

1 THOMAS G. FOLEY, JR., Bar No. 065812  
 2 JUSTIN P. KARZAG, Bar No. 223764  
 3 FOLEY BEZEK BEHLE & CURTIS, LLP  
 4 15 West Carrillo Street  
 5 Santa Barbara, California 93101  
 6 Telephone (805) 962-9495  
 7 Facsimile (805) 965-0722  
 8 Email: [tfoley@foleybezek.com](mailto:tfoley@foleybezek.com)  
 9 Email: [jkarczag@foleybezek.com](mailto:jkarczag@foleybezek.com)

10 RICHARD E. DONAHOO, Bar No. 186957  
 11 SARAH L. KOKONAS, Bar No.  
 12 DONAHOO & ASSOCIATES  
 13 440 W. First Street, Ste. 101  
 14 Tustin, CA 92780  
 15 Telephone (714) 953-1010  
 16 Facsimile (714) 953-1777  
 17 Email: [rdonahoo@donahoo.com](mailto:rdonahoo@donahoo.com)  
 18 Email: [skokonas@donahoo.com](mailto:skokonas@donahoo.com)

19 **UNITED STATES DISTRICT COURT**  
 20 **NORTHERN DISTRICT OF CALIFORNIA**

21 GABE BEAUPERTHUY, et al.,

22 Plaintiffs,

23 v.

24 24 HOUR FITNESS USA, INC., a  
 25 California corporation dba 24 HOUR  
 26 FITNESS; SPORT AND FITNESS  
 27 CLUBS OF AMERICA, INC., a  
 28 California corporation dba 24 HOUR  
 FITNESS,

Defendants.

Case No. C 06 0715 SC

*(Assigned to the Honorable Samuel Conti  
 for All Purposes)*

**[PROPOSED] ORDER ON MOTION  
 FOR FINAL APPROVAL OF  
 SETTLEMENT AND MOTION FOR  
 ATTORNEYS' FEES AND COSTS**

Date: September 13, 2013  
 Time: 10:00 am  
 Courtroom: 1

Complaint filed: February 1, 2006  
 Trial date: N/A

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 This matter comes before the Court on Plaintiff's Motion for Final Approval  
3 of a Fair Labor Standards Act ("FLSA") Settlement.

4 The proposed settlement in this case was preliminarily approved by this  
5 Court on April 22, 2013 ("Preliminary Approval Order") (Dkt. No. 568). Pursuant  
6 to the Court's Preliminary Approval Order and the Notice provided to the  
7 individual plaintiffs, the Court conducted a fairness hearing on September 13,  
8 2013. The Court has reviewed the materials submitted by the parties, and has  
9 heard arguments presented at such hearing. For the reasons cited on the record as  
10 well as those stated hereafter, the Court finds and orders as follows:

11 1. The Court has subject matter jurisdiction over this action pursuant to 29  
12 U.S.C. §201 et seq.

13 2. The notice given to the individual plaintiffs informed the plaintiffs of the  
14 material elements of the proposed settlement, constituted the best notice  
15 practicable under the circumstances, constituted valid, due and sufficient notice  
16 and complied with Federal Rules of Civil Procedure and the United States  
17 Constitution.

18 3. The Settlement Agreement is fair, reasonable and adequate in all respects  
19 under the FLSA. The Settlement Amount will provide a substantial benefit to the  
20 plaintiffs. The agreement is not the product of fraud or collusion between the  
21 negotiating parties, and the settlement, taken as a whole, is fair, reasonable, and  
22 adequate to all concerned. The uncertainty and delay of further litigation strongly  
23 support the reasonableness and adequacy of the Settlement.

24 4. The Settlement has received overwhelming approval. No plaintiff has  
25 objected to any aspect of the proposed settlement. Of the 862 individuals who are  
26 named as parties to the settlement, 851 have signed individual releases approving  
27 the settlement. The reaction of the plaintiffs to the proposed Settlement strongly  
28 supports the conclusion that the proposed Settlement is fair, reasonable, and

1 adequate. Accordingly, the Court hereby grants final approval of the Settlement  
2 and orders the parties to comply with the terms of the Settlement Agreement.

3 5. The Court grants the motion for attorneys' fees as fair and reasonable and  
4 approves payment to Plaintiffs' counsel of attorneys' fees in the amount of  
5 \$5,479,677 and litigation costs in the amount of \$1,009,469 from the Settlement  
6 Amount. The Court approves \$65,000 in Settlement administration costs to  
7 Simpluris.

8 6. The Court shall retain continuing jurisdiction over the action and over all  
9 Parties and Plaintiffs, to the fullest extent to enforce and effectuate the terms and  
10 intent of the Settlement Agreement.

11 7. All actions and claims for relief brought by the individual plaintiffs who  
12 have signed the Individual Release Agreements that are the subject of the  
13 Settlement Agreement are hereby dismissed with prejudice.

14  
15 IT IS SO ORDERED.

16  
17 Date:



18 Hon. Samuel Conti

19 United States District Judge  
20  
21  
22  
23  
24  
25  
26  
27  
28