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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

DANIEL TRAN, as an individual and on behalf
of all others similarly situated,

Plaintiff,

vs.

SILLIKER, INC., a California corporation; and
DOES 1 through 100,

Defendants.

Case No. 30-2019-01102027-CU-OE-CXC

CLASS ACTION

*[Assigned for all purposes to the Hon.
William D. Claster; Dept. CX104]*

**PLAINTIFF'S SUPPLEMENTAL
BRIEF IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: February 19, 2021
Time: 9:00 a.m.
Dept.: CX104

Complaint Filed: October 2, 2019
Trial Date: None Set

1 **TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:**

2 Plaintiff Daniel Tran (“Plaintiff”) hereby submits the following supplemental brief in
3 response to the Court’s January 8, 2021 Minute Order (the “Order”). After reviewing the Court’s
4 Order, Plaintiff and Defendant Silliker, Inc. (“Defendant”) (Plaintiff and Defendant are
5 collectively referred to as the “Parties”) amended the Stipulation of Class Action Settlement
6 (“Settlement Agreement”) and the Notice of Pendency of Class Action and Proposed Settlement
7 (“Class Notice”) in accordance with the issues identified by the Court.

8 Plaintiff addresses each issue raised in the Court’s Order. The Amended Settlement
9 Agreement and Class Notice are attached as Exhibits 1 and 2, respectively, to the Declaration of
10 Sean M. Blakely, filed concurrently herewith. Red-line versions of the Settlement Agreement and
11 Class Notice showing all changes are attached as Exhibits 3, and 4, respectively, to the
12 Declaration of Sean M. Blakely (“Blakely Decl.”).

13 **1. Other Actions**

14 The Court’s Order states: “*Are there any other actions pending – individual, class or*
15 *PAGA, whether in a court or in the pre-filing LWDA stage – that would be affected by this*
16 *settlement?*”

17 Defendant represents that other than this instant action, there are no other lawsuits
18 currently pending against Defendant that allege any of the same claims or causes of action that
19 are alleged in this action. *See* Blakely Decl., ¶ 5. Additionally, other than Plaintiff, no other
20 current or former employee of Defendant has submitted a letter to the LWDA regarding any
21 alleged violations of the California Labor Code. *Id.* Defendant also represents there are no
22 individual actions currently pending against Defendant that allege any of the same claims or
23 causes of action that are alleged in this instant action. *Id.*

24 **2. PAGA Claim**

25 The Court’s Order states: “*As the Court understands the PAGA to operate, aggrieved*
26 *employees cannot opt out of a settlement. Please confirm that individual PAGA payments will be*
27 *provided to all class members, whether or not they opt out. In addition, please ensure the release*
28 *of the PAGA claim applies to all class members, whether or not they opt out.*”

1 The Parties have amended the Settlement Agreement to address the Court’s concerns.
2 Specifically, the Parties amended the Settlement Agreement to provide that Settlement Class
3 members who opt-out of the class action settlement will still be entitled to a share of the PAGA
4 Amount. *See* Exh. 1 to Blakely Decl., at ¶ 5(B)(iv). Furthermore, the Parties’ revisions to the
5 Settlement Agreement make clear that the PAGA settlement and release provisions apply to all
6 Settlement Class members, whether or not they exclude themselves from the class action
7 settlement. *See Id.*, at ¶¶ 3(A); 10(C)(i). The Parties revised the Class Notice to indicate the
8 same. *See* Exh. 2 to Blakely Decl.

9 **3. Rest Period Violations**

10 The Court’s Order states: “*What is the basis for the assumed 50% violation rate for rest*
11 *breaks? The supporting papers do not appear to include any discussion of evidence that would*
12 *bear on whether class members were required to remain on duty during rest breaks (e.g., class*
13 *member interviews).*”

14 Plaintiff alleges that Defendant failed to authorize and permit all off-duty rest periods due
15 to work demands imposed by Defendant. Blakely Decl., ¶ 6. Specifically, Plaintiff alleges that
16 in order to comply with stringent timelines, including Defendant’s requirement that employees
17 complete testing and various analyses before rest periods are taken, Plaintiff was prevented from
18 being relieved of all work duties during rest periods. *Id.* Because Defendant did not record rest
19 periods in any manner, Plaintiff’s Counsel relied on interviews with Plaintiff and several
20 Settlement Class members to arrive at his estimated violation rate with respect to rest periods. *Id.*

21 **4. Silliker’s Signatory**

22 The Court’s Order states: “*What authority does Silliker’s signatory have to sign on behalf*
23 *of the company? His or her position is not listed on the signature page.*”

24 The Amended Settlement Agreement is signed by Silliker’s President. *See* Exh. 1 to
25 Blakely Decl.

26 **5. Billing Records**

27 The Court’s Order states: “*At final approval, please submit billing records for attorney’s*
28 *fees and costs. The Court will not be inclined to award an amount of fees and costs greater than*

1 *the amount stated in the notice.”*

2 In connection with his Motion for Final Approval of Class Action Settlement, Plaintiff
3 will submit Class Counsel’s billing records for attorneys’ fees and costs. Blakely Decl., ¶ 7.

4 **6. Administrative Costs**

5 The Court’s Order states: “*At final approval, please submit billing records for*
6 *administrative costs. The Court will not be inclined to award administrative costs in an amount*
7 *greater than the amount stated in the notice.”*

8 In connection with his Motion for Final Approval of Class Action Settlement, Plaintiff
9 will provide a declaration from the Settlement Administrator which contains records supporting
10 settlement administrative costs. Blakely Decl., ¶ 8.

11 **7. Declarations for Plaintiff and the Settlement Administrator at Final**
12 **Approval**

13 The Court’s Order states: “*At final approval, Plaintiff is to provide a declaration*
14 *addressing the enhancement factors... including the amount of time and effort spent on the*
15 *litigation. In addition, the administrator is to provide a high, low, and average for individual*
16 *settlement payments, along with Plaintiff’s net individual payout.”*

17 In connection with his Motion for Final Approval of Class Action Settlement, Plaintiff
18 will provide a declaration addressing the enhancement factors identified by the Court and case
19 law, and a declaration from the Settlement Administrator addressing the high, low, and average
20 individual settlement payments, and Plaintiff’s net individual payment. Blakely Decl., ¶ 9.

21 **8. Class Notice**

22 The Court’s Order states: “*Should the notice be given in any languages other than*
23 *English? . . . The font size in the actual notice may not be smaller than the font size in the proposed*
24 *notice provided to the Court.”*

25 The Parties submit that English-only notice is sufficient. Blakely Decl., ¶ 10. Defendant
26 operates testing laboratories serving the food, environmental, cosmetic, and pharmaceutical
27 industries. *Id.* Among other job duties, Settlement Class members are responsible for sterilizing,
28 recording, weighing, and blending materials for analysis; performing various analyses on

1 products, including food poisoning testing, pH and pathogen testing; and tracking and recording
2 their findings. *Id.* Because Settlement Class members are required to record their various analyses
3 in English, all Settlement Class members are required to speak and read English. *Id.*

4 The Parties will ensure that the font size in the notice will not be smaller than the font size
5 in the proposed notice provided to the Court.

6
7 Respectfully submitted,

8 Dated: February 9, 2021

HAINES LAW GROUP, APC

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10 By: 
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12 Sean M. Blakely
13 Attorneys for Plaintiff
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