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7 Attorneys for Defendant
 24 Hour Fitness USA, Inc.

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA

12 PAUL DROBOT, an individual; and
 REGINALD ALLISON, an individual,

13 Plaintiffs,

14 vs.

15 24 HOUR FITNESS USA, INC., a
 16 California corporation; and DOES 1
 THROUGH 20,

17 Defendants.

No. C-09-1318-JSW

**STIPULATION AND ~~PROPOSED~~ ORDER
 RE: STAY OF PLAINTIFFS' CLAIMS
 PENDING ARBITRATION**

1 Plaintiffs Paul Drobot and Reginald Allison and defendant 24 Hour Fitness USA, Inc., acting
2 through their respective counsel of record, hereby stipulate as follows:

3 1. The parties will arbitrate plaintiffs' claims pursuant to their arbitration agreement (the
4 "Agreement"), a copy of which is attached to this stipulation as Exhibit A.

5 2. By entering into this stipulation, the parties do not waive, and specifically reserve, their
6 respective positions regarding the scope and enforceability of the confidentiality provision of the
7 Agreement. Any dispute regarding the confidentiality provision will be decided by the arbitrator.

8 3. The parties will make their best efforts to agree upon an arbitrator within ten days after
9 the date on which the Court enters an order adopting this stipulation (the "Arbitration Order"). If within
10 that ten-day time period the parties do not agree upon an arbitrator, the parties will use the process set
11 forth below for selecting an arbitrator. (For purposes of this process, plaintiffs will act as a single party,
12 and defendant will be the other party.)

13 a. At noon on the fifteenth day after the entry of the Arbitration Order, each party
14 will provide a list of six arbitrators to the other party, via e-mail.

15 b. At noon on the twentieth day after the entry of the Arbitration Order, each party
16 will send an e-mail striking two of the six arbitrators who have been designated
17 by the opposing party, leaving a total of eight arbitrators remaining.

18 c. At noon on the thirtieth day after entry of the Arbitration Order, each party will
19 send to the other the list of eight arbitrators ranked by the party's preference, with
20 the arbitrator the party most prefers ranked as number "8," the arbitrator the party
21 least prefers ranked as number "1," and the other arbitrators ranked in ascending
22 order from number "2" to number "7" based on preference.

23 d. The rankings of the arbitrators will be tallied. The arbitrator with the highest
24 combined ranking will be preliminarily selected as the arbitrator. In the event that
25 two or more arbitrators have the highest ranking, the Court will preliminarily
26 select between the arbitrators with the highest combined ranking.

27 e. Once an arbitrator is preliminarily selected in this manner, the arbitrator will
28 make the disclosures required by, and the parties will have the right to raise

1 objections, pursuant to California Code of Civil Procedure sections 1281.6,
2 1281.85, 1281.9, and 1281.91. If no party duly objects to the arbitrator pursuant
3 to those statutes, he or she will serve as the arbitrator in the arbitration. If the
4 arbitrator preliminarily selected is excused pursuant to those statutes, a new
5 preliminary selection will be made pursuant to the process set forth above, using
6 the same rankings as before but excluding the arbitrator who has been excused.
7 The process will be repeated until an arbitrator has been finally selected.

8 4. The parties request that the Court stay this action pending completion of the arbitration,
9 at which time the parties will notify the Court of the arbitrator's award, and as appropriate under
10 applicable law, move to confirm, modify, or vacate the award.

11 Dated: June 12, 2009.

WILLIE L. BROWN, JR.

12 LOUISE H. RENNE
13 JONATHAN V. HOLTZMAN
14 STEVE CIKES
15 RENNE SLOAN HOLTZMAN SAKAI LLP

16 SHARON R. VINICK
17 EMILY NUGENT
18 VINICK LAW FIRM

19 By: /s/ Sharon R. Vinick
20 Sharon R. Vinick
21 Attorneys for Plaintiffs Paul Drobot and Reginald Allison

22 Dated: June 12, 2009.

23 JEFFREY D. WOHL
24 JEFFREY P. MICHALOWSKI
25 CHRISTINA F. LATTA
26 PAUL, HASTINGS, JANOFSKY & WALKER LLP

27 By: /s/ Jeffrey D. Wohl
28 Jeffrey D. Wohl
Attorneys for Defendant 24 Hour Fitness USA, Inc.

ORDER

On the parties' stipulation, and good cause appearing therefore,

IT IS ORDERED that the parties will arbitrate their claims pursuant to their stipulation.

IT IS FURTHER ORDERED that this action is STAYED pending completion of the parties' arbitration, at which time the parties will notify the Court of the arbitrator's award and, as appropriate under applicable law, move to confirm, modify, or vacate the award.

Dated: June 15, 2009.


Jeffrey S. White
United States District Judge

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