

1 **HALPERN MAY YBARRA GELBERG LLP**
2 Michael Bruce Abelson (State Bar No. 130739)
3 Vincent H. Herron (State Bar No. 172290)
4 550 South Hope Street, Suite 2330
5 Los Angeles, California 90071
6 Telephone: (213) 402-1900
7 Facsimile: (213) 402-1901
8 michael.abelson@halpernmay.com
9 vincent.herron@halpernmay.com

10 Attorneys for Plaintiffs / Putative Class Representatives

11 **KUTAK ROCK LLP**
12 Edwin J. Richards (State Bar No. 43855)
13 Antoinette P. Hewitt (State Bar No. 181099)
14 5 Park Plaza, Suite 1500
15 Irvine, California 92614-8595
16 Ed.Richards@kutakrock.com
17 Antoinette.Hewitt@KutakRock.com

18 Attorneys for Defendant City of Pasadena

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ORIGINAL FILED**
Superior Court of California
County of Los Angeles

JUL 06 2021

**Sherri R. Carter, Executive Officer/Clerk
By: John Aguayo, Deputy**

**THE OFFICE OF THE CITY ATTORNEY
CITY OF PASADENA**

Michele Beal Bagneris (State Bar No. 115423)
Javan N. Rad (State Bar No. 209722)
100 North Garfield Avenue, Room N-210
Pasadena, California 91101
mbagneris@ci.pasadena.ca.us
jrad@cityofpasadena.net

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

17 GEOFFREY FRANK, et al.,

18 Plaintiffs,

19 v.

20 CITY OF PASADENA,

21 Defendant.

CASE NO. BC666535

Case Assigned for All Purposes to:
Judge Hon. William Highberger (Dept. 10)

Case Filed: June 26, 2017
Trial Date: None Set

CLASS ACTION

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

Matter to be Heard

Date: July 6, 2021
Time: 9:30 a.m.
Place: Department 10

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

ORDER

1
2 Together with Defendant City of Pasadena (“Defendant” “City” or “Pasadena”),
3 Plaintiffs Geoffrey Frank, Devin Swanson, and Babak Zahabizadeh (“Plaintiffs” or “Class
4 Representatives”), individually and on behalf of all others similarly situated, have filed a Joint
5 Motion for Preliminary Approval of Class Action Settlement (“Motion for Preliminary
6 Approval”) requesting an order preliminarily approving the settlement of the above-entitled
7 action (“Action”) in accordance with the Settlement Agreement and Release (the “Settlement”)
8 entered into by Plaintiffs and Defendant (Plaintiffs and Defendant shall be collectively referred
9 here as the “Parties”).

10 Following a hearing on June 14, 2021, the Court suggested – and the Parties, through
11 counsel, subsequently assented to – various changes to the Settlement, leading to its revision (the
12 “Revised Settlement”), a copy of which is attached as Exhibit 1 to the Supplemental Declaration
13 of Michael Bruce Abelson filed in Support of the Preliminary Motion for Approval. All defined
14 terms contained herein shall have the same meaning as those set forth in the Revised Settlement.

15 The Court having considered all papers filed and proceedings herein and otherwise being
16 fully informed of the premises and Good Cause appearing,

17 **NOW, THEREFORE, IT IS HEREBY ORDERED ADJUDGED AND DECREED**
18 **THAT:**

19 1. This Order incorporates by reference the definitions in the Revised Settlement and
20 all the terms defined therein shall have the same meaning in this Order.

21 2. The Revised Settlement is hereby **PRELIMINARILY APPROVED** as it
22 appears to the Court on a preliminary basis that (a) the Revised Settlement is fair, adequate and
23 reasonable; (b) the systemic changes and other consideration set forth in the Revised Settlement
24 are within the range of approval as fair, adequate, an reasonable when balanced against the risk
25 and outcome of further litigation relating to liability and damages issues; (c) investigation and
26 research have been conducted such that the Parties’ respective counsel at this time are able to
27 reasonably evaluate their respective positions; (d) settlement at this time will avoid substantial
28 additional costs by all Parties, as well as avoid the delays and risks that would be presented by

1 further prosecution of the Action; (e) the Revised Settlement has been reached as the result of
2 non-collusive, arms-length negotiations.

3 3. The Court finds preliminarily, and for purposes of proceeding pursuant to
4 California Code of Civil Procedure § 382 for approval of the Revised Settlement only, that Class
5 Members are ascertainable and sufficiently numerous, that joinder of all Class Members is
6 impracticable, there are questions of law and fact common to the Class that predominate over
7 any questions affecting only individual Class Members, the Plaintiffs' claims are typical of those
8 in the Class, that class certification is a superior method of implementing the Revised Settlement
9 and adjudicating this Action in a fair and efficient manner, that the Class Representatives can
10 fairly and adequately protect the Classes' interests, and that Class Counsel are qualified to serve
11 as counsel for the Plaintiffs in their individual and representative capacity for the Class.

12 4. Accordingly, solely for purposes of effectuating this Revised Settlement, this
13 Court hereby conditionally certifies the "Class" and preliminarily approves the definition of the
14 "Class Period."

15 5. The Court hereby preliminarily appoints as Class Counsel for settlement purposes
16 only Michael Bruce Abelson and Vincent H. Herron of Halpern May Ybarra Gelberg LLP as
17 Class Counsel. Class Counsel is authorized to act on behalf of the Class Members with respect
18 to all acts or consents required by, or which may be given pursuant to, the Revised Settlement,
19 and such other acts reasonably necessary to consummate the Settlement. Any Class Member
20 may enter an appearance through counsel of such individual's own choosing and at such
21 individual's own expense. Any Class Member who does not enter an appearance or appear on
22 his or her own will be represented by Class Counsel.

23 6. The Court hereby preliminarily appoints and designates Plaintiffs, for all
24 purposes, as Class Representatives of the Class.

25 7. Should, for whatever reason, the Revised Settlement not become final, the fact
26 that the Parties were willing to stipulate to certification of the Class as part of the Revised
27 Settlement shall have no bearing on, nor be admissible in connection with, the issue of whether a
28 class should be certified in a non-settlement context.

1 8. The Court hereby preliminarily approves the definition and implementation,
2 within six months, of the Settlement Terms and related matters set forth in Paragraph 2 of the
3 Revised Settlement.

4 9. The Court finds on a preliminary basis that the Revised Settlement appears to be
5 within the range of reasonableness of a settlement that could ultimately be given final approval
6 by this Court. The Court has reviewed the systemic and other structural terms that are to be
7 implemented as part of the Revised Settlement and recognizes its significant value to the Class.

8 10. Without yet determining the precise amount of Incentive Payments, Attorney's
9 Fees and Costs to be awarded in this Action, the Court finds that stated ranges in the Revised
10 Settlement to be applied (subject to the caps stated therein) are within the range of
11 reasonableness that could ultimately be given final approval by this Court.

12 11. The Court hereby approves, as to form and content, the Full Class Notice and
13 Publication Notice attached as Exhibits A and B, respectively, to the Revised Settlement. The
14 Court finds that the distribution of the Full Class Notice and publication of the Publication
15 Notice, substantially in the manner and form set forth in the Revised Settlement and this Order,
16 meets the requirements of due process, is the best notice practicable under the circumstances, and
17 shall constitute due and sufficient notice to all persons entitled thereto.

18 12. The Court hereby appoints KCC, LLC as Settlement Administrator and hereby
19 directs (a) Defendant to provide the Settlement Administrator, within fifteen (15) calendar days
20 of this Order, the Full Class Notice and Publication Notice set forth as Exhibits A and B,
21 respectively to this Settlement; (b) the Settlement Administrator to mail, or cause to be mailed, to
22 Class Members, the Full Class Notice, by first class mail within forty (40) calendar days of this
23 Order using the procedures set forth in the Revised Settlement; and (c) the Settlement
24 Administrator to cause to be published in the *Pasadena Star News*, within forty (40) days of this
25 Order, the Publication Notice.

26 13. All costs of mailing of the Full Class Notice and of publication of the Publication
27 Notice, whether foreseen or not, shall be paid by the City, including the cost of searching for
28 Class Members' addresses as provided in the Revised Settlement.

1 14. A "Fairness Hearing" for final approval of the Revised Settlement shall be held
2 before this Court on Nov. 19, 2021 at 11 a.m. / ~~p.m.~~ in Department 10 of the Superior
3 Court, County of Los Angeles, located at 312 North Spring Street, Los Angeles, California
4 90012, to determine all necessary matters concerning the terms of the Revised Settlement.

5 15. Inasmuch as the Revised Settlement is structured as a "No Opt-Out Settlement"
6 Class Members who wish to challenge this critical feature of the Revised Settlement must file a
7 timely and valid objection by following the instructions for filing and serving objections set
8 forth in the Revised Settlement, the Full Class Notice, and the Publication Notice and within the
9 required time periods described therein. The Court shall retain final authority with respect to
10 the consideration and admissibility of any objections. Any participating Class Member who
11 objects to the Revised Settlement shall be bound by the order of the Court.

12 16. The Revised Settlement is not a concession or admission by either Plaintiffs or
13 Defendant, and shall not be used as an admission or indication with respect to any claim or
14 defense at issue in the Action. Whether or not the Revised Settlement is finally approved,
15 neither the Revised Settlement, nor any document, statement, proceeding or conduct related to
16 the Revised Settlement, nor any reports or accounts thereof, shall in any event be:

- 17 (a) construed as, offered or admitted into evidence as, received as or deemed to be
18 evidence for any purpose, including, but not limited to, evidence of a
19 presumption, concession, indication or admission of any liability, fault,
20 wrongdoing, omission, concession or damage; or
21 (b) disclosed, referred to, offered or received in evidence in any further proceeding
22 in the Action, or in any other action or proceeding, except for purposes of
23 enforcing the Revised Settlement once it receives final approval.

24 17. Pending final determination of whether the Revised Settlement should be
25 approved, the Class Representatives may not commence or prosecute any action or proceeding
26 against Defendant or any Related Parties in any court or tribunal, asserting any of the Released
27 Claims.

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

Geoffrey Frank, and all others similarly-situated, et al. v. City of Pasadena

LASC Case No. BC666535

I am over the age of 18 and not a party to the within action; I am employed by Halpern May Ybarra Gelberg LLP in the County of Los Angeles at 550 South Hope Street, Suite 2330, Los Angeles, California 90071.

On June 28, 2021, I served the document below described as:

[PROPOSED REVISED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

The document was served by the following means:

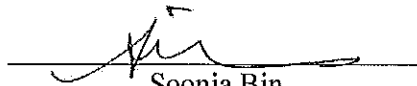
× **BY ELECTRONIC TRANSMISSION** Per the stipulated agreement between counsel, delineated in the Joint Initial Status Conference Class Action Response Statement of September 15, 2017 for electronic service via repository *Case Anywhere*, I transmitted the document described above to *Case Anywhere* for electronic service on the parties in listed below.

Edwin J. Richards, Esq. *Counsel for Defendant*
Antoinette P. Hewitt, Esq. *CITY OF PASADENA*
KUTAK ROCK LLP
5 Park Plaza, Suite 1500
Irvine, California 92614-8595
Email: ed.richards@kutakrock.com
Email: antoinette.hewitt@KutakRock.com

Michele Beal Bagneris, City Attorney *Counsel for Defendant*
100 North Garfield Avenue, Room N-210 *CITY OF PASADENA*
Pasadena, California 91101
Email: mbagneris@ci.pasadena.ca.us

I declare under penalty of perjury under the laws of State of California that the foregoing is true and correct.

Executed on June 28, 2021 at San Pedro, California.



Soonja Bin

