

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Sihler v. The Fulfillment Lab, Inc.

Sihler · No. 3:20-cv-01528-LL-DDL · Decided June 18, 2025

SUMMARY

The United States District Court for the Southern District of California preliminarily approved a proposed class action settlement concerning alleged deceptive marketing, billing, and fulfillment practices involving weight-loss products. The order approved notice procedures, appointed Epiq Class Action and Claims Solutions as settlement administrator, established exclusion and objection deadlines, and required corrections to the proposed class notices before notice could commence.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Linda Lopez
JURISDICTION	United States District Court for the Southern District of California
DECIDED	June 18, 2025
DOCKET	3:20-cv-01528-LL-DDL
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved for preliminary approval of three related class-action settlement agreements. The court considered the motion on the papers without oral argument and granted preliminary approval, subject to corrections to the proposed class notices and further consideration at a final approval hearing.
STANDARD OF REVIEW	At the preliminary approval stage, the court determines whether the proposed class settlement falls within the range of possible approval and whether it appears to be the product of serious, informed, noncollusive negotiations, contains no obvious deficiencies, does not improperly favor class representatives or segments of the class, and is sufficiently fair, reasonable, and adequate to warrant notice.
PRECEDENTIAL VALUE	unpublished

PARTIES

Janet Sihler, Charlene Bavencoff v. The Fulfillment Lab, Inc., Richard Nelson, Beyond Global, Inc., Brightree Holdings Corp., BMOR Global LLC, David Flynn, Rickie Joe James

TOPICS

class actions consumer protection civil procedure injunctions attorney fees

PRACTICE AREAS

class actions consumer protection commercial litigation civil procedure remedies

QUESTIONS PRESENTED

1. Whether the proposed class settlements were sufficiently fair, reasonable, adequate, and free of obvious deficiencies to warrant preliminary approval and dissemination of notice under Federal Rule of Civil Procedure 23(e).
2. Whether the proposed notice plan satisfied due process and the notice requirements of Federal Rule of Civil Procedure 23(c) and (e).
3. Whether the court should stay proceedings against the settling defendants, preliminarily enjoin class members from pursuing released claims, appoint a settlement administrator, and establish procedures for exclusion, objections, and final approval.

HOLDINGS

1. The proposed settlements were preliminarily approved as fair, reasonable, and adequate because they resulted from arm's-length, noncollusive negotiations, involved extensive discovery and investigation, fell within the range of possible approval, and presented no obvious deficiencies.
2. The proposed class notices and dissemination methodology satisfied due process and Federal Rule of Civil Procedure 23(c) and (e), subject to the specific corrections and clarifications ordered by the court.
3. Proceedings against the settling defendants were stayed, and class members who did not timely exclude themselves were preliminarily enjoined from pursuing released claims in other proceedings, subject to the stated exception for the related Florida action.

KEY QUOTATIONS

"It is the complete package taken as a whole, rather than the individual component parts, that must be examined for overall fairness." (Opinion section III)

"The Court finds that after viewing the settlements as a whole and acknowledging the financial condition of Defendants, coupled with the risk of taking this complex case to trial with uncertain results, the settlements fall within the range of possible approval with no obvious defects." (Opinion section III)

FACTUAL BACKGROUND

Plaintiffs alleged that defendants used fake celebrity and magazine endorsements, misleading price and limited-availability representations, and false-front websites to sell weight-loss products branded as Ultra Fast Keto Boost, InstaKeto, and Instant Keto. They alleged that customers were charged more than agreed, faced difficulty obtaining refunds or returning products, and that defendants operated a coordinated marketing, fulfillment, and chargeback-related scheme. The proposed settlements included cooperation by certain defendants in a related Florida action and a \$200,000 payment plus injunctive relief from The Fulfillment Lab defendants.

PROCEDURAL HISTORY

Plaintiffs filed the class action on August 6, 2020, alleging fraudulent marketing and billing practices involving weight-loss products and asserting California consumer-protection claims and civil RICO claims. The court certified a nationwide RICO class and a California state-law subclass on June 23, 2023. After discovery and settlement conferences, the parties submitted three settlement agreements providing cooperation, monetary relief, injunctive relief, and dismissal of claims with prejudice. The court preliminarily approved the agreements, directed corrections to the class notices, stayed proceedings against the settling defendants, and scheduled a final approval hearing.

DISPOSITION

other

CASES CITED

- In re Tableware Antitrust Litig., 484 F. Supp. 2d 1078, 1079 (N.D. Cal. 2007)
- In re Bluetooth Headset Prods. Liab. Litig., 654 F.3d 935, 948 (9th Cir. 2011)
- In re Mego Fin. Corp. Sec. Litig., 213 F.3d 454, 459 (9th Cir. 2000), as amended (June 19, 2000)
- Nigh v. Humphreys Pharmacal, Inc., No. 12CV2714-MMA-DHB, 2013 WL 5995382, at *11-*12 (S.D. Cal. Oct. 23, 2013)
- Officers for Just. v. Civ. Serv. Comm'n of City & Cnty. of San Francisco, 688 F.2d 615, 628 (9th Cir. 1982)
- Sihler et al. v. Global E-Trading, LLC (d/b/a Chargebacks911), et al., No. 8:23cv1450 (M.D. Fla. Aug. 13, 2024)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 JANET SIHLER, Individually and On Case No.: 20cv1528-LL-DDL Behalf
of All Others Similarly Situated; 12 CHARLENE BAVENCOFF, Individually ORDER
GRANTING MOTION FOR 13 and On Behalf of All Others Similarly, PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT 14 Plaintiffs, 15 v. [ECF No. 258] 16 THE
FULFILLMENT LAB, INC; RICHARD NELSON; BEYOND 17 GLOBAL, INC.; BRIGHTREE
18 HOLDINGS CORP.; BMOR GLOBAL LLC; DAVID FLYNN; 19 RICKIE JOE JAMES, 20
Defendants.

21 22 23 Before the Court is Plaintiffs’ Motion for Preliminary Approval of Class Action 24 Settlement (“Motion”). ECF No. 258. No opposition has been filed. The Court finds this 25 matter suitable for determination on the papers and without oral argument pursuant to 26 Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7.1(d)(1).

For the reasons stated 27 below, the Court GRANTS the Motion. 28 / / / 1 I. BACKGROUND 2 A. Operative Complaint and Procedural History 3 Plaintiffs Janet Sihler and Charlene Bavencoff initiated this class action lawsuit on 4 August 6, 2020. ECF No. 1. It involves an alleged fraudulent scheme in which Defendants 5 allegedly use fake celebrity and magazine endorsements, as well as misrepresentations 6 about price and limited availability, to induce consumers into purchasing weight-loss pills 7 branded as “Ultra Fast Keto Boost” and “Instant Keto” (or “InstaKeto”) (collectively “Keto 8 Products”).

ECF No. 120 ¶¶ 8–14, 65–105. Defendants allegedly charge customers more 9 than they agreed to pay, make it difficult or impossible to return the products or receive a 10 refund, and operate “false front” websites to mislead banks and credit card companies 11 investigating chargebacks. Id. Plaintiffs claim that but for their reliance on Defendants’ 12 false and misleading representations and omissions about the Keto Products, they would 13 not have bought them or would have paid less for them.

ECF No. 130 at 15; 14 ECF No. 120 ¶ 63. The following allegations are taken from Plaintiffs’ second amended 15 complaint (“SAC”). ECF No. 120. 16 Plaintiffs allege that Defendants worked together to perpetrate this fraudulent 17 scheme. Id. ¶¶ 13, 14. Defendants David Flynn, Rickie Joe James, Bmor Global LLC, 18 Beyond Global Inc., and Brightree Holdings Corp. were the marketers and branders of the 19 Keto Products (collectively “Keto Defendants”).

Id. ¶¶ 11, 13. They allegedly created the 20 landing pages viewed by consumers and the false front websites shown to bank and credit 21 card companies. Id. ¶ 11. Defendant The Fulfillment Lab, Inc. (“TFL”), owned by 22 Defendant Richard Nelson (collectively “TFL Defendants”), was the fulfillment company 23 that allegedly provided generic “white label” products to Keto Defendants, assisted them 24 with affiliate marketing and advertising, distributed the products to consumers, and handled 25 returns when customers complained.

Id. Plaintiffs allege that The Fulfillment Lab, Inc. was 26 the fulfillment company for the Keto Products and that both products were the same white- 27 labeled products offered by TFL Defendants. Id. ¶¶ 192–97. 28 / / / 1 Plaintiffs allege the following causes of action against all Defendants: (1) violation 2 of California’s Consumer Legal Remedies Act (“CLRA”), (2) violation of California’s 3 False Advertising Law (“FAL”), (3) violation of the unfair and fraudulent prongs of 4 California’s Unfair Competition Law (“UCL”), (4) violation of the unlawful prong of 5 California’s UCL, and (5) civil Racketeer Influenced and Corrupt Organizations Act 6 (“RICO”) violations.¹ Id. ¶¶ 234–474.

7 On June 23, 2023, the Court granted Plaintiffs' motion for class certification and 8 certified the following classes pursuant to Federal Rule of Civil Procedure 23(b)(3): 9 (1) A nationwide class for the RICO claims consisting of all consumers in the United States who, within the applicable statute of limitations period until the 10 date notice is disseminated, were billed for shipments of either three bottles 11 or five bottles of Ultrafast Keto Boost, InstaKeto, or Instant Keto.

12 (2) A California subclass for the state law causes of action consisting of all 13 consumers in California who, within the applicable statute of limitations period until the date notice is disseminated, were billed for shipments of either 14 three bottles or five bottles of Ultrafast Keto Boost, InstaKeto, or Instant Keto. 15 ECF No. 183 at 24. 16 On July 5, 2023, Plaintiffs filed notice of a related case that had been filed in the 17 Middle District of Florida ("Florida Action") on June 28, 2023, and stated that assigning 18 the two cases to a single district judge would not be likely to "effect a saving of judicial 19 effort and other economies." ECF No. 186; Sihler et al. v. Global E-Trading, LLC (d/b/a 20 Chargebacks911), et al., No. 8:23cv1450 (M.D.

Fla.). The Florida court certified a 21 nationwide class, defined as follows: "All consumers in the United States who, within the 22 applicable statute of limitations period until the date notice is disseminated, were billed for 23 24 25 1 Plaintiffs allege that Keto Defendants directly violated the California consumer statutes and that TFL Defendants violated them by aiding and abetting and conspiring with Keto 26 Defendants.

SAC ¶¶ 241–56, 275–89, 309–23, 399–413. For the RICO claim, Plaintiffs 27 allege that all Defendants violated the statute, but to the extent that TFL Defendants did not directly commit predicate acts, they conspired to do so. SAC ¶¶ 418, 472. 28 1 shipments of either three bottles or five bottles of Ultrafast Keto Boost, InstaKeto, or 2 Instant Keto." Order at 3, 33, Sihler et al. v. Global E-Trading, LLC (d/b/a 3 Chargebacks911), et al., No. 8:23cv1450 (M.D.

Fla. Aug. 13, 2024). 4 The parties participated in discovery and several settlement conferences. 5 ECF Nos. 193 at 2, 196, 199, 200, 247. The instant Motion was filed on October 16, 2024. 6 ECF No. 258. 7 B. Proposed Settlement 8 The parties propose three separate class settlement agreements that would 9 collectively resolve all claims in this action against all Defendants.

ECF No. 258 at 8; ECF 10 Nos. 258-2, 258-3, 258-4. Specifically, the proposed settlement agreement between 11 Plaintiffs and Defendants David Flynn, Bmor Global LLC, Brightree Holdings Corp., and 12 Beyond Global, Inc. ("Flynn Defendants") provides for cooperation by the Flynn 13 Defendants in the related Florida Action currently being pursued in parallel on behalf of 14 the same class as in this case in exchange for a dismissal of all claims with prejudice.

ECF 15 No. 258-2. Similarly, the proposed settlement agreement between Plaintiffs and Defendant 16 Rick James ("James") provides for cooperation by James in the related Florida Action in 17 exchange for a dismissal of all claims with prejudice. ECF No. 258-3.

Finally, the proposed 18 settlement agreement between Plaintiffs and the TFL Defendants provides for \$200,000 19 and injunctive relief “designed to identify potential bad actors and prevent them from being 20 able to utilize The Fulfillment Lab, Inc.’s services” in exchange for a dismissal of all claims 21 with prejudice. ECF Nos. 258 at 16; 258-4.

The \$200,000 is to be distributed in the 22 following order: “to pay the Settlement Administrator for notice and settlement 23 administration costs; to pay the Class Representative Service Award, as awarded by the 24 Court; and to compensate Plaintiffs’ Counsel for their fees and expenses, as awarded by 25 the Court.” ECF No. 258-4 at 7, 12–13.

The amount of attorney’s fees and the Class 26 Representative Service Award have not been negotiated and will be subject to approval by 27 motion to the Court. ECF No. 258 at 21. Plaintiffs’ counsel claims that they anticipate 28 seeking only the reimbursement of expenses and not fees. Id. 1 The settlement agreement with the TFL Defendants provides that following the 2 Court’s approval of the instant Motion, putative class members will be notified by email, 3 postal mail if necessary, and via website of this action, the proposed settlement, the date of 4 the hearing for final approval of the settlement, their rights, how to opt-out, and the deadline 5 to serve objections to the settlement.

ECF No. 258-4 at 9, 14–17. 6 II. LEGAL STANDARD 7 Federal Rule of Civil Procedure 23(e) provides that a court may approve a proposed 8 settlement in a class action “after a hearing and only on finding that it is fair, reasonable, 9 and adequate” after considering the following: 10 (A) the class representatives and class counsel have adequately represented the class; 11 (B) the proposal was negotiated at arm's length; 12 (C) the relief provided for the class is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; 13 (ii) the effectiveness of any proposed method of distributing relief to the class, 14 including the method of processing class-member claims; (iii) the terms of any proposed award of attorney's fees, including timing of 15 payment; and 16 (iv) any agreement required to be identified under Rule 23(e)(3); and (D) the proposal treats class members equitably relative to each other.

17 18 Fed. R. Civ. P. 23(e)(2). 19 The court’s responsibility at the preliminary approval stage is to determine whether 20 the settlement falls “within the range of possible approval.” See Manual for Complex 21 Litigation, Fourth § 21.632 (FJC 2004). If “the proposed settlement appears to be the 22 product of serious, informed, non-collusive negotiations, has no obvious deficiencies, does 23 not improperly grant preferential treatment to class representatives or segments of the class, 24 and falls within the range of possible approval[,]” then preliminary approval of the 25 settlements should be granted.

In re Tableware Antitrust Litig., 484 F. Supp. 2d 1078, 1079 26 (N.D. Cal. 2007) (quoting Manual for Complex Litigation, Second § 30.44 (FJC 1985)). 27 / / / 28 / / / 1 III. PRELIMINARY

APPROVAL OF SETTLEMENT AGREEMENT 2 The Court finds the settlements are the product of arm's-length, non-collusive 3 negotiations.

The parties participated in four settlement conferences with a magistrate 4 judge, which is “a factor weighing in favor of a finding of non-collusiveness.” ECF 5 Nos. 49, 196, 200, 247; *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 948 6 (9th Cir. 2011). Settlement also came after extensive discovery and investigation. ECF 7 Nos. 258 at 25, 258-1, Declaration of Kevin Kneupper (“Kneupper Decl.”), ¶¶ 34, 36–37.

8 The Court finds the settlements fall within the range of possible approval with no 9 obvious deficiencies. Plaintiffs assert the settlements are collectively reasonable “given (1) 10 their lack of assets sufficient to provide further recovery to the Class, (2) the injunctive 11 relief TFL and Mr. Nelson have agreed to, and (3) the value of the evidence the Class has 12 obtained as a result of these settlements.” ECF No. 258 at 10.

Although the \$200,000 13 settlement amount is a negligible percentage of Plaintiffs’ estimate of actual damages for 14 a nationwide class and will be “largely used to offset costs of litigation,” the Court finds 15 Plaintiffs have shown that a larger recovery is not possible due to the financial condition 16 of Defendants. See *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 459 (9th Cir.

2000), as 17 amended (June 19, 2000) (“It is well-settled law that a cash settlement amounting to only 18 a fraction of the potential recovery does not per se render the settlement inadequate or 19 unfair.” (citation omitted)). Plaintiffs’ counsel reviewed confidential documents, 20 demanded additional documentation such as tax returns, and investigated Defendants’ 21 assets and financial situations before concluding that “continuing on in this case would 22 likely exhaust the assets of the settling defendants with minimal (or potentially even no 23 recovery at all).” Kneupper Decl. ¶ 34.

Plaintiffs also state that the substantial cooperation 24 and evidence gained by settlement with the Flynn Defendants and James has been 25 extremely valuable to the class in the related Florida Action, which seeks to recover money 26 for the same class members. ECF No. 258 at 10–12; Kneupper Decl. ¶¶ 32–33.

Finally, 27 Plaintiffs negotiated injunctive relief with Defendants TFL and Richard Nelson that 28 benefits the general public by actions “designed to identify potential bad actors and prevent 1 them from being able to utilize TFL’s services.” *Id.* at 16. See *Nigh v. Humphreys 2 Pharmacal, Inc.*, No. 12CV2714-MMA-DHB, 2013 WL 5995382, at *11–12 (S.D. Cal. 3 Oct.

23, 2013) (declining to assign a dollar amount to the injunctive relief but finding it 4 substantially benefits the class and the general public when viewed in light of the results 5 obtained as a whole). The Court finds that after viewing the settlements as a whole and 6 acknowledging the financial

condition of Defendants, coupled with the risk of taking this 7 complex case to trial with uncertain results, the settlements fall within the range of possible 8 approval with no obvious defects.

See *Officers for Just. v. Civ. Serv. Comm'n of City & 9 Cnty. of San Francisco*, 688 F.2d 615, 628 (9th Cir. 1982) (“It is the complete package 10 taken as a whole, rather than the individual component parts, that must be examined for 11 overall fairness.”). 12 The Court finds the settlements do not improperly grant preferential treatment to 13 class representatives or segments of the class.

Plaintiffs state that they intend to file a 14 separate motion seeking an incentive award for the class representatives that is in line with 15 Ninth Circuit authority, but that the amount was not negotiated as part of the settlement. 16 ECF No. 258 at 27. 17 Accordingly, the terms of the settlement agreements dated and signed by Plaintiffs 18 and Flynn Defendants in April 2024, Rick James in June 2024, and TFL Defendants in 19 September 2024, including all exhibits, (collectively “Settlement Agreement”), are 20 preliminarily approved as fair, reasonable, and adequate; are sufficient to warrant sending 21 notice to the Settlement Class; and are subject to further consideration at the Final Approval 22 Hearing referenced below.

2 Unless otherwise specified, the terms defined in the Settlement 23 Agreement shall have the same meanings in this Order. 24 25 26 2 The Court notes that the settlement agreement with TFL Defendants is not signed by 27 Richard Nelson in his individual capacity, nor on behalf of TFL. ECF No. 258-4 at 26.

The Court ORDERS Plaintiffs to supplement the record with the settlement agreement with 28 1 The Settlement Agreement was entered into after extensive arm’s-length 2 negotiations by experienced counsel and with the assistance and oversight of experienced 3 mediators.

The Court preliminarily finds that this Settlement complies with the class action 4 requirements of Federal Rule of Civil Procedure 23. Further, the Court finds that the 5 Settlement embodied in the Settlement Agreement is sufficiently within the range of 6 reasonableness so that notice of the Settlement should be given as provided in the 7 Settlement Agreement and this Order.

In making this determination, the Court has 8 considered the current posture of this litigation and the risks and benefits to the Parties 9 involved in both settlement of these claims and continuation of the litigation. 10 IV. THE CLASS, CLASS REPRESENTATTVES, AND CLASS COUNSEL 11 The Court has previously certified the Class, Class Representatives, and Class 12 Counsel.

ECF No. 183. Janet Sihler and Charlene Bavencoff are the Class Representatives, 13 and Kevin Kneupper and Cyclone Covey of Kneupper & Covey, PC are Class Counsel. Id. 14 at 25. The Settlement Class is defined as: 15 [A]ll consumers in the United States who, within the applicable statute of limitations period until the date notice is disseminated, were billed for 16 shipments of either three bottles or five bottles of Ultrafast Keto Boost, 17 InstaKeto, or Instant Keto.

Excluded from the Settlement Class are: (i) jurists and mediators who are or have presided over the Action, Plaintiffs' Counsel 18 and Defendants' Counsel, their employees, legal representatives, heirs, 19 successors, assigns, or any members of their immediate family; (ii) any government entity; (iii) The TFL Parties and any entity in which The TFL 20 Parties have a controlling interest, any of their subsidiaries, parents, affiliates, 21 and officers, directors, employees, legal representatives, heirs, successors, or assigns, or any members of their immediate family; and (iv) any persons who 22 timely opt out of the Settlement Class.

23 ECF No. 258-4 at 10–11. 24 All proceedings in this Action as to the Settling Defendants, other than such 25 proceedings as may be necessary to implement the proposed Settlement or to effectuate the 26 terms of the Settlement Agreement, are hereby stayed and suspended until further order of 27 this Court. 28 / / / 1 All Class Members and their legally authorized representatives, unless and until they 2 have submitted a valid request for exclusion from the Settlement Class (hereinafter, 3 "Request for Exclusion"), are hereby preliminarily enjoined: (i) from filing, commencing, 4 prosecuting, intervening in, or participating as a plaintiff, claimant, or class member in any 5 other lawsuit or administrative, regulatory, arbitration, or other proceeding in any 6 jurisdiction based on the Released Claims; (ii) from filing, commencing, or prosecuting a 7 lawsuit or administrative, regulatory, arbitration, or other proceeding as a class action on 8 behalf of any Class Members (including by seeking to amend a pending complaint to 9 include class allegations or seeking class certification in a pending action), based on the 10 Released Claims; and (iii) from attempting to effect an opt-out of a group, class, or subclass 11 of individuals in any lawsuit or administrative, regulatory, arbitration, or other proceeding 12 based on the Released Claims.

To clarify, these enjoinders do not apply to the related 13 Florida Action of Sihler et al. v. Global E-Trading, LLC (d/b/a Chargebacks911), et al., 14 No. 8:23cv1450 (M.D. Fla.), which also seeks to recover money for Class Members. 15 If the Settlement Agreement is not finally approved by the Court, or for any reason 16 the Final Judgment and Order Approving Settlement is not entered as contemplated in the 17 Settlement Agreement, or the Settlement Agreement is terminated pursuant to its terms for 18 any reason or the Effective Date does not occur for any reason, then: 19 (a) All orders and findings entered in connection with the Settlement Agreement 20 shall become null and void and have no force or effect whatsoever, shall not be used or 21 referred to for any purposes whatsoever, and shall not be admissible or discoverable in this 22 or any other proceeding; 23 (b) Nothing contained in this Order is to be construed as a presumption, concession 24 or admission by or against any Defendant or Class Representatives of any default, liability 25 or wrongdoing as to any facts or claims alleged or asserted in the Action; 26 (c) Nothing in this Order pertaining to the Settlement Agreement shall be used as 27 evidence in any further proceeding in the Action; and 28 / / / 1 (d) All of the Court's prior Orders having nothing

whatsoever to do with class 2 certification or the Settlement Agreement shall, subject to this Order, remain in force and 3 effect.

4 V. NOTICE TO CLASS MEMBERS 5 The Court has considered the proposed Class Notice in the Settlement Agreement 6 and finds that the forms of Class Notice and methodology for its publication and 7 dissemination as described in the Settlement Agreement and in the Declaration of the 8 Settlement Administrator: (a) meet the requirements of due process and Federal Rule of 9 Civil Procedure 23(c) and (e); (b) constitute the best notice practicable under the 10 circumstances to all persons entitled to notice; and (c) satisfy the constitutional 11 requirements regarding notice.

In addition, the forms of Class Notice: (a) apprise Class 12 Members of the terms of the proposed Settlement and their rights and deadlines (including 13 any Supplemental Claim Deadline) under the Settlement; (b) are written in simple 14 terminology; (c) are readily understandable by Class Members; and (d) comply with the 15 Federal Judicial Center's illustrative class action notices.

The Court approves, as to form 16 and content, each of the forms of Class Notice as described in the Class Notice Plan and 17 the methodology for its publication and dissemination as described in the Settlement 18 Agreement and in the Declaration of the Settlement Administrator, with the following 19 exceptions that require correction or clarification: 20 1.

On ECF No. 258-4 at 50, in the second bullet point, first sentence, add the 21 word “of” before “\$200,000.” On the same page, the opt-out deadline by mail is 22 postmarked by October 29, 2025, or November 5, 2025 by submitting online, if that is an 23 option.

The objection deadline by mail is postmarked by October 29, 2025, or by filing on 24 the docket by November 5, 2025. The deadline to file a Notice of Appearance by mail is 25 postmarked by November 5, 2025, or filed on the docket by November 12, 2025. 26 2.

On ECF No. 258-4 at 53, in question No. 1, replace “the applicable statute of 27 limitations period” with “August 6, 2016.” 28 1 3. On ECF No. 258-4 at 53, in question No. 1, replace the reference to “Question 2 11 below” with “Question 8 below.” 3 4.

On ECF No. 258-4 at 53, in question No. 2, removing the final “s” from 4 “Settlings.” 5 5. On ECF No. 258-4 at 53, in question No. 4, final sentence, replace “The Class 6 Representative her” with “The Class Representatives and.” 7 6.

On ECF No. 258-4 at 54, in question No. 5, replace “the applicable statute of 8 limitations period” with “August 6, 2016.” Also in question No. 5, the first “t” after “(iii)” 9 should be lowercase. 10 7. On ECF No. 258-4 at 54, in question No. 6, “Class Representative” should be 11 plural. 12 8.

On ECF No. 258-4 at 54, in question No. 7, replace “the applicable statute of 13 limitations period” with “August 6, 2016.” 14 9. On ECF No. 258-4 at 54, in question No. 7, add the following after the last 15 sentence of the first paragraph: “Whether you opt out or remain in this

Settlement Class 16 does not affect your participation in the related Florida case Sihler et al. v. Global 17 E-Trading, LLC (d/b/a Chargebacks911), et al., No. 8:23cv1450 (M.D.

Fla.).” 18 10. On ECF No. 258-4 at 54, in question No. 7, replace the reference to “Question 19 11 below” with “Question 8 below.” In the same sentence, remove the comma between 20 “can” and “talk.” 21 11. On ECF No. 258-4 at 55, in question No. 9, first sentence, add the following 22 after “attorney’s fees”: “; this request (or motion) will be posted on the Settlement Website 23 at [URL] no later than October 5, 2025.” See *In re Mercury Interactive Corp. Sec. Litig.*, 24 618 F.3d 988, 995 (9th Cir.

2010) (finding the district court must allow the class to review 25 and prepare objections to class counsel’s completed fee motion). In the fifth sentence of 26 question No. 9, replace “compensate the Plaintiff for her” with “compensate Plaintiffs for 27 their.” 28 1 12.

On ECF No. 258-4 at 55, in question No. 10, third sentence, replace “received 2 by [Opt-Out Deadline]” with “postmarked by October 29, 2025.” If a request for exclusion 3 may also be submitted online at the Settlement Website, add the following sentence at the 4 end of the first paragraph in question No. 10: “A request for exclusion may also be 5 submitted online at the Settlement Website no later than November 5, 2025.” 6 13.

On ECF No. 258-4 at 56, in question No. 12, the last sentence before the 7 addresses should read as follows: “Your objection must be submitted to the Court and 8 served on Class Counsel and Defendant’s Counsel to the following addresses either by 9 mailing it with a postmark no later than October 29, 2025 to each of the three addresses, or 10 filing it on the docket or in person at the United States District Court for the Southern 11 District of California no later than November 5, 2025:”.

12 14. On ECF No. 258-4 at 56, in question No. 12, for the Court’s address 13 information, replace “Clerk” with “Clerk of Court” and the address with “333 West 14 Broadway, Ste. 420.” 15 15. On ECF No. 258-4 at 57, in question No. 14, first sentence, replace “Hearing 16 at [DATE]” with “Hearing on November 19, 2025.” In the same sentence, replace “221 17 West Broadway San Diego” with “333 West Broadway, San Diego.” 18 16.

On ECF No. 258-4 at 58 in question No. 16, add “Case No. 3:20-cv-1528-LL- 19 DDL” after the case name. 20 17. On ECF No. 258-4 at 58, in question No. 16, second to last sentence, replace 21 “received by [DATE]” with “postmarked by November 5, 2025” and replace “Question 22 15” with “Question 12.” Add the following to the end of the second paragraph in question 23 No. 16: “You may also file it in person at the address listed in Question 12 for the Clerk of 24 Court by November 12, 2025.” 25 18.

On ECF No. 258-4 at 58, in question No. 18, replace “Question 11” with 26 “Question 8.” 27 19. On ECF No. 258-4 at 58, in question No. 19, replace the Clerk’s Office 28 address with “333 West

Broadway, Suite 420, San Diego, CA 92101.” 1 20.

On ECF No. 258-4 at 60, first paragraph, last sentence, replace “(S. D. Cal.)” 2 with “(S.D. Cal.)” 3 21. On ECF No. 258-4 at 60, fifth paragraph regarding the terms of settlement, 4 last sentence, add the following immediately after “attorney’s fees”: “, if approved by the 5 court.” Also add the following sentence to the end of the fifth paragraph: “This request (or 6 motion) for attorney’s fees, costs, and incentive awards will be posted on the Settlement 7 Website at [URL] no later than October 5, 2025.” 8 22.

On ECF No. 258-4 at 60–61, in the section titled “Your Legal Rights and 9 Options,” make all appropriate corrections and additions to include and explain the 10 “third option,” which is to “object.” In doing so, correct any references to “two” or “either” 11 option. 12 23.

On ECF No. 258-4 at 61, third paragraph, replace “by sending a letter or email 13 to the address below no later than 45 days after Notice” with “by sending a letter 14 postmarked by October 29, 2025.” 15 24. On ECF No. 258-4 at 61, fourth paragraph, remove “should be a settlement 16 there.” 17 25.

On ECF No. 258-4 at 61, last paragraph, ensure that the placeholders are 18 replaced with the actual website, phone number, address, and email. Remove the redundant 19 second to last sentence, unless that phone number is different from the one in the previous 20 sentence. 21 26.

On ECF No. 258-4 at 63, top left box, replace “form by [Opt-Out Deadline]” 22 with “form postmarked by October 29, 2025.” 23 24 25 26 3 The proposed notice information on the website does not mention an option to opt-out by 27 email. ECF No. 258-4 at 55–56. If a request for exclusion may also be submitted online at the Settlement Website, add the following sentence: “A request for exclusion may also be 28 1 27.

On ECF No. 258-4 at 63, bottom box, third paragraph, last sentence, add the 2 following immediately after “attorney’s fees”: “, if approved by the court.” Also add the 3 following sentence to the end of the third paragraph: “This request (or motion) for 4 attorney’s fees, costs, and incentive awards will be posted on the Settlement Website at 5 [URL] by October 5, 2025.” 6 28.

On ECF No. 258-4 at 63, bottom box, fourth paragraph, replace “submit an 7 Request for Exclusion received by the Administrator on or before [Opt-Out Deadline]” 8 with “submit a Request for Exclusion to the Administrator postmarked by October 29, 9 2025.” Also replace “object to the Settlement by [Objection Deadline]” with “object to the 10 Settlement by October 29, 2025, or file your letter in person at the court by November 5, 11 2025.” 12 29.

On ECF No. 258-4 at 63, fifth paragraph, replace “Representative’s” with 13 “Representatives” and add a period after “service award.” 14 30. Throughout all the notices, choose to use either

“attorney’s fees” or 15 “attorneys’ fees” and make corrections so that it is consistent. 16 The Court ORDERS Plaintiffs to file the corrected notices on the docket on or 17 before June 30, 2025.

Unless the Court states otherwise upon review of the amended 18 notices, notice shall commence on or before August 1, 2025. 19 The Court further approves the establishment of an internet website for the 20 Settlement. This Settlement Website ([URL]) shall include documents relating to the 21 Settlement Agreement, orders of the Court relating to the Settlement Agreement, and such 22 other information as Class Counsel and Defendant’s Counsel mutually agree would be 23 beneficial to potential Class Members.

The Notice and Claim Administration Expenses are 24 to be paid in accordance with the Settlement Agreement. The Parties are hereby authorized 25 to establish the means necessary to implement the Class Notice and other terms of the 26 Settlement Agreement. 27 / / / 28 / / / 1 The Court hereby appoints Epiq Class Action and Claims Solutions to be the 2 Settlement Administrator.

Responsibilities of the Settlement Administrator are found in the 3 Settlement Agreement. 4 VI. REQUEST FOR EXCLUSION FROM THE SETTLEMENT CLASS 5 Class Members who wish to be excluded from the Settlement Class must mail a 6 written request for exclusion, using the form available on the Settlement Website, or with 7 a letter mailed to the Settlement Administrator, postmarked on or before October 29, 2025.

8 Any request for exclusion must be signed by the potential Class Member and contain the 9 following information: the name, address, and telephone number of the Class Member; 10 basis upon which the person claims to be a Class Member; the Class Member’s signature 11 and date of signature; and a statement that the Class Member wants to be excluded. It is 12 unclear to the Court if a request for exclusion may also be submitted online at the 13 Settlement Website; if so, the deadline to submit the exclusion form online is 14 November 5, 2025.

15 Potential Class Members who timely and validly exclude themselves from the 16 Settlement Class shall not be bound by the Settlement Agreement, the settlement, or the 17 Final Judgment and Order Approving Settlement. If a potential Class Member files a 18 request for exclusion, he/she/it may not assert an objection to the Settlement Agreement. 19 Not later than November 10, 2025, the Settlement Administrator shall provide Class 20 Counsel and Defendant’s Counsel with a final list of timely Requests for Exclusion.

21 Defendant’s Counsel shall file this list with the Court on or before November 12, 2025. 22 Any potential Class Member that does not properly and timely exclude 23 himself/herself/itself from the Settlement Class shall remain a Class Member and shall be 24 bound by all the terms and provisions of the Settlement Agreement and the settlement and 25 the Final Judgment and Order Approving Settlement, whether or not such Class Member 26 objected to the Settlement

Agreement or submits a claim form or otherwise avails 27 himself/herself/itself of the benefits available in the Settlement Agreement.

28 / / / 1 No later than November 10, 2025, the Settlement Administrator shall prepare an 2 opt-out list identifying all Persons, if any, who submitted a timely and valid Request for 3 Exclusion from the Settlement Class, and an Affidavit attesting to the accuracy of the 4 opt-out list. 5 VII. OBJECTIONS 6 Any Class Member who has not requested exclusion and who wishes to object to the 7 fairness, reasonableness, or adequacy of the Settlement Agreement, or to the requested 8 award of attorney's fees, costs, and expenses, or the requested service awards to the Class 9 Representatives, must submit a written statement of objections to the Court either by 10 mailing or by filing it at the United States District Court for the Southern District of 11 California.

The written objection must be mailed and postmarked no later than 12 October 29, 2025, or filed on the docket no later than November 5, 2025. 13 To be considered by the Court, any objection must be in writing and include the 14 following information: (a) a heading which refers to the case name and number (Sihler et 15 al. v. The Fulfillment Lab, Inc. et al., No. 3:20cv1528-LL-DDL); (b) the objector's full 16 name, telephone number, and address (the objector's actual residential address must be 17 included); (c) if represented by counsel, the full name, telephone number, and address of 18 all counsel, and whether counsel will appear at the Final Approval Hearing; (d) all of the 19 reasons for the objection; (e) an explanation of the basis upon which the person claims to 20 be a Class Member; and (f) the objector's dated, handwritten signature (an electronic 21 signature or attorney's signature are not sufficient).

Any documents supporting the 22 objection must also be attached to the objection. If any testimony is to be given in support 23 of the objection, the names of all persons who will testify must be set forth in the objection. 24 For mailing objections, the Court's address is as follows: Clerk of Court, United States 25 District Court, Southern District of California, 333 West Broadway, Ste.

420, San Diego, 26 CA 92101. 27 The Court will require substantial compliance with the requirements above. If the 28 objector does not submit a written objection in accordance with the deadline and procedure 1 set forth above, the objector will waive any right to be heard at the Final Approval Hearing. 2 However, the Court may excuse the objector's failure to file a written objection upon a 3 showing of good cause, which, if granted, would permit the objector to still appear at the 4 Final Approval Hearing and object to the Settlement.

5 VIII. FINAL APPPROVAL HEARING 6 The Final Approval Hearing will be held on November 19, 2025 at 10:30 a.m. 7 Pacific Time before this Court, at the United States District Court for the Southern District 8 of California, 333 West Broadway, San Diego, CA 92101, to consider, inter alia, the 9 following: (a) whether the Settlement Class should be certified for settlement purposes; 10 (b) whether the settlement and Settlement Agreement should be finally approved as fair, 11

reasonable and adequate; and (c) Class Counsel's application for attorney's fees, costs and 12 expenses ("Fee Request") and the Class Representatives' service awards.

13 No later than October 15, 2025, Class Counsel shall file and Defendant may file 14 with the Court any memoranda or other materials in support of final approval of the 15 Settlement Agreement. No later than October 6, 2025, Class Counsel shall file any request 16 for attorney's fees, expenses, and class representative award with the Court. Any reply 17 briefs relating to final approval of the Settlement Agreement or Class Counsel's request 18 for attorney's fees, expenses, and class representative award or responses to objections to 19 the Settlement Agreement shall be filed no later than November 12, 2025.

20 Any Class Member who has not excluded himself/herself/itself from the Settlement 21 Class may appear at the Final Approval Hearing in person or by counsel (at his/her/its own 22 expense) and may be heard, to the extent allowed by the Court, either in support of or in 23 opposition to the Settlement Agreement and/or the fee request. Any Class Member wanting 24 to be heard at the Final Approval Hearing shall send a letter saying that it is his/her/its 25 "Notice of Intention to Appear in Sihler et al. v. The Fulfillment Lab, Inc. et al., 26 No. 3:20cv1528-LL-DDL." Such letter shall be mailed to the Clerk of Court and 27 postmarked no later than November 5, 2025, or filed on the docket no later than 28 November 12, 2025.

In the notice, the Class Member must include his/her/its name, 1 address, and telephone number, and the name, address, and telephone number of counsel, 2 if any, that will appear. For mailing notices of intent to appear, the Court's address is as 3 follows: Clerk of Court, United States District Court, Southern District of California, 4 333 West Broadway, Ste.

420, San Diego, CA 92101. 5 The date and time of the Final Approval Hearing shall be subject to adjournment by 6 the Court without further notice to the Class Members other than that which may be posted 7 at the Court, on the Court's website, and/or the Settlement Website. 8 IX. OTHER PROVISIONS 9 The Parties are authorized to take all necessary and appropriate steps to establish the 10 means necessary to implement the Settlement Agreement.

11 The deadlines set forth in this Order, including, but not limited to, adjourning the 12 Final Approval Hearing, may be extended by order of the Court, for good cause shown, 13 without further notice to the Class Members, except that notice of any such extensions shall 14 be included on the Settlement Website. Class Members should check the Settlement 15 Website regularly for updates and further details regarding extensions of these deadlines.

16 Class Counsel and Defendant's Counsel are hereby authorized to use all reasonable 17 procedures in connection with approval and administration of the Settlement Agreement 18 that are not materially inconsistent with this Order or the Settlement Agreement, including 19 making, without further approval of the Court, minor changes to the Settlement Agreement, 20 to the form

or content of the Class Notice or to any other exhibits that the parties jointly agree are reasonable or necessary.

To the extent the parties request the undersigned to retain jurisdiction over these settlement proceedings, the Court DECLINES. If the parties wish Magistrate Judge David D. Leshner to retain jurisdiction over the settlement, all parties and counsel must sign the attached form and lodge it with the undersigned for approval on or before October 29, 2025.

IT IS SO ORDERED. Dated: June 18, 2025
Honorable Linda Lopez United States District Judge
ATTACHMENT 1
SOUTHERN DISTRICT OF CALIFORNIA
JANET SIHLER, individually and on behalf of all CONSENT TO EXERCISE OF others similarly situated, et al., SETTLEMENT JURISDICTION BY A Plaintiffs, UNITED STATES MAGISTRATE JUDGE AND ORDER OF REFERENCE vs. Case No.: 20cv1528-LL-DDL THE FULFILLMENT LAB, INC., et al., Defendants.

CONSENT TO JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE The parties, having settled this case, by signing below further voluntarily consent to the jurisdiction of United States Magistrate Judge David D. Leshner to decide (1) all disputes regarding settlement terms arising during the documentation thereof not resolved by the parties themselves; and, (2) all disputes arising out of the terms of the settlement agreement once completed.

The parties further consent and agree that that any decision by the Magistrate Judge regarding any such dispute(s) shall be FINAL AND BINDING, WITH NO APPEAL. The parties intend to provide Magistrate Judge Leshner with plenary authority to achieve finality regarding disputes, reduce the risk of future litigation, and provide a venue to solve disputes with a minimum of expense.

As part of his authority, Magistrate Judge Leshner may impose any sanction or penalty he deems appropriate, which, in his sole discretion, he believes is commensurate with the nature and severity of the dispute and resolution thereof. This authority includes, but is not limited to, monetary and/or injunctive relief and discretion to impose sanctions or penalties including imposition of any sanction up to and including contempt of court, pursuant to 28 U.S.C. § 636(e).

This consent is valid for a period of one year from the date this order is signed by the District Judge. Signatures of all Parties AND Attorneys Date circle one each: (Plaintiff/Defendant) and (Attorney/Client) circle one each: (Plaintiff/Defendant) and (Attorney/Client) circle one each: (Plaintiff/Defendant) and (Attorney/Client) circle one each: (Plaintiff/Defendant) and (Attorney/Client) ORDER OF REFERENCE IT IS ORDERED that this case is referred to the

Honorable David D. Leshner, United States Magistrate Judge, to resolve all settlement-related disputes as described above, accordance with 28 U.S.C. § 636(c) and the foregoing consent of the parties.

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/united-states-district-court-for-the-southern-district-of-california-united-states-district-court-fo/2025/sihler-v-the-fulfillment-lab-inc-c34n2ma0>