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FILED

By Superior Court of California, County of San Mateo
ON 08/24/2022

By /s/ Tovar, Priscilla
Deputy Clerk

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8/15/2022

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CLERK OF THE SUPERIOR COURT
SAN MATEO COUNTY

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN MATEO

11 BRAD BARUH, KATHY BARUH,
12 CHARLES BOLTON, ELDRIDGE GRAY,
13 JOHN LOCKTON, DAVID MARQUARDT,
14 PAUL ROCHESTER, ARTHUR
15 STROMBERG, CHARLES SYERS,
individually and on behalf of all others
similarly situated,

16 Plaintiffs and Petitioners,

17 v.

18 TOWN OF HILLSBOROUGH and DOES 1-
19 100, inclusive,

20 Defendants and Respondents.

Case No. 16CIV02284

RS

**[PROPOSED] ORDER PRELIMINARILY
APPROVING CLASS ACTION
SETTLEMENT AND DIRECTING
NOTICE TO CLASS**

Date: August 8, 2022

Time: 3:00 p.m.

**Dept.: Hon. V. Raymond Swope
Dept. 23**

21 On August 8, 2022, this Court heard Plaintiffs' motion for preliminary approval of class
22 action settlement, made pursuant to California Rules of Court 3.766 and 3.769. This Court,
23 having reviewed the motion, supporting declarations, and the Second Amended Class Action
24 Settlement Agreement ("Settlement Agreement") and exhibits thereto, hereby finds good cause to
25 **GRANT** the motion and hereby finds and orders as follows:

26 **FINDINGS:**

- 27 1. Unless otherwise specified, defined terms in the Order Preliminarily Approving
28

1 Class Action Settlement and Directing Notice to the Class (“Order”) have the same definitions as
2 the terms in the Settlement Agreement.

3 2. The Settlement Agreement falls within the range of possible approval as fair,
4 adequate, and reasonable, and in the best interests of the absent class members.

5 3. The Court finds that (a) the Summary Notice and Long Form Notice, attached to
6 the Agreement as Exhibits A and B respectively, constitute the best notice practicable under the
7 circumstances, (b) constitute valid, due, and sufficient notice to all members of the Class, and (c)
8 comply fully with the requirements of the California Code of Civil Procedure section 382,
9 California Rules of Court 3.766 and 3.769, and the California and United States Constitutions, and
10 other applicable law. The Summary Notice and Long Form Notice are attached hereto as Exhibits
11 A and B respectively, and incorporated herein by reference.

12 4. The Court, in its Order of May 17, 2021, granted class certification and appointed
13 class representatives and class counsel. The certified classes, class representatives, and class
14 counsel are accurately reflected in the Settlement Agreement.

15 **IT IS ORDERED THAT:**

16 5. **Settlement Approval.** The Settlement is preliminarily approved.

17 6. **Class Notice.** The form and manner of notice as set forth in paragraph 8 of the
18 Settlement Agreement and as reflected in the Summary Notice and Long Form Notice (**Exhibits A**
19 **and B** hereto) are approved. The parties and the Settlement Administrator are directed to provide
20 notice in accordance with paragraph 8 of the Settlement Agreement.

21 7. **Settlement Administrator.** Phoenix Settlement Administrators is approved as the
22 Settlement Administrator to administer the notice to class members, create a settlement website,
23 collect and track claims, opt-outs, and objections, and to process and pay claims, as provided for
24 under paragraphs 6, 8, 9 and 10 of the Settlement Agreement. Pursuant to paragraph 6.4 of the
25 Agreement, the Settlement Administrator shall be paid its fees and costs by the Defendant Town
26 of Hillsborough (“Hillsborough”).

27 8. **Provision of Class Notice.** Hillsborough, through the Settlement Administrator,
28 shall notify the Class of the Settlement in the manner specified under Paragraph 8 of the

1 Settlement Agreement. The notice sent to Class members shall include the Summary Notice
2 (**Exhibit A**) as well as Opt-Out Form (**Exhibit D**) and Objection Form (**Exhibit E**). The
3 Settlement Administrator shall file a declaration describing its compliance with this Order and
4 Paragraph 8 of the Settlement Agreement not less than sixteen (16) days prior to the Fairness
5 Hearing.

6 9. **Objection to Settlement.** Class Members who have not submitted a timely and
7 valid opt-out form and who desire to object to the Settlement Agreement shall mail such objection
8 to the Court, Class Counsel, Hillsborough’s Counsel, and the Settlement Administrator no later
9 than seventy (70) calendar days after the Summary Notice is mailed. The mailing date is deemed
10 to be the date the objection is deposited in the U.S. Mail as evidenced by the postmark. Written
11 objections shall be on the form attached to the Settlement Agreement at **Exhibit E** and must
12 include (a) full name of Objector; (b) mailing address of Objector; (c) the property address where
13 the Objector has received water service; and (d) the specific reason(s), if any, for the objection,
14 including any legal support the Class Member wishes to bring to the Court’s attention.

15 10. **Appearance at Fairness Hearing.** Class Members have the option to appear at
16 the Fairness Hearing, either in person (or via Zoom or other telephonic means if the hearing is held
17 in that manner) or through personal counsel hired at the Class Member’s expense, to object to the
18 fairness, reasonableness, or adequacy of the Agreement, the award of attorneys’ fees and costs, or
19 to the incentive awards to the Class Representative. However, Class Members (with or without
20 their attorneys) intending to make an appearance at the Fairness Hearing must inform the Parties
21 and the Court no later than seventy (70) calendar days after the Summary Notice is mailed by
22 indicating on the Objection Form, whether they intend to appear.

23 11. **Failure to Object to Settlement Agreement.** Class Members who fail to object to
24 the Settlement Agreement in the manner specified above will: (1) be deemed to have waived their
25 right to object to the Settlement Agreement; (2) be foreclosed from objecting (whether by a
26 subsequent objection, intervention, appeal, or any other process) to the Settlement Agreement; and
27 (3) not be entitled to speak at the Fairness Hearing.

28 12. **Refund Claims.** Pursuant to the terms of the Settlement Agreement, refunds will

1 be paid automatically to all current water customers of Hillsborough, and to all former customers
2 whose addresses can be located utilizing a skip trace search by the Settlement Administrator, as
3 described in Paragraphs 6 and 8 of the Settlement Agreement. These payments will be made
4 automatically with no claim or claim form submission required. However, those Class Members
5 whose addresses cannot be located through the above-described procedure, and who want to
6 receive a refund, must submit a completed and valid Refund Claim Form to the Settlement
7 Administrator no later than seventy (70) calendar days after the Summary Notice is mailed. Those
8 eligible Class Members who submit valid, timely Refund Claim Forms, and whose eligibility is
9 verified by the Settlement Administrator, will receive a refund as stated in the Settlement
10 Agreement at Paragraph 6. The Refund Claim Form is attached hereto as **Exhibit C** and
11 incorporated herein by reference.

12 13. **Opt-Out Form.** Class members who do not wish to be part of the class or the
13 settlement, or to receive a refund from the settlement, must submit a complete and valid Opt-Out
14 Form to the Settlement Administrator no later than seventy (70) calendar days after the Summary
15 Notice is mailed. Those Class Members who submit a valid, timely Opt-Out Form, will not be
16 entitled to a refund, will not release any released claims pursuant to this Settlement or be subject to
17 the release, and will reserve all released claims he or she may have, and may not file an objection
18 to the Settlement. The Opt-Out Form is attached hereto as **Exhibit D** and incorporated herein by
19 reference.

20 14. **Publication of Notice.** Within fourteen (14) days of this Order, the Settlement
21 Administrator shall cause to be published in the San Mateo Daily Journal newspaper, a notice
22 substantially in the form of **Exhibit F**, attached hereto and incorporated herein by reference, which
23 shall be published in two editions of that newspaper at least seven (7) days apart.

24 15. **Termination.** If the Agreement terminates for any reason, the following will
25 occur: (a) this Order and all of its provisions will be vacated; (b) the Action will revert to the
26 status that existed before the Plaintiffs filed their motion for approval of the Preliminary Approval
27 Order; and (c) no term or draft of the Settlement Agreement, or any part of the Parties' settlement
28 discussions, negotiations, or documentation will have any effect or be admissible into evidence for

1 any purpose in the Action or any other proceeding. This Order will not waive or otherwise impact
2 the Parties rights or arguments

3 16. **No Admissions.** Nothing in this Order is, or may be construed as, admission or
4 concession on any point of fact or law by or against any Party.

5 17. **Stay of Dates and Deadlines.** Except for such actions as are necessary to
6 implement the Agreement and this Order, any pending deadlines and/or proceedings in this Action
7 are stayed and suspended until further notice from the Court.

8 18. **Fairness Hearing.** On March 20, 2023, at 3:00 p.m., this Court will hold a
9 Fairness Hearing to determine whether the Agreement should be finally approved as fair,
10 reasonable, and adequate. All papers supporting Plaintiffs' request for attorneys' fees and
11 reimbursement of expenses, and Class Representative's service awards must be filed no later than
12 sixteen (16) calendar days before the Fairness Hearing. All papers supporting final approval of the
13 Agreement must be filed no later than sixteen (16) calendar days before the Fairness Hearing.
14 Any responses to objections must be filed no less than ten (10) court days before the Fairness
15 Hearing. Based on the date of this Order and the date of the Fairness Hearing, the following are
16 the certain associated dates in this Agreement:

Event	Timing
Last day for Settlement Administrator to send the Summary Notice and to establish a Settlement Website	14 days after entry of the Preliminary Approval Order
Last day for Class Members to submit a claim and/or object to the Settlement Agreement	70 days after Summary Notice is mailed
Last day for Class Counsel to move for Attorneys' Fees and Expenses and for a Class Representative Service Award	16 days prior to Fairness Hearing
Last day for Parties to file briefs in support of the Final Order and Judgment	16 days prior to Fairness Hearing
Last day to file an affidavit of compliance with all notice requirements	16 days prior to Fairness Hearing
Last day to file response to objections	10 court days before Fairness Hearing



SUPERIOR COURT OF SAN MATEO COUNTY

Civil Department
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(650) 261-5100
www.sanmateocourt.org

AFFIDAVIT OF MAILING

Date: 8/24/2022

In the Matter of: BRAD BARUH, et al vs. TOWN OF HILLSBOROUGH, et al
Case No.: 16-CIV-02284

I declare under penalty of perjury that on the following date I deposited in the United States Post Office mail box at Redwood City, a true copy of the attached document(s) **ORDER PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT AND DIRECTING NOTICE TO CLASS**, enclosed in an envelope, with proper and necessary postage thereon, and addressed to the following:

Executed on: 8/24/2022

Neal I Taniguchi, Court Executive Officer/Clerk

By: /s/ Priscilla Tovar

Priscilla Tovar, Deputy Clerk

Copies Mailed To:

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