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*Attorneys for Plaintiff*

13 **EIGHTH JUDICIAL DISTRICT COURT**  
14 **CLARK COUNTY, NEVADA**

15 HEAVEN SMITH, on behalf of herself  
16 and all others similarly situated,

17 Plaintiff,

18 vs.

19 ASCENDA USA INC. d/b/a and a/k/a 24-  
20 7 INTOUCH; DOES 1 through 50;  
inclusive,

21 Defendant(s).

Case No.: A-20-811554-C  
22 Dept. No.: 5

**ORDER GRANTING MOTION FOR  
23 FINAL APPROVAL  
24 OF CLASS ACTION SETTLEMENT,  
25 ATTORNEY'S FEES, COSTS, AND  
26 ENHANCEMENT AWARD**

27 On October 12, 2021, 2021, this Court considered Plaintiff's Unopposed Motion  
28 for Final Approval of Class Action Settlement. Class Counsel and Counsel for  
Defendant appeared at the hearing. Having fully considered the motion, comments of  
counsel, and all supporting legal authorities, the Court orders as follows:

**IT IS HEREBY ORDERED THAT:**

1. The Court adopts the defined terms in the Parties' Joint Stipulation of  
Settlement and Release (the "Settlement").

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1           2.       This Court has jurisdiction over the subject matter of this litigation and  
2 personal jurisdiction over Plaintiff, all Class Members, and Defendant.

3           3.       The Court confirms as final the following Settlement Class pursuant to  
4 Nev. R. Civ. P. 23: "All hourly paid non-exempt persons employed by Defendant in the  
5 state of Nevada who earned less than \$12.30 an hour (\$13.50 an hour after July 1,  
6 2020) and who worked over eight (8) hours in a workday at any time during the Class  
7 Period for which they were not paid overtime. The Settlement Class excludes the  
8 Charlot Opt-Ins as defined in the Settlement.

9           4.       The Court confirms the appointment of Heaven Smith as the Class  
10 Representative and the enhancement payment of \$15,000.00 to Heaven Smith, as set  
11 forth in the Settlement.

12           5.       The Court confirms the appointment of Mark Thierman, Esq., Joshua  
13 Buck, Esq., and Leah Jones, Esq., of Thierman Buck LLP and Christian Gabroy, Esq.,  
14 and Kaine Messer, Esq., of Gabroy Law Offices as class counsel for the settlement  
15 class and approves their requests for attorneys' fees of \$266,666.67 and costs of  
16 \$5,861.50.

17           6.       The Notice was distributed to Class Members, pursuant to this Court's  
18 orders, and fully satisfied the requirements of Nev. R. Civ. P. 23 and any other  
19 applicable law.

20           7.       Pursuant to Nev. R. Civ. P. 23, the Court grants final approval of this  
21 Settlement and finds that the Settlement is fair, reasonable, and adequate in all  
22 respects, including the attorneys' fees, costs, and enhancement award provisions. The  
23 Court specifically finds that the Settlement confers a substantial benefit to the  
24 Participating Class Members, considering the strength of Plaintiff's claims and  
25 Defendant's defenses and the risk, expense, complexity, and duration of further  
26 litigation. The response of the Class Members supports settlement approval. No Class  
27 Members objected to the Settlement and none requested exclusion from the  
28 Settlement. The Court further finds that the Settlement is the result of arms-length

1 negotiations between experienced counsel representing the interests of both sides,  
2 which supports approval of the settlement in accordance with the standards set forth in  
3 Plaintiff's Unopposed Motion for Final Approval of Class Action Settlement.

4 8. The Court finds that as of the date of this Order each and every Class  
5 Member has waived and released claims as set forth in the Settlement and the Notice.

6 9. The Court finds that the settlement administrator Simpluris, Inc. is entitled  
7 to \$16,094.00 for administrative fees.

8 10. The Court directs the parties to effectuate the settlement terms as set  
9 forth in the Settlement and the settlement administrator is to calculate and pay the  
10 claims of the Participating Class Members in accordance with the terms set forth in the  
11 Settlement.

12 11. Plaintiff's Class Action Complaint is dismissed with prejudice.

13 12. The Court retains jurisdiction to enforce the terms of the Settlement,  
14 including the payment of the settlement fund.


15 13. The hearing currently scheduled for November 18, 2021 is hereby  
16 vacated.

Dated this 14th day of October, 2021

17 IT IS SO ORDERED.



18  
19 628 6D1 5552 F400  
20 Veronica M. Barisich  
21 Judge of the District Court

22 Approved as to form: 

23 Christian Gabroy, Esq.  
24 Kaine Messer, Esq.  
25 *Class Counsel/Counsel for Plaintiff*

26 Approved as to form: /s/ Shannon S. Pierce

27 Shannon S. Pierce, Esq.  
28 T. Cullen Wallace, Esq.  
*Counsel for Defendant*



Kaine Messer <kmesser@gabroy.com>

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## Smith v. Ascenda USA

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Pierce, Shannon <SPierce@fennemorelaw.com>

Thu, Oct 14, 2021 at 2:09 PM

To: Kaine Messer <kmesser@gabroy.com>, "Wallace, Thomas Cullen" <cullen.wallace@morganlewis.com>

Cc: Christian Gabroy <christian@gabroy.com>, Josh Buck <josh@thiermanbuck.com>, "Garza, Vanessa M." <vanessa.garza@morganlewis.com>, "Battenfeld, John S." <john.battenfeld@morganlewis.com>

Yes – a green light from Cullen means you can use my signature.

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1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Heaven Smith, Plaintiff(s)

CASE NO: A-20-811554-C

7 vs.

DEPT. NO. Department 5

8 Ascenda USA Inc., Defendant(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order was served via the court's electronic eFile system to all  
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 10/14/2021

15 Christian Gabroy christian@gabroy.com

16 Shannon Pierce spierce@fclaw.com

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