

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By M. Guyot ,Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

ANTHONY DAVIDE, *et al.*

Plaintiff,

vs.

SFFIT VENTURES LLC AND ASPYR
HOLDINGS, LLC, *et al.*

Defendants.

Case No. 37-2022-00036078-CU-OE-CTL

Hon. Michael T. Smyth
Dept. 67

CLASS ACTION

**Amended ~~Proposed~~ Order Granting Final
Approval of Class Action Settlement and
Attorneys' Fees and Costs and Entering
Judgment**

Motion for Final Approval/Attorneys' Fees:

Date: August 23, 2024

Time: 9:00 a.m.

[Filed concurrently with Notice of Motion and
Motion for Final Approval of Class Action
Settlement, Memorandum of Points and
Authorities, Declaration of Nicholas J. Ferraro,
Declaration of Settlement Administrator, and
Declaration of Anthony Davide]

Action Filed: September 9, 2022

1 This matter came on for hearing on August 23, 2024 at 9:00 a.m. in Department 67 of the above-
2 captioned Court, the Honorable Michael T. Smyth presiding, on (1) Plaintiff's Motion for Final
3 Approval of Class Action Settlement and (2) Plaintiff's Motion for Attorneys' Fees and Costs.

4 Having received and considered the motions and supporting papers, including the Class Action
5 Settlement Agreement ("Settlement"), the evidence and documents received by the Court in connection
6 with the Motions for Final Approval and Attorneys' Fees and Costs, and the previously decided Motion
7 for Preliminary Approval, the Court GRANTS FINAL APPROVAL of the Settlement and ORDERS
8 AND MAKES THE FOLLOWING DETERMINATIONS:

9 1. Pursuant to the terms of the Settlement and the Order Granting Preliminary Approval,
10 and the Settlement, a notice was sent to each class member by first-class U.S. mail. The notice
11 informed the class of the terms of the Settlement, their right to receive a settlement payment without
12 any required action, their right to comment upon or object to the Settlement, and their right to appear
13 in person or by counsel at the Final Approval Hearing and to be heard regarding approval of the
14 Settlement. Adequate periods of time were provided for each of these procedures.

15 2. Zero class members returned a written objection to the proposed Settlement as part of
16 the notice process or stated an intention to appear at the Final Approval Hearing and there we no
17 dissenting appearances from class members at the hearing. Two (2) class members requested
18 exclusion from the Settlement: Chloe Nassi and Genevieve Quarfoot.

19 3. The Court finds and determines the notice procedure afforded adequate protections to
20 the class and provides the basis for the Court's informed decision regarding approval of the Settlement
21 based the response. The Court finds and determines the notice provided was the best notice
22 practicable, satisfying the requirements of law and due process.

23 4. For purposes of approving this Settlement only, this Court finds and concludes: (a) the
24 proposed class is ascertainable and so numerous that joinder of all members of the class is
25 impracticable; (b) there are questions of law or fact common to the proposed class, and there is a well-
26 defined community of interest among members of the class with respect to the subject matter of the
27 claims; (c) the claims of the representative are typical of the claims of the class; (d) the class
28 representative has and will fairly and adequately protect the interests of the class; (e) a class action is

1 superior to other available methods for an efficient adjudication of this controversy in the context of
2 settlement; and (f) the law firm of Ferraro Vega Employment Lawyers, Inc. is qualified and adequate
3 to serve as Class Counsel in this action.

4 5. The Court confirms certification, for settlement purposes only, of the class as defined in
5 the Settlement and approved at the preliminary approval stage.

6 6. The Court finds and determines the terms set forth in the Settlement are fair, reasonable,
7 and adequate and, having found the Settlement was reached as a result of informed and non-collusive
8 arms'-length negotiations facilitated by a neutral and experienced mediator, directs the Parties to
9 effectuate the Settlement according to its terms. The Court further finds the Parties conducted
10 extensive investigation, research, and informal discovery, and that their attorneys were able to
11 reasonably evaluate their respective positions. The Court also finds that Settlement will enable the
12 Parties to avoid additional and potentially substantial litigation costs, as well as delay and risks if the
13 Parties were to continue to litigate the case. The Court has reviewed the monetary recovery and
14 recognizes the significant value provided to the Class. Therefore, the Court approves the Settlement
15 and incorporates the terms of the Settlement in full into this Final Approval Order as though fully set
16 forth herein.

17 7. The Court finds and determines the fees and expenses in administering the Settlement
18 incurred by the Settlement Administrator of \$20,500 are fair and reasonable. The Court orders these
19 administration costs be paid in accordance with the terms of the Settlement.

20 8. The Court finds and determines the Service Award of \$10,000 to Plaintiff Davide as fair
21 and reasonable. The Court orders the service awards be paid in accordance with the terms of the
22 Settlement.

23 9. The Court finds and determines payment to the California Labor and Workforce
24 Development Agency of \$12,000, as its 75% share of the civil penalties under the Private Attorneys
25 General Act is fair, reasonable, and appropriate. The Court orders that amount be paid in accordance
26 with the terms of the Settlement and approves the settlement of claims under the Private Attorneys
27 General Act pursuant to Labor Code § 2699(1)(2).
28

1 10. Pursuant to the terms of the Settlement and the statutory provisions authorizing
2 attorneys' fees under the California Labor Code and Code of Civil Procedure, as set forth in the Motion
3 for Attorneys' Fees, the Court awards Class Counsel attorneys' fees of \$266,640 and litigation costs
4 of \$22,403.47. Class Counsel has sufficiently explained the basis for the fee award based on a
5 percentage of the fund. The Court finds such amounts to be fair and reasonable. The Court orders the
6 Settlement Administrator to make these payments in accordance with the Settlement.

7 11. As of the Effective Date, Plaintiff and Participating Class Members, regardless of
8 whether they have received actual notice of the proposed Settlement, have conclusively compromised,
9 settled, discharged, and provided the release of Released Claims, during the applicable time period,
10 against Defendants and the Released Parties during applicable time period, and are bound by the
11 provisions of this Settlement Agreement.

12 12. Notwithstanding the submission of a timely request for exclusion, Class Members are
13 still bound by the settlement and release of the PAGA Claims and the State's claims for civil penalties
14 pursuant to PAGA are also extinguished.

15 13. This Settlement Agreement and the Final Approval Order and Judgment to be binding
16 on, and have *res judicata* and preclusive effect in, all pending and future lawsuits or other proceedings
17 that encompass Plaintiff's and Participating Class Members' claims released herein, and that are
18 maintained by or on behalf of Plaintiff and Participating Class Members.

19 14. Without affecting the finality of this Order or the entry of judgment in any way, the
20 Court retains jurisdiction of all matters relating to the interpretation, administration, implementation,
21 and enforcement of this Order and the Settlement.

22 15. Nothing in this Order shall preclude any action to enforce the Parties' obligations under
23 the Settlement or under this Order, including the requirement that Defendant make payments to Class
24 Members in accordance with the Settlement.

25 16. The Court hereby ENTERS FINAL JUDGMENT in accordance with the terms of the
26 Settlement, in accordance with this Final Approval Order and Judgment.

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1 17. The Parties shall comply with Cal. Rules of Court Rule 3.771(b), by filing a Notice of
2 Entry of Judgment with the Court.

3
4 **IT IS SO ORDERED.**

5
6 Date: 8/23/2024

Michael T. Smyth

The Honorable Michael T. Smyth
Judge of the Superior Court