

COHELAN KHOURY & SINGER

Isam C. Khoury (SBN 58759)

ikhoury@ckslaw.com

Michael D. Singer (SBN 115301)

msinger@ckslaw.com

Rosemary C. Khoury (SBN 331307)

rkhoury@ckslaw.com

605 C Street, Suite 200

San Diego, CA 92101

Telephone: (619) 595-3001/Facsimile: (619) 595-3000

STONEBROOK LAW

Joseph Tojarieh (SBN 265492)

jft@stonebrooklaw.com

10250 Constellation Boulevard, Suite 100

Los Angeles, CA 90067

Telephone: (310) 553-5533, ext. 1001/Facsimile: (310) 553-5536

Attorneys for Plaintiff Sunny K. Tam, on behalf of himself
and other similarly-situated employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

SUNNY K. TAM, on behalf of himself and
other similarly-situated employees

Plaintiff,

v.

Q TECH CORPORATION, a California
Corporation; and DOES 1 Through 10,
inclusive,

Defendants.

Lead Case No. 21STCV18635

Related Case No. 21STCV19805

ASSIGNED FOR ALL PURPOSES TO:

The Honorable Elihu M. Berle

Department SS6

**CLASS ACTION AND REPRESENTATIVE
ACTION**

**SUPPLEMENTAL BRIEFING IN
SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL**

Hearing Information

Date: October 6, 2022

Time: 11:00 a.m.

Dept: SS-6

Judge: Hon. Elihu M. Berle

Complaint filed: May 17, 2021

Trial date: Not Set

1 On August 12, 2022, the Court held a hearing on Plaintiff's Motion for Order Granting
2 Preliminary Approval of Class Action Settlement, at which further responses and briefing were
3 sought regarding certain points and issues raised by the Court. Plaintiff now responds to each point
4 identified by the Court.

5 As set forth below, the class size is 185 class members. Plaintiff is providing the Court with
6 the settlement and release for Mr. Tam's individual claims. Plaintiff Sunny Tam is an adequate class
7 representative whose separately negotiated settlement for wrongful termination was not in conflict
8 with his duty of loyalty to the class. Finally, the defendant has agreed to pay the settlement on one
9 payment, obviating the necessity to produce evidence of financial hardship to support additional
10 payments over time.

11 **1. The Class and Class Size**

12 The Class is defined as all current and former non-exempt, hourly paid employees of Q Tech
13 Corporation who worked in California at any time from May 17, 2017 to March 13, 2022. PAGA
14 "Aggrieved Employees" are all Class Members who were employed during the PAGA time period
15 of March 4, 2020 to March 13, 2022. Declaration of Michael D. Singer, ("Singer Decl."), ¶4.

16 Based on Defendant's records, there are 185 class members. Of this amount, 147 are estimated
17 to be Aggrieved Employees. Singer Decl. ¶5. Plaintiff apologizes for the confusion caused by the
18 class size error in Paragraph 67 of the June 22, 2022 Declaration of Kristina De La Rosa submitted
19 in support of Plaintiff's Motion for Preliminary Approval. The definitive number is 185.

20 **2. Individual Settlement Payment Received by Named Plaintiff Sunny K. Tam**

21 Plaintiff believed he was wrongfully terminated and/or discriminated against by Defendant
22 on the basis of race and/or age. These claims were not alleged in the complaint. Independent of the
23 settlement presented for approval herein, the Parties independently and separately negotiated a
24 settlement agreement to resolve these additional claims. The individual settlement had no impact on
25 the class settlement and did not create an impediment to Mr. Tam's loyalty to the class. Singer Decl.
26 ¶6, Exhibit 1 - Individual Settlement Agreement and Release of Claims.

27 ///

28 ///

1 **3. Plaintiff has no Conflicts of Interest with the Class**

2 A “finding of adequate representation will not be appropriate if the proposed class
3 representative's interests are antagonistic to the remainder of the class.” *J.P. Morgan & Co., Inc. v.*
4 *Superior Court* (2003) 113 Cal.App.4th 195, 212. “It is axiomatic that a putative representative cannot
5 adequately protect the class if his interests are antagonistic to or in conflict with the objectives of
6 those he purports to represent.” *Seastrom v. Neways, Inc.* (2007) 149 Cal.App.4th 1496, 1502.
7 Consequently, a conflict of interest does not arise if a class representative has separate claims that are
8 settled independently of class claims provided they do not undercut or otherwise conflict with the
9 claims of the class. That did not happen in this case, as Plaintiff endeavored to obtain the maximum
10 possible class settlement irrespective of his personal claims, and the \$650,000 class settlement and
11 \$25,000 individual settlement were discrete and separate. Plaintiff has found no case requiring class
12 representatives to give up non-class claims in order to preserve loyalty to the class and serve as a
13 class representative. Singer Decl. ¶7.

14 The settlement of Plaintiff’s discrimination claim does not implicate his adequacy as a class
15 representative, nor is it in conflict with the interests of the class. Plaintiff’s individual claim had
16 significant potential value, likely several times the amount he accepted in settlement. Singer Decl.
17 ¶7. Defendant did not want to settle unless Plaintiff released all claims, including claims for
18 discrimination it understood he contended were viable and wanted to pursue. Rather than jeopardize
19 or delay the class settlement, Plaintiff agreed to accept an individual settlement of all claims, known
20 and unknown. *Id.*

21 Plaintiff’s counsel is taking no fee on this settlement and it is being paid by Defendant outside
22 the Class settlement. Plaintiff’s conduct in this particular individual settlement demonstrates his
23 commitment to the interests of the class and supports his adequacy as a Class Representative. Singer
24 Decl. ¶8.

25 **3. Funding the Settlement**

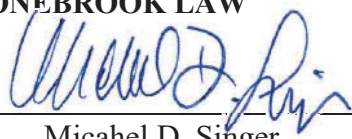
26 Originally, the Parties had agreed Defendant shall fund the Gross Settlement Amount in two
27 equal installments. The funding provision has been revised so that Defendant will fund the entire
28 Gross Settlement Amount within thirty (30) calendar days after the effective date of settlement.

1 Singer Decl. ¶9, Exhibit 2 – Amended Class Action and PAGA Settlement Agreement and Release
2 of Claims, ¶72 (“Funding of the Settlement Amount”).

3 Respectfully submitted,

4 **COHELAN KHOURY & SINGER**
5 **STONEBROOK LAW**

6 Dated: August 31, 2022

By: 

Micahel D. Singer

Joseph Tojarieh

Counsel for Plaintiff Sunny Tam