will be mailed one Three Month Club Access Certificate for each such Charge at Issue.

- **Attorneys' Fees and Costs.** Class Counsel will apply to the Court for an award of attorneys' fees in the amount of \$8,000,000, which is a reduction from the amount of attorneys' fees Class Counsel actually recorded in bringing this Litigation, and their actual costs and expenses in the amount of up to \$400,000. 24 Hour has agreed to pay the attorneys' fees and costs if awarded by the Court up to \$8,400,000.
- **Class Representative Incentive Awards.** Plaintiffs will request an incentive award of up to \$10,000 for each of the named Class Representatives for their time and effort in assisting in the Litigation.
- **Administrative Costs.** All administrative costs of settlement, including the cost of notice, claims administration, cost of the Settlement Administrator, and any other costs of settlement, which are estimated not to exceed \$2,300,000, shall be paid by 24 Hour Fitness and will not reduce any payments to the Settlement Class Members.

2. Release of All Claims.

As part of the Settlement, if you do not file an opt-out statement as described in Section IV.2 above, you will be deemed to have released claims brought on behalf of the Settlement Class. Specifically, you will release all claims, demands, obligations, causes of action and liabilities, of whatever kind, whether in law or equity, or of whatever legal theory, including breach of contract, unjust enrichment, untrue and misleading advertising, declaratory relief, and violations of the Racketeer Influenced Corrupt Organizations Act, the Electronic Funds Transfer Act, the Health Studio Services Act, the Consumer Legal Remedies Act, the Unfair Competition Act, as well as violations of any state or federal statutes, rules or regulations, common law, or any other bases for a cause of action that have been or could have been asserted based upon allegations made in any complaint or amended complaint filed in the Litigation concerning the Charges at Issue and/or (1) 24 Hour's policy of charging, submitting for payment, or collecting the Charges at Issue, (2) 24 Hour's method or practice of executing that policy, (3) 24 Hour's authorization to submit Charges at Issue to its payment processors, including, but not limited to, LaSalle Bank National Association and Paymentech Merchant Services, Inc., or any other payment processor, (4) 24 Hour's authorization or right to charge or collect Charges at Issue, (5) 24 Hour's representations, warranties, or statements concerning Charges at Issue, or (6) 24 Hour's cancellation and/or termination policies concerning the Charges at Issue applicable to its Monthly Membership Agreements. You will not be deemed to have released any claims, causes of action, lawsuits, actions, administrative proceedings or demands that you may have for personal injury. Also being released are any claims, causes of action, lawsuits, actions, administrative proceedings, and/or demands that 24 Hour may have against you for the payment of the Charges at Issue.

The release will cover these claims even if you were not aware of the claims at the time of the Settlement. You waive any and all rights or benefits under California Civil Code Section 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

You also waive any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to Section 1542 of the California Civil Code.

3. 24 Hour's Agreement to Stop Charging Monthly Members After Notice of Cancellation.

As of March 1, 2010, 24 Hour will not collect Dues Charges on or after a Request for Cancellation or Termination, except in the following circumstances: (a) such Dues Charges are for a monthly billing cycle that began before the Request for Cancellation or Termination; (b) such Dues Charges are collected to reinstate a previously cancelled Monthly Membership Agreement or to pay Dues Charges on a new Monthly Membership Agreement, or (c) 24 Hour has submitted for payment Dues Charges within two (2) business days prior to the monthly payment date and the Request for Cancellation or Termination is received by 24 Hour after such submission for payment but on or before the monthly payment date. In case (c), 24 Hour will refund the Dues Charges applicable to that monthly payment date. In case (a), by way of example, if a 24 Hour Member's monthly billing cycle began on the tenth of every month and the Request for Cancellation or Termination date was March 20, 24 Hour may collect Dues Charges for the monthly billing cycle beginning on March 10. For the sake of clarity, nothing in this provision shall be construed as preventing 24 Hour from (1) applying a 24 Hour Member's pre-paid last month's dues to cover Dues Charges for the monthly billing cycle that begins on or after a Request for Cancellation or Termination, or (2) collecting Dues Charges that are past-due as of the Request for Cancellation or Termination by means other than EFT, by EFT if such Dues Charges were submitted to a payment processor before the Request for Cancellation or Termination, or by EFT specifically authorized by the payor to cover such past-due Dues Charges.

4. Conditions of the Settlement.

This Settlement is conditioned upon the Court entering an Order at or following the Final Fairness Hearing approving the Settlement as fair, reasonable, and adequate and in the best interests of the Class.

5. No Admission of Liability.

24 Hour Fitness contends that its practices and procedures have at all times complied with the requirements of Federal and state law, and thus does not admit any wrongdoing or liability, and specifically denies any liability or wrongdoing. The proposed Settlement reflects a compromise of disputed claims and does not mean that 24 Hour Fitness or any of its related entities violated any law or are liable for any of the allegations made by Plaintiffs.

VI. FAIRNESS HEARING ON PROPOSED SETTLEMENT

The Final Fairness Hearing on the fairness and adequacy of the proposed Settlement, the plan of distribution, costs of administration, the incentive award to Plaintiffs, and Class Counsel's request for attorneys' fees and costs will be held on July 12, 2010, at 10:00 a.m., in Courtroom 14 of the United States District Court for the Central District of California, located at 312 N. Spring Street, Los Angeles, CA 90012. **You are not required to file an objection or attend the Final Fairness Hearing. If you do file an objection you may need to appear at the hearing, as set forth in Section IV. 3., above.** The hearing date may change without further notice. If you plan to attend the Final Hearing, you may check the website www.friedmanclassaction.com for the most up to date information on the date and time for the hearing. If the Settlement is not approved, the Litigation will continue to be prepared for trial or other judicial resolution.

VII. ADDITIONAL INFORMATION

This Notice only summarizes the lawsuit, the Settlement and related matters. To get more information regarding the lawsuit, you can review the documents publicly filed in the case which are available for review during normal business hours at the offices of the Clerk of the Court, U.S. District Court for the Central District of California, 312 N. Spring Street, Los Angeles, CA 90012. You may also obtain more information and instructions on excluding yourself by visiting www.friedmanclassaction.com or writing: 24 Hour Fitness Settlement Administrator, PO Box 2313, Faribault, MN 55021-9013, (877) 773-8183. No amendment or modification made to the Settlement shall require additional notice to members of the Settlement Class, including written or publication, unless ordered by the Court.

Any questions regarding this Notice or the lawsuit may be directed to the Settlement Administrator at the above address and telephone number. Alternatively, you may contact your own attorney, at your own expense, to advise you, or you may contact Class Counsel at the addresses set forth below. If your address changes, or is different from the address on the envelope enclosing this Notice, please promptly notify the Settlement Administrator.

The Court appointed the following law firms as Co-Lead Counsel for the Settlement Class:

WASSERMAN COMDEN, CASSELMAN & ESENSTEN, LLP
Melissa M. Harnett, Esq.
5567 Reseda Blvd., Suite 330
Tarzana, California 91357
www.wccelaw.com

KELLER GROVER LLP
Jeffrey F. Keller, Esq.
425 Second Street, Suite 500
San Francisco, California 94107
www.KellerGrover.com

Counsel for 24 Hour Fitness is:

KIRKLAND & ELLIS LLP
James F. Basile
Elizabeth L. Deeley
555 California Street
San Francisco, California 94104
www.kirkland.com

Please Do Not Contact the Clerk of the Court or the Judge.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
Daniel Friedman et al. v. 24 Hour Fitness USA, Inc., case no. CV 06-06282

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

A Federal District Court Authorized This Mailing. This is Not a Solicitation.

PLEASE READ THIS NOTICE CAREFULLY. YOU ARE NOT BEING SUED BUT YOUR LEGAL RIGHTS MAY BE AFFECTED BY A CLASS ACTION SETTLEMENT NOW PENDING.

If someone else paid the final monthly dues payment for you, you should forward this notice to that person.

You may be a member of the Class if you paid dues for a monthly membership at 24 Hour Fitness.

<<Name>>
<<Address>>
<<City>> <<State>> <<Zip Code>>



FRIEDMAN V. 24 HOUR
FITNESS USA, INC
C/O SETTLEMENT
ADMINISTRATOR
PO BOX 2313
FARIBAULT MN
55021-9013

Your rights may be affected by a proposed class action settlement.
If your contact information is different than what is on this notice, or if your address changes, please send your corrected address to:

FRIEDMAN V. 24 HOUR FITNESS USA, INC
C/O SETTLEMENT ADMINISTRATOR
PO BOX 2314
FARIBAULT MN 55021-9014

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