

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SCOTT BALFOUR, DON LEE,
KULDEEP SINGH, MATTHEW
TEMPLON, and SHELIA VORHEIS,

Case No. 23-cv-67-CFC

Plaintiffs,

v.

iFIT HEALTH AND FITNESS INC, a
Delaware Corporation,

Defendant.

**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS**

WHEREAS, Plaintiffs and iFIT Health and Fitness Inc. ("iFIT") executed an agreement to settle this matter, subject to Court approval;

WHEREAS, the Court reviewed the parties' Settlement Agreement and issued an order granting preliminary approval to it on April 5, 2024 (ECF No. 33);

WHEREAS, through arms'-length negotiations, including through a mediation with the Hon. Layn R. Phillips, Plaintiffs agreed to apply for the following: attorneys' fees and reimbursement of costs in an amount not to exceed \$975,000 and (b) service awards of \$3,000 each to Scott Balfour, Don Lee, Kuldeep Singh, Matthew Templon, and Shelia Vorheis;

WHEREAS, the Parties agreed that iFIT shall not pay, or be obligated to pay, any amounts in excess of those stated above;

WHEREAS, iFIT reserved the right to oppose any fee request, whether for attorneys' fees or services awards, that it considers unreasonable;

WHEREAS, Class Counsel submitted their detailed time *in camera* for the Court's review, and the Court has had an opportunity to review and consider it;

WHEREAS, after considering Plaintiffs' motion, memorandum of law and supporting materials (including the declarations from counsel) as well as any material(s) that may be filed in opposition thereto, the Court having concluded that Plaintiffs' request for fees, expenses, and the payment of service awards is reasonable and permissible under the applicable law;

IT IS ORDERED AS FOLLOWS:

1. The Court finds the attorney fees and costs requested by Class Counsel are fair and reasonable, given Class Counsel's lodestar of \$478,084.00 at the time of filing their motion. The Court has reviewed the declarations submitted by Class Counsel and finds Class Counsel reasonably spent over 625 hours representing the interests of the Class through this litigation, that Class Counsel's hourly rates are reasonable and in line with the prevailing rates in the community for complex class action litigation, and that the costs incurred to prosecute the litigation were reasonable.

2. The Court finds that the factors enumerated in *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190 (3d Cir. 2000) support Class Counsel's request.

Specifically:

- a. The number of persons benefitted supports Class Counsel's fee request, as the settlement provides substantial relief to current and former owners of approximately 2.7 million Class Devices.
- b. The absence of objections by Class Members supports Class Counsel's fee request, as there have been no objections to Class Counsel's fee request.
- c. The skill and efficiency of the attorneys involved supports Class Counsel's fee request, as the settlement provides substantial benefits to the Class Members in the face of significant risk of further litigation.
- d. The complexity and duration of the litigation supports Class Counsel's fee request, as this complex class action litigation has been pending for nearly two years and has required extensive work by Class Counsel to reach a successful conclusion.
- e. The risk of nonpayment supports Class Counsel's fee request, as Class Counsel brought this litigation on a contingency basis and risked non-payment as a result.

f. The amount of time devoted by Class Counsel supports the fee request, as over 625 hours of contingent work had been performed in this matter as of August 16, 2024. This work included discovery, settlement negotiations, class member interviews, mediation, and Class Counsel's own independent investigation into the alleged defect.

g. The fee awards in similar cases supports the fee request, as the fee request in this case is on the low end of similar consumer class action settlements in the Third Circuit. Further, the lodestar multiplier of 1.98 is well within the range of multipliers awarded in class action settlements in the Third Circuit.

3. The Court has also reviewed Class Counsel's \$28,763.84 in expenses, and finds the expenses were reasonable and necessary to the prosecution of the litigation.

4. The Court has also reviewed Class Counsel's request for service awards for each of the Plaintiffs, and finds that the Plaintiffs participated in numerous conferences and meetings with their attorneys, searched for and produced documents, and stayed involved in the developments of the case, and that, as such, the Plaintiffs were integral to the resolution of the litigation.

5. The Court also finds that because the attorneys' fees, expenses, and service awards will be paid separate and apart from any relief to the Class, they will not reduce the relief made available under the Settlement.

6. In light of the foregoing, and upon the Court's consideration of the briefing and declarations submitted, Plaintiffs' Motion for Attorneys' Fees, Costs, and Service Awards is **GRANTED**.

7. Defendant iFIT shall pay Class Counsel \$ 975,000 for their attorneys' fees and expenses, in accordance with the Settlement Agreement.

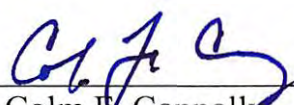
8. Defendant iFIT shall also make an additional payment totaling \$ 15,000 to Class Counsel for the service awards of the five Plaintiffs, which amounts shall then be remitted by Class Counsel to the Plaintiffs.

9. Defendant iFIT shall make the above payments within forty-five (45) days of the Final Effective Date.

10. All other payments and costs shall be borne as set forth in the Settlement Agreement or as agreed to by the parties.

IT IS SO ORDERED.

Dated: 12-2-24



Hon. Colm F. Connolly
United States District Judge