

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL  
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2018-004061-CA-01

SECTION: CA44

JUDGE: Alan Fine

**The Arbitrage Fund et al**

Plaintiff(s)

vs.

**William Petty et al**

Defendant(s)

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**ORDER AND FINAL JUDGMENT**

The above-captioned action having come on for hearing, as noticed, on April 25, 2022, pursuant to the Order of this Court, dated February 20, 2022 (the “Preliminary Approval Order”), to consider and determine the matters set forth in the Preliminary Approval Order; and due and sufficient notice having been given as directed in the Preliminary Approval Order; and all persons having any objection to the proposed settlement (the “Settlement”) or the request for attorneys’ fees and expenses and request for incentive award, described in the Settlement Notice having been given an opportunity to present such objections to the Court; the Court having heard and considered the matter, including all papers filed in connection therewith, and good cause appearing therefor;

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that:

1. This Order and Final Judgment incorporates by reference the definitions in the Stipulation and Agreement of Compromise, Settlement, and Release dated February 4, 2022 and filed with the Court (the “Stipulation”), and all terms used herein shall have the same meanings as set forth in the Stipulation.
2. The Court has jurisdiction over the subject matter of the Action and over all parties to the Action who have appeared therein.

3. The Notice and the method of its dissemination is hereby determined to have been fair, reasonable, and adequate notice under the circumstances and in full compliance with Florida law and the requirements of due process under the United States Constitution and other applicable laws.
4. The Court affirms its certification of the Class, defined as follows:

All Unaffiliated Shareholders who held Exactech common stock shares as of January 12, 2018 and were entitled to vote those shares in favor or against the Merger Agreement with TPG on February 13, 2018, excluding Defendants and all members of their immediate families and excluding Rollover Investors [defined and individually listed herein] and all members of their immediate families.

\* \* \*

The “Rollover Investors” are: William Petty; David Petty; Betty Petty; Prima Investments, L.P; Miller Holdings, LLC, a Florida limited liability company 100% owned by Gary Miller (Exactech’s co-founder and Exactech’s current EVP of Research and Development) with his wife and children; Bruce Thompson (Exactech’s SVP of Strategic Initiatives); Joel C. Phillips (Exactech’s CFO); Donna Edwards, (Exactech’s VP of Legal); Chris Roche (Exactech’s Director of Engineering); and Steve Szabo (Exactech’s VP of Marketing).

5. The Court hereby approves the Settlement set forth in the Stipulation and finds that the Settlement is in all respects fair, reasonable, adequate, and in the best interests of the Class.
6. The Released Claims as against the Released Persons are hereby DISMISSED WITH PREJUDICE, with each party to bear his, her, or its own costs (except as otherwise provided in this Order and Final Judgment or the Stipulation). Upon the Effective Date:
  - a. Plaintiff and all other Releasers shall be deemed to, and, by operation of this Order and Final Judgment, do fully, finally, and forever release, relinquish, discharge, and dismiss with prejudice, on the merits and without costs, the Action and any and all of the Released Claims against any and all of the Released Persons; provided, however,

that Plaintiff shall retain the right to enforce the terms of this Stipulation and Settlement.

- b. Plaintiff and all other Releasors shall be deemed to, and, by operation of this Order and Final Judgment, are forever barred and enjoined from commencing, instituting, prosecuting, or continuing to prosecute any action or other proceeding in any court of law or equity, arbitration tribunal, or administrative forum, or other forum of any kind, any and all of the Released Claims against any and all of the Released Persons (whether or not they submit a Claim Form or receive a payment from the Net Common Fund); provided, however, that Plaintiff shall retain the right to enforce the terms of this Stipulation and Settlement.
- c. All Released Persons, and anyone claiming through or on behalf of any of them, shall be deemed to, and, by operation of the Judgment, do fully, finally and forever release, relinquish and discharge any and all claims against Plaintiff and all other Class Members who have not been excluded from the Class, and their agents and attorneys, including but not limited to the Class Counsel, including partners, principals, associates and/or employees of same, and each of their respective heirs, executors, trustees, administrators, predecessors, successors, and assigns, in their capacities as such, from any and all claims, liabilities, complaints, allegations or sanctions, known or unknown (the “Claims Released Against Plaintiff”), arising out of, or relating in any way, directly or indirectly, to their investigation, preparation, initiation, filing, prosecution, litigation, resolution, or settlement of the Action and the Released Claims, provided, however, that the Released Persons shall retain the right to enforce the terms of this Stipulation and Settlement. Defendants and the Released Persons shall be barred and enjoined from ever asserting the Claims Released Against Plaintiff before any forum, authority or venue whatsoever.
- d. “Released Claims” means any and all Unknown Claims and any and all other claims,

demands, rights, actions, or causes of action, liabilities, damages, losses, obligations, judgments, suits, fees, expenses, costs, matters, and issues of any kind or nature whatsoever, whether known or unknown, contingent or absolute, suspected or unsuspected, disclosed or undisclosed, hidden or concealed, matured or unmatured, that have been, could have been, or in the future can or might be asserted in the Action or in any court, tribunal, or proceeding (including, but not limited to, any claims arising under federal, state, foreign, or common law relating to alleged fraud, breach of any duty, negligence, the federal securities laws, and any state disclosure law) by or on behalf of any members of the Class, based on or relating to his, her or its ownership of Exactech common stock (whether individual, class, derivative, representative, legal, equitable, or any other type of claim in any other capacity) which have arisen, could have arisen, arise now or hereafter arise out of or relate in any manner to the allegations, facts, events, acquisitions, matters, acts, occurrences, statements, representations, misrepresentations, omissions, or any other matter, thing or cause whatsoever, or any series thereof, embraced, involved or set forth in, or referred to or otherwise related in any way to: (i) the Merger; (ii) the adequacy of the consideration to be paid to Exactech shareholders in connection with the Merger; (iii) the fiduciary obligations, if any, of the Defendants or Released Persons, including, but not limited to, in connection with the Merger; (iv) the negotiations in connection with the Merger; (v) the events and analyses related to or conducted in connection with the Merger; (vi) the disclosures or disclosure obligations of any of the Defendants or Released Persons in connection with the Merger; (vii) the ownership of Exactech stock; (viii) the Petty Defendants' actions as Board members, shareholders, and/or officers of Exactech at any point in time from the inception of Exactech until the consummation of the Merger or (ix) the negotiation, execution, or approval of the Stipulation, or the Settlement; provided, however, that the Released Claims shall not include any claims to enforce

the Stipulation.

- e. “Released Persons” means Defendants, Exactech, Osteon Holdings, L.P., Osteon Merger Sub, Inc., and TPG, as well as their respective families, associates, affiliates, or subsidiaries, and each and all of their respective past, present, or future officers, directors, stockholders, agents, representatives, employees, attorneys, financial or investment advisors, advisors, consultants, accountants, investment bankers, commercial bankers, trustees, engineers, agents, insurers, co-insurers and reinsurers, heirs, executors, personal or legal representatives, estates, administrators, predecessors, affiliates, subsidiaries, parents, members, general or limited partners, principals, controlling shareholders, successors, and assigns, whether or not any such Released Persons were named as parties, served with process, or appeared in the Action.
- f. “Releasers” means Plaintiff and all other Class Members, for themselves and each of their present or past predecessors, predecessors in interest, successors, successors in interest, parents, subsidiaries, affiliates, custodians, agents, attorneys, assignees, representatives, heirs, executors, estates, trustees, assigns, administrators, members, associates, partners, principals, employees, officers, legal representatives, managing directors, and directors in their capacities as such.

- 7. Separate orders shall enter regarding the plan of allocation of the Net Common Fund, and on Class Counsel’s motion for an award of attorneys’ fees, reimbursement of litigation expenses and a Service Award to Plaintiff. Without in any way affecting the finality of this Order and Final Judgment, this Court shall retain jurisdiction for the purpose of entering such orders and such other orders as may be necessary to implement and enforce the terms of the Stipulation
- 8. Nothing contained herein shall be construed to release, discharge, extinguish or otherwise compromise any claims, potential claims, duties, obligations or rights that Defendants or any

insurer may have or owe under or relating to any policy of liability or other insurance.

9. Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

10. The Clerk of the Court shall enter this Order and Final Judgment.

**DONE and ORDERED** in Chambers at Miami-Dade County, Florida on this 27th day of April, 2022.

2018-004061-CA-01 04-27-2022 7:11 PM  


2018-004061-CA-01 04-27-2022 7:11 PM

Hon. Alan Fine

**CIRCUIT COURT JUDGE**

Electronically Signed

Final Order as to All Parties SRS #: 12 (Other)

THE COURT DISMISSES THIS CASE AGAINST ANY PARTY NOT LISTED IN THIS FINAL ORDER OR PREVIOUS ORDER(S). THIS CASE IS CLOSED AS TO ALL PARTIES.

**Electronically Served:**

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