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and on behalf of all others similarly situated.

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

JOSE LAPENTA, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

NEOGENOMICS LABORATORIES,
INC.; and DOES 1 through 20, inclusive,

Defendants.

Case No. 30-2022-01299457-CU-OE-CXC

*Assigned for All Purposes to:
Hon. Melissa R. McCormick
Dept. CX-105*

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

Date: July 17, 2025
Time: 2:00 p.m.
Dept: CX-105

1 **I. INTRODUCTION**

2 Plaintiff Jose Lapenta (“Plaintiff”) provides this Supplemental Brief in response to the
3 Court’s tentative ruling on Plaintiff’s Motion for Preliminary Approval of Class Action Settlement
4 (“Motion”). Concurrently with this Brief, Plaintiff submits the Declaration Of Jessica L. Campbell
5 In Support Of Supplemental Brief In Support Of Plaintiff’s Motion For Preliminary Approval Of
6 Class Action Settlement (“Campbell Decl.”) with the following exhibits:

- 7 • Exhibit 1: Amendment to Class Action and PAGA Settlement Agreement and Class
8 Notice is attached to the Campbell Decl. as **Exhibit 1**, with the Class Notice included
9 as **Exhibit 1A**.
- 10 • Exhibit 2: Redlined Class Notice included as **Exhibit 2**.
- 11 • Exhibit 3: Redlined Class Member Workweek/Pay Period Dispute Form included as
12 **Exhibit 3**.
- 13 • Exhibit 4: Redlined Exclusion Form included as **Exhibit 4**.
- 14 • Exhibit 5: Confirmation email from the LWDA proving Plaintiff’s Counsel served the
15 revised Settlement and supplemental papers on the LWDA.

16 **II. RESPONSE TO COURT ORDER**

17 **As to the Settlement:**

18 **Issue #1 Release by Participating Class Members:**

19 The Court’s ruling states:

- 20 1. The “Release by Participating Class Members” in ¶6.1 of the settlement agreement is
21 overbroad as to the UCL release. The “including, but not limited to” clause goes well
22 beyond wage and hour violations and must be deleted.

23 **Response to Issue #1 Release by Participating Class Members:**

24 Section 6.1 has been revised to remove the “including, but not limited to” clause:

25 **Release by Participating Class Members:** All Participating Class Members, on behalf of
26 themselves and their respective former and present representatives, agents, attorneys, heirs,
27 administrators, successors, and assigns, release Released Parties from all claims arising during the
28 Class Period that were alleged, or reasonably could have been alleged, based on the facts stated in

1 the Operative Complaint: (1) failure to pay minimum wage under Labor Code sections 1194,
2 1194.2, 1197; (2) failure to pay overtime wages under Labor Code sections 510, 1194, 1198; (3)
3 failure to provide meal periods under Labor Code sections 226.7, 512; (4) failure to permit rest
4 periods under Labor Code section 226.7; (5) failure to reimburse business expenses under Labor
5 Code sections 2800, 2802; (6) failure to provide accurate and itemized wage statements under
6 Labor Code section 226; (7) failure to timely pay employees during employment in violation of
7 Labor Code sections 204, 210; (8) failure to pay all wages earned upon termination under Labor
8 Code sections 200-203; (9) violation of Business & Professions Code section 17200 et seq. based
9 on the Labor Code violations alleged; interest; and attorney's fees and costs per Code of Civil
10 Procedure section 1021.5. Except as set forth in Section 6.3 of this Agreement, Participating Class
11 Members do not release any other claims, including claims for vested benefits, wrongful
12 termination, violation of the Fair Employment and Housing Act, unemployment insurance,
13 disability, social security, workers' compensation, or claims based on facts occurring outside the
14 Class Period. (See Campbell Decl., Exhibit 1 at p.1)

15 **Issue #2 Opt-out Validity:**

16 The Court's ruling states:

- 17 2. The settlement agreement in ¶8.5.2 provides that the Administrator's determination of
18 the validity of opt-outs will be final and not appealable or otherwise susceptible to
19 challenge. The settlement agreement should reflect instead that the court will have the
20 final decision as to any such dispute.

21 **Response to Issue #2 Opt-out Validity:**

22 Section 8.5.2 has been revised to reflect that the court will have final decision as to any
23 such dispute as follows:

24 The Administrator may not reject a Request for Exclusion as invalid because it fails to
25 contain all the information specified in the Class Notice. The Administrator shall accept any
26 Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the
27 person as a Class Member and the Class Member's desire to be excluded. If the Administrator has
28 reason to question the authenticity of a Request for Exclusion, the Administrator may demand

1 additional proof of the Class Member's identity. The Court will have the final decision as to any
2 such dispute. (See Campbell Decl., Exhibit 1 at p.1)

3 **Issue #3 Workweek Dispute Validity:**

4 The Court's ruling states:

- 5 3. The settlement agreement in ¶¶8.6 and 8.8.4, and the class notice in §4.3, provide that
6 the Administrator's determination of each class member's allocation of workweeks
7 and/or PAGA pay periods will be final and not appealable or otherwise susceptible to
8 challenge. The documents should reflect instead that the court will resolve any
9 workweek dispute not otherwise resolved by the Administrator and the parties.
10

11 **Response to Issue #3 Workweek Dispute Validity:**

12 Section 8.6, 8.8.4, and the class notice in §4.3 have been revised to reflect that the court
13 will resolve any workweek dispute not otherwise resolved by the Administrator and read as
14 follows:

15 Section 8.6:

16 **Challenges to Calculation of Workweeks.** Each Class Member shall have 60 days after the
17 Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class
18 Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any)
19 allocated to the Class Member in the Class Notice. The Class Member may challenge the
20 allocation by communicating with the Administrator via fax, email or mail. The Administrator
21 must encourage the challenging Class Member to submit supporting documentation. In the absence
22 of any contrary documentation, the Administrator is entitled to presume that the Workweeks
23 contained in the Class Notice are correct as long as they are consistent with the Class Data. The
24 Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or
25 Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination of the
26 challenges. The Court will resolve any workweek dispute not otherwise resolved by the
27 Administrator and the parties. (See Campbell Decl., Exhibit 1 at p.1)
28

Section 8.8.4:

Workweek and/or Pay Period Challenges. The Court will resolve any workweek dispute not otherwise resolved by the Administrator and the Parties. (See Campbell Decl., Exhibit 1 at p.1)

Section 4.3 of the class notice:

Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until _____ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendant's calculation of Workweeks and/or Pay Periods based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Court will resolve any Workweek dispute not otherwise resolved by the Administrator and the parties.

As to the Class Notice:

Issue #4 Page Numbering:

The Court's ruling states:

4. The page numbering on the class notice must begin with 1.

Response to Issue #4 Page Numbering:

The Class Notice is now numbered to begin at 1. (See Campbell Decl., Exhibit 1A at p.1.)

Issue #5 in the Class Notice:

The Court's ruling states:

5. On p. “21” of the class notice, insert the last day of the Class and PAGA Periods, May 20, 2024.

Response to Issue #5 in the Class Notice:

The Class Notice has been revised to include the last day of the Class and PAGA Period May 20, 2024 and reads as follows:

You may be eligible to receive money from an employee class action lawsuit (“Action”) against NeoGenomics Laboratories, Inc. (“Defendant” is used herein as a placeholder) for alleged wage and hour violations. The Action was filed by a former employee Jose Lapenta (“Plaintiff”) and seeks payment of (1) back wages and other relief for a class of hourly employees (“Class Members”) who worked for Defendant during the Class Period December 30, 2018 through May 20, 2024; and (2) penalties under the California Private Attorney General Act (“PAGA”) for all hourly employees who worked for Defendant during the PAGA Period (December 30, 2021 to May 20, 2024) (“Aggrieved Employees”). (See Campbell Decl., Exhibit 1A at p.1.)

Issue #6 in the Class Notice:

The Court's ruling states:

6. In the bottom box on p. “22” of the class notice, change “op-out” to “opt-out”.

Response to Issue #6 in the Class Notice:

In the bottom box on p. 2 of the class notice, “op-out” has been changed to “opt-out”. (See Campbell Decl., Exhibit 1A at p.2.)

Issue #7 in the Class Notice:

The Court's ruling states:

7. On the first line of p. “23” of the class notice, change “thing” to “think”.

Response to Issue #7 in the Class Notice:

On the first line of p. “3” of the class notice, “thing” has been changed to “think”. (See Campbell Decl., Exhibit 1A at p.3.)

Issue #8 in the Class Notice:

The Court’s ruling states:

8. The first sentence of §3(10) of the class notice is actually the last sentence of §3(9).

Response to Issue #8 in the Class Notice:

Plaintiff’s Counsel has fixed the formatting. (See Campbell Decl., Exhibit 2 at p.6)

As to the Exclusion Form:

Issue #9 Exclusion Form Language:

The Court’s ruling states:

9. The Exclusion Form properly states that it applies to the class action portion of the settlement, but should also explain that employees who opt out will still be part of the PAGA portion of the settlement and receive their share of the PAGA payment allocated to the aggrieved employees.

Response to Issue #9 Exclusion Form Language:

The exclusion form has been revised to contain the following provision:

“Employees who opt out will still be part of the PAGA portion of the settlement and receive their share of the PAGA payment allocated to the aggrieved employees.” (See Campbell Decl., Exhibit 4 at p.1 (first paragraph).)

Issue #10 Exclusion Form Language:

The Court’s ruling states:

10. The Exclusion Form should be referenced in §§3(6) and 6 of the class notice.

Response to Issue #10 Exclusion Form Language:

The exclusion form is now referenced in §§3(6) and 6 of the class notice as follows:

§3(6) reads as follows: Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, that you wish to opt-out. The easiest way to notify the Administrator is to fill out and send the enclosed Exclusion Form or send your own written and signed Request for Exclusion by the _____ Response Deadline. If you write your own Request for Exclusion rather than sending the Form, it should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendant.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

§6 reads as follows: Submit either the enclosed Exclusion Form or a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as Lapenta v. NeoGenomics Laboratories, Inc., and include your identifying information (full name, address, telephone number, and approximate dates of employment for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. The Administrator must be sent your request to be excluded by _____, or it will be invalid. Section 9 of the Notice has the Administrator's contact information. (See Campbell Decl., Exhibit 4 at p.5 (sixth paragraph), p.8 (third paragraph).)

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As to the Class Member Dispute Form:

Issue #11 Class Member Dispute Form Title:

The Court’s ruling states:

11. The title of the “Class Member Dispute Form” should be clearer, and changed to “Class Member Workweek/Pay Period Dispute Form”.

Response to Issue #11 Exclusion Form Language:

The title of the “Class Member Dispute Form” has been changed to “Class Member Workweek/Pay Period Dispute Form”. (See Campbell Decl., Exhibit 3.)

Dated: June 13, 2025

AEGIS LAW FIRM, PC

By: /s/ Jessica L. Campbell
Jessica L. Campbell
Attorneys for Plaintiff Jose Lapenta