

SULLIVAN EMPLOYMENT LAW PC

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

BARRY BARRETTO, an individual, on behalf
himself, the State of California, as a private
attorney general, and on behalf of all others
similarly situated,

Plaintiff,

v.

SFC MILPITAS, INC., a California
Corporation; SFC MARKETPLACE, INC., a
California Corporation; A&B AZUSA, INC. dba
Seafood City, a California Corporation; and
DOES 1 TO 50,

Defendants.

Case No.: RG21088009

**[PROPOSED] ORDER AND JUDGMENT
OF FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND
ATTORNEYS' FEES AND COSTS AND
INCENTIVE AWARD**

Date: July 18, 2023

Time: 3:00 p.m.

Dept.: 23

Judge: Hon. Brad Seligman

Complaint Filed: February 3, 2021

FAC Filed: April 9, 2021

1 **[PROPOSED] ORDER**

2 The Motion for Final Approval of Class Settlement came before this Court as duly noticed
3 on July 18, 2023. The above captioned Action is a class action lawsuit brought by Plaintiff Barry
4 Barretto (“Plaintiff”) against Defendants SFC Milpitas, Inc., SFC Marketplace, Inc., and A&B
5 Azusa, Inc. dba Seafood City (“Defendants”).

6 On April 4, 2023, this Court entered an order granting preliminary approval of the class
7 action settlement in this matter. The Preliminary Approval Order directed the Parties to provide
8 Notice to the Class, which informed the Class Members of: a) the proposed Settlement and its
9 key terms; (b) the date, time, and location of the Final Approval and Fairness Hearing; (c) the
10 right of any Class Member to object to the proposed Settlement, and an explanation of the
11 procedures to exercise that right; and (d) an explanation of the procedures for Class Members to
12 opt out of the proposed settlement.

13 The Court, upon Notice having been given as required in the Preliminary Approval Order,
14 and having considered the proposed Settlement Agreement, as well as all papers filed, hereby
15 ORDERS THAT JUDGMENT IS HEREBY ENTERED as follows, pursuant to California Code
16 of Civil Procedure section 382 and Rule 3.769(h) of the California Rules of Court:

- 17 1. The definitions in the Settlement Agreement are incorporated herein by reference.
- 18 2. This Court has jurisdiction over the subject matter of the Action and over all
19 Parties of the Action, including all members of the Class.
- 20 3. The Court hereby CERTIFIES the Settlement Class and GRANTS the Motion for
21 Final Approval of the Settlement. The Court fully and finally approves the Settlement in the form
22 contemplated by the Settlement Agreement and finds its terms to be fair, reasonable, and
23 adequate within the meaning of California Code of Civil Procedure section 382. The Court directs
24 the consummation of the Settlement pursuant to the terms and conditions of the Settlement
25 Agreement.
- 26 4. The Court CONFIRMS the appointment of Plaintiff’s Counsel as Class Counsel.
- 27 5. The Court CONFIRMS the appointment of the Settlement Class Representative
28 Barry Barretto.

1 6. The Court CONFIRMS the appointment of ILYM Group, Inc. as the Settlement
2 Administrator.

3 7. The Court GRANTS Class Counsel's request for attorneys' fees and costs, and
4 AWARDS Class Counsel \$122,500 in attorneys' fees, but 10% of the attorneys' fees shall be
5 held back pending the compliance hearing.

6 8. The Court GRANTS Class Counsel's request for the payment of \$12,525.93 in
7 litigation costs to be paid out of the Settlement Fund.

8 9. The Court AWARDS the Settlement Class Representative a service award of
9 \$5,000, also to be paid out of the Settlement Fund.

10 10. The Court hereby discharges and releases the Released Claims as to the Released
11 Parties, as those terms are used and defined in the Settlement Agreement.

12 11. The Court hereby orders that if there are any uncashed checks from the Settlement
13 Fund after all Settlement Costs and Cash Payments are paid, the uncashed checks shall be
14 distributed in a cy pres for the benefit of the Voluntary Legal Services Program - Employment
15 Law Clinic (renamed Capital Pro Bono (CPB)), located at 1860 Howe Ave Suite 130
16 Sacramento, CA 95825 (<https://capitalprobono.org>), such that the entire Settlement Fund shall
17 be distributed following final approval of the settlement after the Effective Date.

18 12. The Court further reserves and retains exclusive and continuing jurisdiction over the
19 Settlement concerning the administration and enforcement of the Settlement Agreement and to
20 effectuate its terms.

21 13. The Court sets a compliance hearing for _____ at _____ in Department 23
22 of this Court. Pursuant to Code of Civil Procedure section 384, no later than five (5) days before
23 the compliance hearing, the Parties shall file a compliance report specifying the total amount paid
24 to class members, and the residual of unclaimed funds that will be paid to the designated cy pres,
25 along with a proposed amended judgment. No later than five (5) days after receipt of notice of
26 entry of amended judgment, the Parties shall submit the amended judgment to the Judicial
27 Council, pursuant to Code of Civil Procedure section 384.5, and shall file a proof of service with
28 the Court.

14. Notice of entry of final judgment shall be posted on the Settlement Administrator's website in compliance with California Rules of Court, rule 3.771(b).

15. This Final Order shall constitute a final judgment.

IT IS SO ORDERED.

Dated: _____

HON. BRAD SELIGMAN

Judge of the Superior Court,
County of Alameda