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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CONSUELO ANDRADE, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

NOVACAP, LLC a Delaware Limited
Liability Company; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO. 20STCV21805

*Assigned For All Purposes to the Hon.
William F. Highberger, Dept. 10*

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
SETTLEMENT AND SETTING A
SETTLEMENT FAIRNESS HEARING**

Date: April 29, 2021
Time: 1:30 p.m.
Location: 10

1 Plaintiff's application for an Order Preliminarily Approving a Class Action Settlement and
2 setting a settlement hearing was filed with the court on April 29, 2021 at 1:30 p.m.. The Court has
3 considered the Joint Stipulation and Class Action Settlement Agreement and Release (and its
4 exhibits) (the "Stipulation" or "Settlement Agreement") and all other papers filed in this action.

5 NOW THEREFORE, IT IS HEREBY ORDERED:

6 1. All defined terms contained herein shall have the same meanings as set forth in the
7 Stipulation.

8 2. The Class Representative and Defendant, through their counsel of record in the
9 Action, have reached an agreement to settle all claims in the Litigation on behalf of the Class as a
10 whole.

11 3. The Court hereby conditionally certifies the following Class for settlement
12 purposes only: all current and former non-exempt California employees of Defendant who earned
13 overtime wages and non-discretionary incentive pay, including without limitation, "Goal"
14 incentives, in the same workweek at any time during the period of time from April 6, 2016,
15 through December 31, 2019 ("Class").

16 4. Should for whatever reason the Stipulation and Judgment not become Final, the
17 fact that the parties were willing to stipulate to certification of a class as part of the Stipulation
18 shall have no bearing on, or be admissible in connection with the issue of whether a class should
19 be certified in a non-settlement context.

20 5. The Court appoints and designates: (a) Plaintiff Consuelo Andrade as the Class
21 Representative and (b) Larry Lee of Diversity Law Group, P.C., Edward Choi of the Law Offices
22 of Choi & Associates, P.C. and David Lee of David Lee Law, P.C. are qualified to serve as Class
23 Counsel for the Class. Class Counsel is authorized to act on behalf of the Class with respect to all
24 acts or consents required by, or which may be given, pursuant to the Stipulation, and such other
25 acts reasonably necessary to finalize the Stipulation and its terms. Any Class Member may enter
26 an appearance through his or her own counsel at such Class Member's own expense. Any Class
27 Member who does not enter an appearance or appear on his or her own behalf will be represented
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1 by Class Counsel.

2 6. The Court hereby approves the terms and conditions provided for in the Stipulation.

3 7. The Court hereby preliminarily approves the Settlement Fund in the amount of
4 \$125,000.00, which is to be distributed as follows: out of the Settlement Fund, (a) up to
5 \$10,000.00 is to be paid to the Class Representative for her services to the Class; (b) up to
6 \$41,666.67 shall be paid to Class Counsel for attorneys' fees and up to \$15,000.00 for
7 reimbursement of actual costs incurred; (c) \$7,500.00 shall be paid to the California Labor and
8 Workforce Development Agency for PAGA Penalties, and (d) the Claim Administrator shall be
9 paid for its fees and costs relating to the claims administration process which is expected to not
10 exceed \$10,000.00. The Court further hereby preliminarily approves the Allocation of Settlement
11 Funds, and the formulas provided in the Stipulation regarding Settlement Class Awards.

12 8. The Court finds that on a preliminary basis the Stipulation appears to be within the
13 range of reasonableness of a settlement, including the amount of the PAGA penalties, Class
14 Representative service award, Class Counsel fees and costs, the claims administration fees and the
15 allocation of payments to Settlement Class Members, that could ultimately be given final approval
16 by this Court. It appears to the Court on a preliminary basis that the settlement is fair, adequate
17 and reasonable as to all potential Class Members when balanced against the probable outcome of
18 further litigation relating to liability and damages issues. It also appears that extensive and costly
19 investigation, research and court proceedings have been conducted so that counsel for the Settling
20 Parties are able to reasonably evaluate their respective positions. It appears to the Court that
21 settlement at this time will avoid substantial additional costs by all parties, as well as avoid the
22 delay and risks that would be presented by the further prosecution of the Litigation. It also
23 appears that settlement has been reached as a result of intensive, serious and non-collusive, arms-
24 length negotiations.

25 9. A hearing (the "Settlement Fairness Hearing") shall be held before this Court on
26 _____ at _____ in Department 10 of the Superior Court of the State of California,
27 County of Los Angeles, Spring Street Courthouse, to determine all necessary matters concerning
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1 the Stipulation, including whether the proposed settlement of the action on the terms and
2 conditions provided for in the Stipulation is fair, adequate and reasonable and should be finally
3 approved by the Court and whether a Judgment, as provided in the Stipulation, should be entered
4 herein. At this same time, a hearing on Class Counsel's motion for attorneys' fees and
5 reimbursement of litigation costs and the Class Representative's service award shall also be held.

6 10. The Motion for Final Approval shall be filed by Class Representative no later than
7 thirty (30) calendar days before the Final Approval Hearing.

8 11. The Court hereby approves, as to form and content, the Notice of Proposed Class
9 Action Settlement which is attached as an exhibit to the Stipulation. The Court finds that
10 distribution of the Class Notice to Class Members substantially in the manner and form set forth in
11 the Stipulation and this Order meet the requirements of due process and shall constitute due and
12 sufficient notice to all parties entitled thereto.

13 12. The Court appoints and designates Phoenix Settlement Administrators as the
14 Claims Administrator. The Court hereby directs the Claims Administrator to promptly distribute
15 the Notice Packet in English and Spanish, after receipt of the information from Defendant using
16 the procedures set forth in the Stipulation.

17 13. Any Class Member may choose to opt out of and be excluded from the settlement
18 as provided in the Stipulation and Class Notice and by following the instructions for requesting
19 exclusion. Any person who timely and properly opts out of the settlement will not be bound by
20 the Stipulation or have any right to object, appeal or comment thereon. Any Opt Out request must
21 be signed by each such Class Member opting out and must otherwise comply with the
22 requirements delineated in the Class Notice. Class Members who have not requested exclusion by
23 submitting a valid and timely Opt Out, by the Opt Out Deadline, shall be bound by all
24 determinations of the Court, the Stipulation and Judgment.

25 14. Any Class Member may object to the Stipulation or express his or her views
26 regarding the Stipulation, and may present evidence and file briefs or other papers that may be
27 proper and relevant to the issues to be heard and determined by the Court as provided in the Class
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1 Notice. Any Class Member who does not make his or her objection in the manner provided for in
2 the Stipulation and Class Notice, shall be deemed to have waived such objection and shall forever
3 be foreclosed from making any objection to the Stipulation.

4 15. Defendant must exercise any right it may have to terminate the Stipulation by no
5 later than seven calendar days after the Opt Out Deadline.

6 16. In the event that the Effective Date occurs, all Settlement Class Members and Class
7 Representative will be deemed to have forever released and discharged the Released Claims
8 applicable to them.

9 17. The Court reserves the right to adjourn or continue the date of the Settlement
10 Fairness Hearing and all dates provided for in the Stipulation without further notice to the Class,
11 and retains jurisdiction to consider all further applications arising out of or connected with the
12 Stipulation.

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14 **IT IS SO ORDERED.**

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16 DATED:

Honorable William F. Highberger
Judge of the Superior Court

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