

NOTICE OF CLASS ACTION SETTLEMENT

Superior Court of the State of California, County of Alameda

If you entered into a membership contract with 24 Hour Fitness at a club in California either: (1) originally on a Family Fitness Center contract dated after January 15, 1983; or (2) between October 1996 and October 1999 using 24 Hour contract version v9.96, with an “All Club (Non-Premier)” benefit and at a Central or Southern California club, you may be eligible for a benefit from this class action settlement.

A California Court authorized this notice.

*This is not a solicitation from a lawyer. **You are not being sued.***

- This notice is to inform you of a proposed settlement (the “Settlement”) of the class action lawsuit *McCardle, et al. v. 24 Hour Fitness USA, Inc., et al.* (Alameda Superior Court, Case No. RG0841488), and to discuss your rights and options with respect to the Settlement. The Settlement has been preliminarily approved by the Court and will be considered for final approval by the Court as described below.
- Five individual members of 24 Hour Fitness USA, Inc. (“24 Hour”) in California have sued on behalf of 24 Hour members in similar circumstances (“Class Members”), alleging that they have been wrongfully denied access to certain higher-level 24 Hour clubs. 24 Hour denies that it has done anything wrong. The Court has not made any determination that 24 Hour has done anything wrong. The five individual members and 24 Hour decided to compromise and settle this lawsuit.
- If the Court approves the Settlement, you and class members like you can receive an offer to upgrade your membership at a reduced rate. The Settlement resolves the lawsuit; it avoids costs and risks to you from continuing the lawsuit; provides benefits to class members like you; and releases 24 Hour from liability.
- Your legal rights are affected whether you act, or don’t act. Read this notice carefully.

Your Legal Rights and Options	
Submit A Claim Form Postmarked by February 25, 2010	Receive an offer in the mail to upgrade at a reduced rate, or, if you are a former member, to rejoin 24 Hour as an upgraded member at a reduced rate, once the Settlement is final.
Exclude Yourself Postmarked by February 25, 2010	Get out of the lawsuit. Get no benefits. Keep your right to sue 24 Hour at your own expense.
Object Postmarked by February 25, 2010	File a written statement with the Court about why you do not like the Settlement.

- These rights and options – **and the deadlines to exercise them** – are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Additional access will only be awarded after the Court finally approves the Settlement. Please be patient.

BASIC INFORMATION

1. Why did I get this notice?

24 Hour's records indicate that you are a Class Member affected by this lawsuit. This notice explains the rights and options that you may exercise at this time.

2. What is this lawsuit about?

The operative complaint was brought by five 24 Hour members: Norman Adams, Richard Bernhardt, Gustavo Blakenburg, Trevor McCardle, and David Schnayer (the "Named Plaintiffs"). The case name is *McCardle, et al. v. 24 Hour Fitness USA, Inc., et al.*, Case No. RG08414888. The Named Plaintiffs assert five causes of action: (1) breach of contract; (2) breach of the implied covenant of good faith and fair dealing; (3) violation of the Health Studio Services Act (Civil Code § 1812.92); (4) violation of the Consumer Legal Remedies Act (Civil Code § 1760 et seq.); and (5) violation of the Unfair Competition Law (Bus. & Prof. Code § 17200). The Named Plaintiffs allege in general terms that 24 Hour has denied them access to certain higher level 24 Hour clubs that they are entitled to use.

24 Hour has denied all of the allegations and still denies any liability for the claims asserted in the Complaint. Nevertheless, 24 Hour has decided that further conduct of the lawsuit would be lengthy and expensive, and that it is desirable that the Class Members' claims be fully and finally settled in the manner and upon the terms and conditions set forth in the Settlement.

The Court has not decided whether the 24 Hour members who brought this suit against 24 Hour are correct.

3. Who is included in the Class and who is entitled to part of the Settlement?

As part of the proposed Settlement, 24 Hour and the Named Plaintiffs have conditionally agreed to the certification by the Court of a class (the "Class") composed of two Settlement subclasses – Settlement Class Type I and Settlement Class Type II. Both Settlement Classes include certain groups of current and former 24 Hour members. 24 Hour's records indicate that you are a member of Settlement Class Type II, which is described here. If you wish to view information regarding members of Settlement Class Type I, please visit the website www.mccardleclassaction.com.

Settlement Class Type II includes: (1) 24 Hour members who entered into a membership contract with Family Fitness Center ("FFC") after January 15, 1983, and (2) 24 Hour members who entered into a membership contract between October 1996 and October 1999 using contract version 9.96 and who had an "All Club (non-Premier)" benefit and entered into contract version 9.96 at a Central or Southern California club. Please visit the website at www.mccardleclassaction.com for a list of the Central and Southern California clubs.

Settlement Class Type II does not include (i) any 24 Hour member who entered into a membership contract that limits access to one club or to the member's club of enrollment, (ii) any 24 Hour member who upgraded his or her membership contract, (iii) any 24 Hour member whose membership contract expired or was terminated before October 14, 2004, and (iv) any Settlement Class Type I members, as defined in the Stipulation and Settlement Agreement that can be viewed at the above website address. The Settlement Classes include only members who entered into membership contracts with a club of enrollment in California.

If you fall within the Class definition above, you are automatically a member of the Class unless you exclude yourself from the Class by following the procedure for exclusion described below.

THE SETTLEMENT BENEFITS – WHAT YOU GET

4. What will I get from the Settlement?

Subject to Court approval, the Named Plaintiffs, acting on your behalf, and 24 Hour, have agreed upon a proposed Settlement to resolve this lawsuit without a trial. The full and complete Stipulation and Settlement Agreement is available for your review at the website www.mccardleclassaction.com.

If you are a Settlement Class Type II member and you have All Club Active level access, you will receive an offer to upgrade to All Club Sport level access for future upgrade dues of an additional \$5 per month and no initiation fees, or to All Club Ultra Sport level access for future upgrade dues of an additional \$10 per month and no initiation fees. If you are a former member, you will receive an offer to rejoin 24 Hour as an upgraded member at the total dues rate you paid at the time your membership expired or was terminated, plus upgrade dues of an additional \$5 per month and no initiation fees for All Club Sport level access, or plus upgrade dues of an additional \$10 per month and no initiation fees for All Club Ultra Sport level access. If you submit a claim form, do not opt out of the Settlement, and the Settlement is approved by the Court and becomes final, you will be able to receive the above-described offers. Approval of the Settlement will not occur right away and the approval process will take time. Please be patient. You can check the website at www.mccardleclassaction.com to see when and if the Settlement has become final.

5. What will others get from the Settlement?

Other 24 Hour members like you who fall within Settlement Class Type II will get the same thing you do. Members who joined at different times or those who joined on different contracts may receive different benefits. You can view the Settlement benefits for other types of Class Members at www.mccardleclassaction.com.

6. How can I get benefits from the Settlement?

If you are a Settlement Class Type II member, to take advantage of the Settlement benefits described above you must fully complete, execute and mail Claim Form B according to the instructions on the form on or before February 25, 2010. If you do so, 24 Hour will mail you an offer to upgrade or rejoin 24 Hour as an upgraded member in accordance with the Settlement. You will receive this offer after the Settlement becomes final; please be patient. To take advantage of the offer, you will need to return that offer to a 24 Hour club and sign an upgrade contract or new membership contract within 180 days of the offer mailing date.

If you move following receipt of this Notice, or if the address to which this Notice was sent is not correct, you must immediately contact the Claims Administrator, whose address and contact information is as follows:

McCardle vs 24 Hour Fitness USA, Inc.
c/o Gilardi & Co. LLC
PO Box 8060
San Rafael, CA 94912-8060

It is your responsibility to keep a current address on file with the Claims Administrator to ensure receipt of your Settlement payment.

To report any change of your address after you receive this Notice, you should write to the Claims Administrator at the address above. Failure to report a change of address may result in you not receiving certain benefits of the Settlement. When writing, include the name of this lawsuit, your first name, last name, telephone number, old address, new address, and signature.

7. What am I giving up to get benefits or to stay in the Class?

As part of the Settlement, if you do not file an opt-out statement as described below, you will be deemed to have released claims related to club access and club types. 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, breach of the implied covenant of good faith and fair dealing, violations of the Health Studio Services Act, violations of the Consumer Legal Remedies Act, violations of the Unfair Business Practices Act/Unfair Competition Law or violations of any state or federal statutes, rules or regulations that have been or could have been asserted based upon allegations made in the complaints filed in this lawsuit or based upon allegations (1) concerning (a) access level or related to denial of access based on club type or access level, (b) payments, dues, fees, upgrades or charges of any sort associated with access or upgrades based on club type or access level, or (c) the interpretation of club types or access level rights, including, without limitation, interpretation of such club types or access level rights under any upgrade or membership contract; or (2) concerning or related to club types or to 24 Hour's

establishment, assignment or re-assignment of club types, including the facilities, amenities or services offered or not offered at particular 24 Hour clubs ("Released Claims").

The release will cover the claims described above even if you were not aware of those claims at the time of the Settlement. You waive any and all rights or benefits under California Civil Code section 1542 as it relates to the Released Claims, 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, as they relate to the Released Claims. You may later discover facts in addition to or different from those you know now or believe to be true with respect to the subject matter of the claims you are releasing, but you have fully, finally, and forever settled and released any and all of the claims described above whether you knew about them or not, whether you suspected them or not, and regardless of whether they were concealed or hidden, including without limitation claims related to conduct that is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, even if the existence of those claims or new or different facts related to them are later discovered. This is not a general release, and only unknown claims that fall within the definition of "Released Claims" are being released.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don't want the benefits from the Settlement, but you want to keep the right to sue 24 Hour about the legal issues in this case on your own and at your own expense, then you must take steps to get out. This is called opting out of the Settlement Class.

8. How do I opt out of the Settlement?

To opt out of the Settlement, you must send a letter in the mail stating: "I wish to be excluded from the McCardle v. 24 Hour Fitness class action settlement." You must include your name, address, telephone number, and your signature. You must mail your opt out request postmarked no later than February 25, 2010 to the Claims Administrator's address above.

If you opt out, you will not get any Settlement benefits and cannot object to the Settlement. You will not be bound by anything that happens in the lawsuit. You may be able to sue 24 Hour for the claims described above in the future at your own expense.

9. If I opt out, can I get benefits from this Settlement?

No. If you opt out, you will not receive any benefits from this Settlement. You also will not be permitted to object to the settlement.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in this case?

The Court has appointed a lawyer to represent you and the other Class Members. These 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. The Class Counsel are:

Michael von Loewenfeldt, Esq.
Ivo Labar, Esq.
KERR & WAGSTAFFE LLP
100 Spear Street, 18th Floor
San Francisco, CA 94105
www.kerrwagstaffe.com

11. How will the lawyers be paid? Will the Named Plaintiffs be paid?

Class Counsel will ask the Court to approve payment of up to \$480,000 to them for attorneys' fees and expenses, and payment of \$1,000 to each Named Plaintiff for their services as class representatives. The fees would pay Class Counsel for investigating the facts, litigating the case, and negotiating the Settlement. The Court may award less than these amounts. The amounts awarded will not affect your Settlement benefits.

OBJECTING TO THE SETTLEMENT

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

12. How do I tell the Court that I don't like the Settlement?

If you are a Class Member, and you do not exclude yourself from the Class, you may 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 file an objection saying that you object to the Settlement in *McCardle v. 24 Hour Fitness*. Be sure to include the case name, your name, address, telephone number, your signature, and the reasons you object to the Settlement. You can object personally, or through a lawyer you hire at your own expense. Mail the objection to these three different places postmarked no later than February 25, 2010.

COURT	CLASS COUNSEL	COUNSEL FOR 24 HOUR
Alameda County Superior Court Rene C. Davidson Alameda County Courthouse 1225 Fallon St. Oakland, CA 94612	Michael von Loewenfeldt, Esq. KERR & WAGSTAFFE LLP 100 Spear St., 18th Floor San Francisco, CA 94105	Elizabeth Deeley, Esq. KIRKLAND & ELLIS LLP 555 California St., Suite 2700 San Francisco, CA 94104

13. What's the difference between objecting and opting out?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Class. Opting out is telling the Court that you do not want to be part of the Class. If you opt out, you cannot object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to determine whether the proposed Settlement is fair and reasonable.

14. When and where will the Court decide whether to approve the Settlement?

The Court will hold a fairness hearing on March 11, 2010 at 3:00 p.m. in Department 17 of the Alameda County Superior Court, located at Administration Building, 1221 Oak Street, Oakland, California 94612. After the hearing, the Court will decide whether to approve the Settlement. The Settlement hearing may be postponed by the Court without further notice, and the time frame for obtaining a decision on the Settlement is unknown at this time.

15. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Judge may have. But, you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend.

16. May I speak at the hearing?

Yes, but you need to let the Court and parties know in advance. If you wish to speak at the hearing, or wish an attorney hired by you at your own expense to do so, you or your attorney must send a letter stating that it is your "Notice of Intention to Appear in *McCardle v. 24 Hour Fitness*." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be

postmarked no later than February 25, 2010 and sent to the three addresses listed above in Question 12. You cannot speak at the hearing if you opted out.

GETTING MORE INFORMATION

17. Are there more details about the Settlement?

This notice summarizes the proposed Settlement. More details are in the Stipulation and Settlement Agreement. All court records in this litigation, including complete copies of the Stipulation and Settlement Agreement, may be examined during regular court hours at the office of the Clerk of the Court, Alameda County Superior Court, Rene C. Davidson Alameda County Courthouse, 1225 Fallon St., Oakland, CA 94612, or you may obtain copies of any of these documents at your own expense by contacting the Clerk of the Court.

The Court's electronic docket, as well as various rulings by the Court in this case, is available for viewing by the public at www.alameda.courts.ca.gov/domainweb. Select the "Complex Litigation" link, then the "Dept 17 Cases" link, then the link for "McCardle vs 24 Hour Fitness USA, Inc., a California corporation" (case number RG08414888) to view the electronic file for this case.

You may also visit www.mccardleclassaction.com, where you will find a copy of this Notice, the Notice sent to other types of Class Members and the parties' Settlement Agreement containing the complete terms of the proposed settlement.

18. Other questions regarding the Settlement or this notice?

If you have any questions about the proposed Settlement of this Notice, you may visit the Settlement website: www.mccardleclassaction.com.

19. What happens if I move?

It is important for the parties to have your current address in order to be able to send you other mailings regarding this lawsuit. You should write to the Claims Administrator to report any change of your address after you receive this Notice, as described above in Question 6. Failure to report a change of address may result in you not receiving certain benefits of the Settlement.

20. What happens if my membership was terminated or expired since this notice was sent, and I am now a former member?

If your membership was recently terminated or expired and you did not receive a claim form, in order to receive the Settlement benefits you should request Claim Form B from the Claims Administrator, whose contact information is above in Question 6. You may also go to the Settlement website and print Claim Form B. Once you receive this claim form, to take advantage of the Settlement you must fully complete, execute and mail it according to the instructions in this notice and on the form. You will have thirty (30) days from the earlier of (1) the date you request Claim Form B from the Settlement Administrator or (2) the date you became a former 24 Hour member to return the Claim Form to the Settlement Administrator as described herein and on the Claim Form. If you do so, 24 Hour will mail you an offer to rejoin 24 Hour in accordance with the Settlement. You will receive this offer after the Settlement becomes final; please be patient. To take advantage of the offer, you will need to return that offer to a 24 Hour club and sign a new membership contract within 180 days of the offer mailing date.