

**E-FILED**

Jul 8, 2009 10:24 AM

David H. Yamasaki  
Chief Executive Officer/Clerk  
Superior Court of CA, County of Santa Clara  
Case #1-06-CV-073295 Filing #G-16641  
By R. Walker, Deputy

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA**

DAN HOLTON, individually and on behalf of all  
others similarly situated,

Plaintiff,

vs.

MARVELL SEMICONDUCTOR, INC., et al,

Defendants.

Case No. 1-06-CV-073295

ORDER RE: MOTION FOR CLASS  
CERTIFICATION

Plaintiff Dan Holton's two motions, seeking leave to amend the currently operative First Amended Complaint to change the definition of the proposed class, and to certify the class as amended, came on for hearing before the Honorable Joseph H. Huber on June 19, 2009 at 9:00 a.m. in Department 8. The matter having been submitted, the Court now rules as follows:

1) Plaintiff's initial request for judicial notice is GRANTED in part and DENIED in part as follows. A precondition to judicial notice in either its mandatory or permissive form is that the matter to be noticed must be relevant to a material issue before the Court. *People v. Shamrock Foods Co.* (2000) 24 Cal 4<sup>th</sup> 415, 422 fn. 2. Notice is granted as to exhibit 1, a 1999 declaration from an unrelated case, only as to the declaration's existence and filing date pursuant

1 to Evid. Code §452(d). Its contents are hearsay. See *North Beverly Park Homeowners Assn. v.*  
2 *Bisno* (2007) 147 Cal App 4<sup>th</sup> 762. Notice is granted as to exhibit 2 pursuant to Evid. Code  
3 §452(b). Notice is granted to exhibits 3-6 & 8 pursuant to Evid. Code §452(c). Notice is granted  
4 as to exhibit 9 pursuant to Evid. Code §452(b). Notice is denied as to exhibit 7 (a withdrawn  
5 opinion letter). Notice is also denied as to exhibits 10-12 as they are irrelevant to the material  
6 issues before the Court.

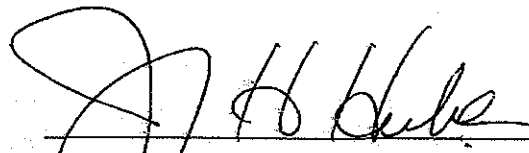
7 2) Plaintiff's second request for judicial notice, filed with his Reply papers, of three  
8 Department of Labor Standards ("DLSE") opinion letters is GRANTED pursuant to Evid. Code  
9 §452(c) (opinion letters are official acts, opinions on interpretation, not "facts.")

10 3) Defendant's request for judicial notice is GRANTED in part and DENIED in part as  
11 follows: notice of exhibit O to the declaration of Fred Alvarez is GRANTED pursuant to Evid.  
12 Code §452(c); notice of exhibit P is DENIED; notice of exhibit Q is GRANTED pursuant to  
13 Evid. Code §452(c), and; notice of exhibit R is DENIED.

14 4) The parties' various objections to each other's evidence are OVERRULED.

15 5) Plaintiff's motion for class certification is GRANTED. The class is defined as "All  
16 Individual Contributor Engineers who held the titles of PCB Designer, Associate Engineer,  
17 Engineer, Staff Engineer, and Senior Engineers, who at any time during the class period while  
18 holding these positions did not have a degree above a baccalaureate degree nor a degree above a  
19 baccalaureate degree in a field of science related to the work performed, and worked for  
20 Defendant Marvell Semiconductors, Inc. in California, at any time from October 19, 2002  
21 through the present."

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24  
25 Dated: 'JUL 08 2009

  
26 Joseph H. Huber  
27 Judge of the Superior Court  
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