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11 *Plaintiffs' Class Counsel*

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 IN AND FOR THE CITY OF LOS ANGELES

14 LORIN M. ENGQUIST and ANGELICA G. )  
15 DIVINAGRACIA dba FUN FIT FACTORY, )  
on behalf of themselves and all others similarly )  
16 situated, )

17 Plaintiffs, )

18 v. )

19 CITY OF LOS ANGELES, )

20 Defendant. )  
21 )  
22 )  
23 )  
24 )  
25 )  
26 )  
27 )  
28 )

Case No. BC591331

**[PROPOSED] ORDER GRANTING  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

DATE: October 9, 2020  
TIME: 10:30 a.m.  
JUDGE: Hon. Daniel J. Buckley  
DEPT: SS1

CONFORMED COPY  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

OCT 09 2020

Sherri R. Carter, Executive Officer/Clerk  
By: Stephanie Chung, Deputy

1 The Motion for Preliminary Approval of Class Action Settlement (“Motion”) by  
2 Plaintiffs Lorin M. Engquist, Angelica G. Divinagracia dba Fun Fit Factory, and David Bernstein  
3 (“Plaintiffs”) came on for hearing on September 28, 2020 in Department SS1 of the Superior  
4 Court of California for the County of Los Angeles, the Honorable Daniel J. Buckley presiding.

5 Rachele R. Byrd of Wolf Haldenstein Adler Freeman & Herz and Jon A. Tostrud of the  
6 Tostrud Law Group, P.C. appeared for Plaintiffs.

7 Holly O. Whatley and Pamela K. Graham of Colantuono, Highsmith & Whatley, PC  
8 appeared for Defendant the City of Los Angeles (“Defendant”).

9 Plaintiffs and Defendant are referred herein together as the “Parties.”

10 Upon reviewing the Motion, the First Amended Stipulation of Settlement and exhibits  
11 attached thereto (“Settlement Agreement” or “Settlement”), filed concurrently with the Motion,  
12 and accompanying supporting declarations and pleadings, and good cause appearing thereon, IT  
13 IS HEREBY ORDERED that the Motion is GRANTED, on the following terms and conditions:

14 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the  
15 Settlement Agreement.

16 2. The Court preliminarily finds that the Settlement is fair, just, reasonable, and  
17 adequate, and therefore preliminarily approves the Settlement, subject to further consideration by  
18 the Court at the time of the Final Fairness Hearing.

19 3. On May 13, 2019, the Court certified the following mandatory non-optout Class:

20 All persons, including individuals, non-corporate entities, and corporations,  
21 wherever organized and existing, that have paid the City of Los Angeles Gas  
22 Users Tax imposed by section 21.1.5 of the Los Angeles Municipal Code on  
23 amounts charged by Southern California Gas Company for reading meters,  
24 preparing bills, processing payments and establishing service.

25 On that same day, the Court also appointed Plaintiffs Lorin M. Engquist, Angelica G.  
26 Divinagracia dba Fun Fit Factory and David Bernstein as Class Representatives and Wolf  
27 Haldenstein Adler Freeman & Herz and the Tostrud Law Group, P.C. as Class Counsel. For the  
28 same reasons set forth in the order granting class certification, a settlement class is appropriately  
approved and for purposes of settlement, optouts will be permitted.

1           4.     The Court approves JND Legal as the Settlement Administrator. The Settlement  
2 Administrator shall comply with the terms and conditions of the Settlement Agreement in  
3 carrying out its duties pursuant to the Settlement.

4           5.     A Final Fairness Hearing shall be held before this Court on  
5 March 17, 2021 at 10:30 a.m./~~p.m.~~ before the Honorable Daniel J. Buckley in  
6 Department SS1 of the Superior Court of California, County of Los Angeles, 312 North Spring  
7 Street, Los Angeles, California, 90012 to determine: (a) whether the proposed settlement of this  
8 action on the terms and conditions provided for in the Settlement Agreement should be given  
9 final approval as fair, just and reasonable; (b) whether a Final Order and Final Judgment should  
10 be entered; and (c) whether Class Counsel's application for attorneys' fees and expenses and  
11 Class Representatives' request for service payments to be paid from the Settlement Fund, should  
12 be approved. The Final Fairness Hearing may be postponed, adjourned or continued by further  
13 order of the Court, without further notice to the Parties or the Class Members.

14           6.     The form, manner, and content of the Class Notice, attached to the Settlement  
15 Agreement as Exhibits C, E, F, G, and H, will provide the best notice practicable to the Class  
16 under the circumstances, constitutes valid and sufficient notice to all Class Members, and fully  
17 complies with California Code of Civil Procedure section 382, California Code of Civil  
18 Procedure section 1781, the Constitution of the State of California, the Constitution of the United  
19 States, and other applicable law.

20           7.     Defendant shall, through the Settlement Administrator, disseminate Class Notice,  
21 as provided in the Settlement Agreement and in the Declaration of the Settlement Administrator,  
22 attached as Exhibit I to the Settlement Agreement. The Notice Date shall be no later than  
23 twenty-one (21) days after the date of the issuance of this Preliminary Approval Order ("Notice  
24 Date"): \_\_\_\_\_, 2020. The Settlement Administrator shall complete the notice described  
25 in paragraph 68 of the Settlement Agreement no later than thirty (30) days after the Notice Date.

26           8.     Any Class Member who wishes to be excluded from the Class must do one of the  
27 following: (1) mail a written request for exclusion to the Settlement Administrator at the address  
28 provided in the Long Form Notice, postmarked by the date that falls on the day that is sixty (60)

1 calendar days after the Notice Date: \_\_\_\_\_, 202\_ (the “Exclusion Deadline”); (2)  
2 send a written request for exclusion to the Settlement Administrator by e-mail or fax, at the email  
3 address or numbers provided in the Long Form Notice, on or before midnight Pacific Time on  
4 the Exclusion Deadline; or (3) fully complete the request for exclusion form available for  
5 submission on the Settlement Website, on or before midnight Pacific Time on the Exclusion  
6 Deadline. The request for exclusion must: (a) state the Class Member’s name, address,  
7 telephone number, and Southern California Gas Company account number;  
8 (b) reference *Engquist, et al. v. City of Los Angeles*, Case No. BC591331; and (c) clearly state  
9 that the Class Member wants to be excluded from the Class, not participate in the Settlement, and  
10 otherwise comply with the terms stated in the Long Form Notice and this Order. Class Members  
11 who receive a re-mailed Summary Notice will have an additional twenty (20) days beyond the  
12 Exclusion Deadline to submit a request for exclusion. All Class Members will be bound by the  
13 Final Order and Final Judgment unless such Class Members timely file valid written requests for  
14 exclusion or opt out in accordance with this Order.

15 9. Any Class Member who has not filed a timely written request for exclusion and  
16 who wishes to object to the fairness, reasonableness, or adequacy of this Agreement or the  
17 proposed Settlement, or to the award of Attorneys’ Fees and Expenses, or the Service Payments  
18 to the Class Representatives must do one of the following: (1) mail a written statement,  
19 describing the Class Member’s objections in the specific manner set forth in paragraphs 81-83 of  
20 the Settlement Agreement, to the Settlement Administrator by e-mail or by fax, at the address or  
21 numbers provided in the Long Form Notice, before midnight Pacific Time on the date that falls  
22 on the day that is sixty (60) calendar days after the Notice Date: \_\_\_\_\_, 202\_ (the  
23 “Objection Deadline”). Class Members who receive a re-mailed Summary Notice will have an  
24 additional twenty (20) days beyond the Objection Deadline to submit an objection. Any such  
25 objection shall include: (1) the full name of objector; (2) the full address of objector; (3) the  
26 specific reason(s), if any, for the objection, including any legal support the Class Member wishes  
27 to bring to the Court’s attention; (4) copies of any evidence or other information the Class  
28 Member wishes to introduce in support of the objection; (5) a statement of whether the Class

1 Member intends to appear and argue at the Final Fairness Hearing; (6) the individual Class  
2 Member's written signature, with date; and (7) a reference to *Engquist, et al. v. City of Los*  
3 *Angeles*, Case No. BC591331 on the envelope and written objection. Class Members may  
4 personally object or object through an attorney retained at their own expense; however, each  
5 individual Class Member objecting to the Settlement, in whole or part, shall personally sign the  
6 objection. The objection must also include proof that the Class Member falls within the  
7 definition of the Class. In addition, any Class Member objecting to the Settlement shall provide  
8 a list of all other objections the objector, or the objector's counsel, has submitted to any class  
9 action settlement in any state or federal court in the United States in the previous five years. If  
10 the Class Member, or his, her or its counsel, has not objected to any other class action settlement  
11 in the United States in the previous five (5) years, he, she, or it shall affirmatively so state in the  
12 objection. Class Members who file an objection may be subject to discovery on matters related  
13 to their objection, including depositions.

14 10. Any Class Member who files and serves a written objection, as described in  
15 paragraph 9 herein, may appear at the Final Fairness Hearing, either in person or through  
16 personal counsel hired at the Class Member's own expense, to object to the fairness,  
17 reasonableness, or adequacy of the Settlement Agreement or the proposed Settlement, or to the  
18 award of Attorneys' Fees and Expenses, or to the award of Service Payments to the Class  
19 Representatives. Class Members or their attorneys who intend to make an appearance at the  
20 Final Fairness Hearing may deliver a Notice of Intention to Appear to the Settlement  
21 Administrator at the address provided in the Long Form Notice.

22 11. Class Counsel shall file and serve papers in support of Class Counsel's  
23 application for an award of attorneys' fees and reimbursement of expenses and Class  
24 Representatives' service payments on or before twenty-one (21) calendar days prior to the  
25 Objection Deadline and Exclusion Deadline (\_\_\_\_\_, 202\_).

26 12. Any motion for final approval of the Settlement shall be filed sixteen (16) court  
27 days prior to the Final Fairness Hearing. Class Counsel may file a supplement to any motion or  
28 petition in support of final approval, application for an award of attorneys' fees and

1 reimbursement of expenses and Class Representatives' service payments five (5) court days prior  
2 to the Final Fairness Hearing

3 13. The Settlement Administrator shall file a declaration regarding the  
4 implementation of the Notice Plan and outlining the scope, method, and results of the notice  
5 program, described in Section VI of the Settlement Agreement and in the Declaration of the  
6 Settlement Administrator (attached as Exhibit I to the Settlement), on or before sixteen (16) court  
7 days before the date of the Final Fairness Hearing (\_\_\_\_\_, 202\_).

8 14. On or before sixteen (16) court days before the date of the Final Fairness Hearing  
9 (\_\_\_\_\_, 202\_), the City shall file a declaration confirming that notice on  
10 www.lacity.org was performed as described in paragraph 68.a of the Settlement Agreement.

11 15. The Settlement Administrator shall file its declaration regarding Requests for  
12 Exclusion, pursuant to paragraph 78 of the Settlement Agreement, on or before sixteen (16) court  
13 days before the Final Fairness Hearing (\_\_\_\_\_, 202\_).

14 16. If the proposed Settlement is finally approved, the Court shall enter a separate  
15 order finally approving the Settlement and entering judgment. The form of the Final Order,  
16 attached to the Settlement Agreement as Exhibit B, and the form of the Final Judgment, attached  
17 to the Settlement Agreement as Exhibit A, are preliminarily approved.

18 17. The Parties are hereby ordered, pursuant to the terms and conditions of the  
19 Settlement Agreement, to take all necessary and appropriate steps to establish the means  
20 necessary to implement the Settlement.

21 18. Pending the Final Fairness Hearing, all proceedings in this Action, other than  
22 proceedings necessary to carry out or enforce the terms and conditions of the Settlement  
23 Agreement and this Order, are hereby stayed.

24  
25 **IT IS SO ORDERED.**

26  
27 DATED: 10/9/2020

28 **DANIEL J. BUCKLEY**  
\_\_\_\_\_  
HONORABLE DANIEL J. BUCKLEY

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