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Attorneys for Plaintiff STEVEN JENKINS, in a Representative capacity only, and on behalf of other members of the general public similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

STEVEN JENKINS, in a Representative capacity only, and on behalf of other members of the general public similarly situated,

Plaintiff

v.

NIVA LABS LLC, a California Limited Liability Company; and BRIANA B. CHHIN, an individual; SOKOUN CHHIN, an individual; and JOSHUA SNYDER, an individual; and DOES 1-10, inclusive

Defendants

CASE NO. 23CHCV02971

**DECLARATION OF ERIC K. YAECKEL
IN SUPPORT OF PLAINTIFF'S MOTION
RE: UNOPPOSED PAGA APPROVAL**

Date: August 9, 2024

Time: 8:30

Dept.: F47

Judge: Hon. Melvin D. Sandvig

1 I, Eric K. Yaeckel declare as follows:

- 2 1. I am an attorney licensed to practice law before all the courts of the State of California, and am
3 employed with the law firm of SULLIVAN & YAECKEL LAW GROUP, APC, attorneys of
4 record for Plaintiff STEVEN JENKINS, in a Representative capacity only, and on behalf of
5 other members of the general public similarly situated in this matter.
- 6 2. I make this declaration in support of Plaintiff's Unopposed *Ex Parte* Application Re: PAGA
7 Settlement Approval. I am personally familiar with the facts set forth in this declaration and,
8 if called to testify, could and would do so.

9 **Background**

- 10 3. My office confirmed via the secretary of state website that Defendant NIVA LABS LLC is no
11 longer a viable entity, of May 2023, and as a result was not able to appear in this action. They
12 are separately being dismissed. However, they are not a party to the settlement agreement and
13 its release provisions.
- 14 4. Following the exchange of discovery, both formal and informal, and analysis of time and wage
15 data, and through arms length back and forth negotiations, the Parties reached a proposed
16 settlement that includes a payment of penalties to the LWDA.
- 17 5. The Parties fully executed "PAGA Settlement Agreement" (the "Agreement") is attached to
18 this declaration as Exhibit 1.
- 19 6. Defendant's records confirmed there are 8 PAGA Members, including Plaintiff who
20 worked within the defined PAGA Period.
- 21 7. Based on the figures in the parties proposed settlement, there would be a remainder of
22 \$562.50 distributed between the 8 PAGA Members. Therefore an avearge payout to each
23 individual would be approximately \$70.31. This is an "average" only. The actual payment will
24 be determined based of the total pay periods worked by each of the eight employees during the
25 PAGA period. (Ex. 1 § 3.2.5).
- 26 8. Subject to the Court's Approval, the parties have jointly drafted a proposed notice to go out
27 with the settlement payments following approval. A true and correct copy is attached as
28 **Exhibit 2.**

- 1 9. Plaintiff alleges that he - and other employees - received “short,” “late,” or “missing” Meal
2 Periods, including those documented within Defendant’s Time Records. Plaintiff also
3 challenged whether Defendant maintained lawful meal and rest periods. Plaintiff alleged he-
4 and other employees -were not properly compensated due to Defendant’s failure to maintain
5 accurate time records and a failure to reimburse all travel expenses.
- 6 10. The catalyst of this litigation concerned allegations that Mr. Jenkins and others were denied
7 legally compliant meal and rest periods, and was not paid for all Overtime hours worked.
8 Plaintiff further alleged that Defendants timekeeping policies and employee records were not
9 in compliance with California law. Defendant denied Plaintiff’s allegations entirely and
10 contends that its policies and procedures at all times during the relevant time period complied
11 with California law.
- 12 11. Based on the above, the maximum liability in a case of this type would be in the range of
13 \$20,000-\$30,000. However, without revealing settlement protected communications, it was
14 highly unlikely Plaintiff could ever recover anything approaching a maximum judgment.
- 15 12. I am aware of the Court’s discretion to mitigate penalties pursuant to California Labor Code
16 section 2699(e)(2). To confirm, Plaintiff’s counsel experienced the mitigation of “PAGA”
17 penalties in *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504. In *Carrington*, the
18 Court significantly mitigated PAGA penalties (\$5 per violation), due to the efforts made by the
19 employer to comply with the law.
- 20 13. I agree with *Carrington*, and with the provision of the Labor Code, that penalties *should* be
21 mitigated where violations are minimal (or rare), or where the employer makes significant
22 efforts to comply with the Labor Code.
- 23 14. It is the opinion of Plaintiff’s counsel (myself and my office) that the settlement is fair,
24 adequate, and reasonable.
- 25 15. Plaintiff’s counsel, William B. Sullivan has approximately 29 years of experience in “class
26 action” litigation, both as plaintiff and defense counsel I have over 13 years of experience
27 prosecuting class and representative action claims under the California Labor Code. Plaintiff’s
28 counsel, Eric K. Yaeckel and William B. Sullivan, are the attorneys of record in a matter that

1 was recently heard (and favorably decided) before the California Supreme Court titled
2 *Donohue v. AMN Servs., LLC* (2021) 11 Cal.5th 58. (*Id.*) The *Donohue* matter was a certified
3 class and PAGA action.

4 16. Plaintiff's counsel were lead counsel on approximately 40 employment "wage and hour"
5 claims with class action, or representative action allegations. Based on said experience, it is
6 the opinion of Plaintiff's counsel that this settlement represents a fair and adequate payment.

7 17. Our office advanced approximately \$1,695 dollars in filing fees, attorney messenger fees, e-
8 service, and postage and copying fees. We have agreed to limit our cost request to \$1,250.00
9 to maximize the recovery for the PAGA employees.

10 18. I bill at the hourly rate of \$600 per hour. I have expended at least 35 hours in the service
11 of this matter. $\$600 \times 35 = \$21,000.00$. The majority of my time will be written off. Our
12 office requests an award of fees of 30% of the total recovery in the amount of \$3,000.

13 19. The named Plaintiff Steven Jenkins contributed extensive time and resources in the
14 prosecution of this case. Plaintiff was able to provide information instrumental to the
15 prosecution of this matter including identifying numerous witnesses that could corroborate the
16 claims. Plaintiff also assisted with reviewing and providing insight on Defendant's documents
17 produced. Plaintiffs brought to our attention numerous Labor Code violations that formed the
18 basis of the litigation.

19 20. I know (from experience) that any company who does a detailed background check, will be
20 able to determine that Plaintiff is serving as PAGA and/or class representatives in a lawsuit
21 against their former employer.

22 21. An entire industry exists that allows employers to run extensive background searches on
23 potential employees. Companies who provide these services specifically highlight the fact that
24 their services allows employers to weed out litigious employment candidates. One such service
25 outlines ways that employers can "get a sense of whether a prospective employee is likely to
26 sue" the employer, through background checks and other means, to screen out these employees.
27 www.reliableplant.com/Read/6959/a-solution-to-fear-of-hiring-litigious-employees. Onicra
28 Credit Rating Agency of India states: "Background screening has become a necessity in today's

litigious society." Back Track Screening also represents: "In today's litigious culture, employers simply cannot afford to hire employees who will put their company at risk." <http://www.btscreening.com/wp-content/uploads/2012/09/Screening-101.pdf>.

22. Finally, any employer may simply check the various Superior Court of California websites and conduct a party name search to uncover whether an applicant has previously filed litigation against their employer.

23. Plaintiffs also risked personally owing a large cost award, which I estimate would be well into the tens of thousands of dollars, had the claims been unsuccessful.

24. Despite all the risks Plaintiff, at all times remained committed to securing a monetary recovery on behalf of the entire group of aggrieved employees.

25. In addition to the PAGA claims, Plaintiff possessed individual Labor Code violations that were required to be released as a result of this settlement.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 8th day of July, 2024 at San Diego, California.


Eric K. Yaeckel

EXHIBIT 1

SETTLEMENT AND RELEASE AGREEMENT (PAGA)

This Confidential Settlement and Release Agreement (“Agreement”) is made and entered into between Plaintiff Steven Jenkins, acting in a private attorney general capacity, and Defendants, Briana B. Chhin and Sokoun Chhin.

I. DEFINITIONS

The following terms, when used in this Settlement Agreement, shall have the following meanings:

1. “Action” means the matter titled *Steven Jenkins v. Niva Labs, LLC et al.*, Los Angeles County Superior Court Case No. 23CHCV02971.

2. “Aggrieved Employees” consist of all current and former non-exempt employees who worked at least one pay period for Defendants in California at any time during the PAGA Period. The number of Aggrieved Employees, including Plaintiff, is estimated to be 8 individuals.

3. “Defendants” means Niva Labs, LLC, Briana B. Chhin, Sokoun Chhin, and Joshua Synder.

4. “Complaint” means the Complaint filed on October 3, 2023, described below.

5. “Court” means the Superior Court of California for the County of Los Angeles.

6. “Individual Defendants” means Brianna B. Chhin, Sokoun Chhin and Joshua Synder.

7. “Individual PAGA Payment” means the amount to be paid to each Aggrieved Employee based on the formula described herein.

8. “LWDA” means the California Labor and Workforce Development Agency.

9. “Gross Settlement Amount” is the non-reversionary sum of Ten Thousand Dollars (\$10,000.00), which represents the total and only amount payable under this Settlement Agreement by Defendants Briana Chhin and Sokoun Chhin, including, without limitation, payments to all Aggrieved Employees, payment to the LWDA, payment of Plaintiff’s attorneys’ fees and costs, and payment of Plaintiff’s Section 1542 Release.

10. “Net Settlement Amount” is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts, if approved by the Court, are subtracted from the Gross Settlement Amount: (a) Plaintiff’s attorneys’ fees of \$3,000.00; (b) Plaintiff’s costs pursuant to a Memorandum of Costs but not to exceed \$1,250; (c) Plaintiff’s enhancement and separate section 1542 Release of \$3,500.00.

11. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

12. “PAGA Period” means the time period from July 26, 2022, through May 10, 2024.

13. “PAGA Released Claims” means all claims under the PAGA which arose during the PAGA Period and (i) were asserted in Plaintiff’s Complaint or (ii) could have been asserted in the Action based upon the facts alleged in Plaintiff’s Complaint. The PAGA Released Claims include, but are not limited to, claims under the PAGA for civil penalties for alleged violations of Labor Code §§ 201-203, 226, 226.7, 510, 512, 558, 1194; and claims for attorneys’ fees, costs, or interest resulting therefrom. The release of the PAGA Released Claims shall extend for the duration of the PAGA Period.

14. “Parties” means, collectively, Plaintiff and the Individual Defendants.

15. “Plaintiff’s Counsel” means Eric Yaeckel and Ryan Kuhn of Sullivan & Yaeckel Law Group, APC.

16. “Released Parties” means Briana B. Chhin, Sokoun Chhin, and Joshua Synder and their present and former members, officers, directors, employees, shareholders, agents, trustees, representatives, attorneys, insurers, reinsurers, parent companies, subsidiaries, divisions, affiliates, predecessors, successors, assigns, as well as any individual or entity that could be alleged to be jointly liable with the Individual Defendants. Please Note: Defendant Niva Labs, LLC has ceased doing business and is no longer an active entity with the California Secretary of State. There is no one with authority to appear on its behalf. Plaintiff will file a dismissal with prejudice as to Niva Labs, LLC, upon the approval of this settlement by the court. However, Niva Labs, LLC is not a party to this agreement or its release provisions.

17. “Effective Date” means the date the PAGA Agreement is approved by the Court.

II. RECITALS

1. Plaintiff alleges that he performed work for Defendants, in California during the PAGA Period and is therefore an Aggrieved Employee.

2. On July 26, 2023, Plaintiff provided written notice to the LWDA and Defendants asserting claims for civil penalties pursuant to PAGA stemming from alleged violations of various Labor Code sections and his intent to file a civil lawsuit under the PAGA.

3. On October 3, 2023, Plaintiff filed an action entitled *Steven Jenkins v. Niva Labs, LLC et al.*, Los Angeles County Superior Court Case No. 23CHCV02971. In his Complaint, Plaintiff sued in a representative capacity only seeking civil penalties pursuant to PAGA. Plaintiff alleged the following causes of action: (i) meal and rest period violations, (ii) minimum wage violations, (iii) overtime violations, (iv) wage statement violations, (v) failure to reimburse, (vi) failure to pay wages upon termination, and (vii) Failure to Produce Employee Records.

4. In response to Plaintiff’s Counsel’s formal and informal discovery requests, The Individual Defendants provided Plaintiff’s Counsel with detailed information and documents (including timekeeping and payroll records) in order for Plaintiff’s Counsel to investigate Plaintiff’s allegations and value the claims for purposes of settlement.

5. After substantive arm's length settlement negotiations, the Parties agreed to fully and finally resolve the PAGA Released Claims as to Plaintiff and Aggrieved Employees, as well as Plaintiff's individual claims against the Individual Defendants.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **Non-Admission.** Nothing in this Settlement Agreement shall be construed to be an admission by Plaintiff that his claims do not have merit or by Defendants of any liability or wrongdoing as to Plaintiff, Aggrieved Employees or any other person, and the Individual Defendants specifically disclaims any such liability or wrongdoing. The Parties have entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and risks. This Settlement Agreement and any related court documents or orders are not and may not be cited or admitted as evidence of liability.

2. **Gross Settlement Amount.** Briana Chhin and Sokoun Chhin shall pay \$10,000.00 as the non-reversionary Gross Settlement Amount. Briana Chhin and Sokoun Chhin will not pay more than the Gross Settlement Amount. Defendants Briana Chhin and Sokoun Chhin shall deposit the Gross Settlement Amount into the their counsel's Client Trust Account within 10 calendar days after Court Approval. Defendants Briana Chhin and Sokoun Chhin shall be deemed to have fully met its payment obligations upon payment to their' counsel's Client Trust Account and shall assume no responsibility for the security or distribution of settlement funds.

The Gross Settlement Amount shall be used to pay: (1) Amounts distributable to the LWDA and Aggrieved Employees; (2) Plaintiff's attorneys fees and costs; (3) Plaintiff's Individual Section 1542 Release, and (4) Settlement administration costs incurred by counsel for Defendants Briana Chhin and Sokoun Chhin.

4. **Net Settlement Amount.** The Parties agree that the following amounts should be subtracted from the Gross Settlement Amount, if approved by the Court, resulting in a Net Settlement Amount to distribute to the LWDA and Aggrieved Employees:

a. **Plaintiff's Attorneys' Fees and Costs.** The Individual Defendants will not oppose Plaintiff's request for attorneys' fees in the amount of \$3,000.00 and costs of litigation not to exceed \$1,250.00 incurred in prosecuting this Action. In the event the Court approves less than these amounts, the difference will be added to the Net Settlement Amount (although Plaintiff may appeal an order granting less than the full amount sought for attorneys' fees and costs so long as he does not seek any additional amount that would result in a greater Gross Settlement Amount). Briana Chhin and Sokoun Chhin, via counsel for Defendants Briana Chhin and Sokoun Chhin, will report these payments on IRS Form 1099 issued to Plaintiff's Counsel.

5. **Allocation of Net Settlement Amount.** One hundred percent (100%) of the Net Settlement Amount shall be designated as "civil penalties" and shall be distributed 75% to the LWDA and 25% to Aggrieved Employees, pursuant to Lab. Code § 2699(i). The 25% portion to be paid to Aggrieved Employees shall be paid to all Aggrieved Employees pro rata based on the number of pay periods worked by each Aggrieved Employee during the PAGA Period. The parties agree that should the Court deny approval of the Settlement based on the allocation of the Gross

Settlement Amount or the Net Settlement Amount, the parties agree to re-negotiate the entire settlement in good faith in an effort to obtain approval of the Settlement with the agreement that Briana Chhin and Sokoun Chhin shall not be required to pay any more than \$10,000.00 for the settlement inclusive of attorneys' fees, costs, and administrative costs.

6. **PAGA Released Claims.** Plaintiff agrees that upon entry of an Order approving the Settlement, and upon the Settlement being fully funded, Plaintiff and all Aggrieved Employees will have fully and finally released the PAGA Released Claims against the Released Parties that arose during the PAGA Period. Upon entry of the Order approving the settlement, Plaintiff and all Aggrieved Employees will be forever barred from pursuing any and all of the PAGA Released Claims that arose during the PAGA Period against the Released Parties.

7. **Number of Affected Employees:** Briana Chhin and Sokoun Chhin represent that there are approximately 8 Affected Employees as of May 10, 2024.

8. **Covenants and Representations by Plaintiff and Plaintiff's Counsel.**

a. Plaintiff represents and warrants that he has not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement Agreement.

b. Plaintiff acknowledges that he has read this Settlement Agreement, that he fully understands his rights, privileges, and duties under the Settlement Agreement, and enters into this Settlement Agreement freely and voluntarily. Plaintiff further acknowledges that he has had the opportunity to consult with his attorneys to explain the terms of this Settlement Agreement and the consequences of signing this Settlement Agreement.

9. **Covenants and Representations by Individual Defendants and Defendant's Counsel**

Ability to Fund Settlement. Defendants Briana Chhin and Sokoun Chhin represent that they are able to pay the Settlement Amount within the time frame set forth herein. Specifically, Defendants Brina Chhin and Sokoun Chhin have reviewed their financial status in contemplation of this Settlement Agreement and Defendants Briana Chhin and Sokoun Chinn have determined they are able to comply with the Settlement. . Defendants Briana Chhin and Sokoun Chhin agree that the failure to review their financial status before entering this Settlement Agreement shall be deemed an intentional misrepresentation. Defendants Briana Chinn and Sokoun Chhin further affirm that they have not consulted or retained bankruptcy counsel or contemplated a bankruptcy filing as of the date of this Settlement.

10. **General Release of all Claims by Plaintiff**

General Release: In exchange for the Settlement Amount, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Plaintiff, for himself and his heirs, assigns, executors, administrators, agents and successors, past and present (collectively, the "Affiliates"), hereby fully, and without limitation, release, covenants not to sue and forever discharges the Individual Defendants, including all members owners, subsidiaries, parent companies, divisions, affiliated corporations, affiliated partnerships, owners, trustees,

directors, officers, shareholders, partners, agents, employees, consultants, insurance carriers, attorneys, assigns, administrators, heirs, predecessors, and successors, past and present (collectively the “Releasees”), both individually and collectively, from any and all rights, claims, demands, liabilities, actions and causes of action whether in law or in equity, suits, damages, losses, attorneys’ fees, costs, and expenses, of whatever nature whatsoever, known or unknown, fixed or contingent, suspected or unsuspected (collectively, the “Claims”), that Plaintiff or the Affiliates now have, or may ever have, against any of the Releasees for any acts or omissions by Defendants or any of the other Releasees occurring on or before the Effective Date of this Agreement. Notwithstanding the foregoing, the Parties specifically exclude from this release any claims that cannot be waived as a matter of law.

Plaintiff and Affiliates acknowledge that they are aware of and familiar with the provisions of Section 1542 of the California Civil Code, which provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Plaintiff and Affiliates hereby waive and relinquish all rights and benefits that they have under Section 1542 of the California Civil Code, or the law of any other country, territory, state or jurisdiction, or common law principle, to the same or similar effect.

11. Confidentiality, Non-Involvement, & Non-Disparagement.

a. Except as provided below to the extent necessary to effectuate the settlement or as required by court or legal process, Plaintiff and Plaintiff’s Counsel will keep the facts relating to the existence of this Agreement, the negotiations leading to the execution of this Agreement, the terms of this Agreement, and the alleged factual basis for his claims, if any, confidential. Neither Plaintiff nor Plaintiff’s Counsel shall issue a press release, hold a press conference, publish information about the settlement on any website or through any social media or otherwise publicize the settlement or communicate its terms in public or in private, unless ordered by the Court. However, for the limited purpose of establishing adequacy of counsel in future actions, Plaintiff’s counsel may reference the Action only by name and case number in a declaration establishing adequacy as class or representative counsel.

b. Plaintiff agrees that he will not criticize, disparage, defame, or in any way comment negatively to anyone about the Individual Defendants, or knowingly do or say anything that could harm the interests or reputation of the Individual Defendants.

c. Plaintiff agrees, covenants, and represents that he shall not voluntarily aid, assist, cooperate with or encourage anyone in connection with the pursuit of any claim or dispute against Defendants or any of the Releasees, unless properly compelled by deposition or other legal process. Plaintiff further agrees not to voluntarily involve himself or participate in any action in which the Individual Defendants or any of the Releasees is a party without first obtaining the advance written permission of the Individual Defendants. Plaintiff further agrees, covenants, and represents that he shall provide advance written notice to the Individual Defendants in the event that he is subpoenaed to testify, or provide documents at deposition or at trial, relating to (i) any

actual, possible, or perceived violation by the Individual Defendants or any other Releasee of any federal, state, local, or administrative law, rule, or regulation; (ii) the negotiations relating to and the terms of, this Agreement; and (iii) any acts or omissions by the Individual Defendants or any of the other Releasees occurring prior to the Effective Date of this Agreement. This Section is intended to preclude the voluntary aid or involvement as described above, and nothing in this Section is intended to interfere with any protected right to file charges, testify, assist, or participate in any manner in an EEOC investigation, hearing, or proceeding, and nothing in this Section is intended to influence the substance of any aid or involvement which is properly compelled by legal process.

d. Plaintiff agrees that in the event that he breaches any of the provisions of this Section III.10, it would be impractical or extremely difficult to fix actual damages. Therefore, Plaintiff agrees that in the event of such a breach, he shall pay as liquidated damages, and not as penalty, the sum of FIVE HUNDRED DOLLARS AND ZERO CENTS (\$500.00), per proven breach which represents reasonable compensation to Defendants for the loss incurred because of such a breach. In any action to enforce this Section, the Individual Defendants shall be awarded reasonable attorneys' fees and costs.

12. To permit judicial review and approval of the Settlement, as required by Labor Code section 2698, *et seq.*, Plaintiff's Counsel will file the Settlement Agreement with the Court and submit the Settlement to the LWDA as part of the parties' seeking Court approval of the Settlement, per Labor Code § 2699(1)(2).

13. **Filing of Request for Approval of PAGA Settlement by Plaintiff's Counsel.** Plaintiff's Counsel shall be responsible for preparing an *ex parte* application, or motion if required, for approval of the PAGA Settlement and agrees to submit a draft to counsel for Defendants Briana Chhin and Sokoun Chhin in advance of filing. Plaintiff's counsel shall schedule the *ex parte* or file the motion on or before June 1, 2024.

14. **Termination of Settlement Agreement.** If the Court does not approve the settlement, if the Court does not enter judgment as provided for in this Settlement Agreement, or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or if one or more of the material terms of the Settlement Agreement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within 10 days of written notice thereof to elect to terminate the Settlement Agreement and the Parties' entire settlement, in which case the Settlement Agreement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement Agreement.

15. **Judgment.** As part of the application for approval of the Settlement, the Court shall retain jurisdiction over the Action under Cal. Code Civ. Proc. § 664.6 for the purpose of enforcing the terms of the Settlement Agreement, including all terms therein, following approval of the Settlement, and permanently enjoins and bars the prosecution of any of the PAGA Released Claims against any of the Released Parties upon the judgment being entered and the Settlement being fully funded. This Settlement Agreement is expressly conditioned upon the Court entering judgment as set forth herein or in a materially similar judgment. The judgment will not release or bar any claims other than the PAGA Released Claims as to Plaintiff and Aggrieved Employees.

IV. **ADMINISTRATION OF SETTLEMENT**

1. **Settlement Administration.** Defendant Briana Chhin and Sokoun Chhin, through their counsel Lerner & Weiss APC, agree to self-administer the settlement payments, subject to verification to Plaintiff's counsel.

2. **Provision of Information for Aggrieved Employees.** Within ten (10) calendar days after notice of entry of an order approving the settlement, counsel for Defendants Briana Chhin and Sokoun Chhin shall verify to Plaintiff's counsel the information needed to pay the Aggrieved Employees. Defendants Briana Chhin and Sokoun Chhin will in good faith compile from its records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved Employee's full name, last known mailing address, number of Affected Pay Periods worked during the PAGA Period and each employees' proposed settlement share based on the Pay Periods worked. Defendants Briana Chhin and Sokoun Chhin shall obtain approval from Plaintiff's counsel of the calculations before mailing Individual PAGA Payments.

3. **Explanatory Letter and Individual PAGA Payments.** Defendants Briana Chhin and Sokoun Chhin, through their counsel, will send each Aggrieved Employee a check for his or her Individual PAGA Payment along with an agreed upon explanatory letter. Checks will remain negotiable for 180 days. Each Individual PAGA Payment shall be deemed penalties and reported using IRS Form 1099, with no withholdings taken.

4. **Undeliverable Notices.** Defendants Briana Chhin and Sokoun shall exercise their best judgment to determine the current mailing address for each Aggrieved Employee. The address identified by the Defendants Briana Chhin and Sokoun Chhin as the current mailing address shall be presumed to be the best mailing address for each Aggrieved Employee.

Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, Defendants Briana Chhin and Sokoun Chhin will promptly attempt to determine the correct address using WestLaw PeopleMap utilizing the name, address or Social Security number of the Aggrieved Employee involved and will perform up to a single re-mailing if a new address is located.

Funds represented by checks returned as undeliverable after a re-mailing, checks for whom the Settlement Administrator could not locate an updated address after performing a skip trace, and funds represented by checks remaining un-cashed more than 180 days after issuance shall become void, and the funds associated with such voided checks, plus any accrued interest that has not otherwise been distributed (together, "Unused Funds"), shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code§ 1500 et seq., for the benefit of those Aggrieved Employees who did not cash their checks until such time that they claim their property. The Parties agree that this disposition results in no "unpaid cash residue," or "unclaimed or abandoned funds" under California Civil Procedure Code§ 384, as amended effective June 27, 2018, as the entire Net Settlement Amount will be paid out, whether or not they all cash their payment checks.

5. **Distribution of Payments.** Within ten (10) calendar days of the Settlement being fully approved, counsel for Defendants Briana Chhin and Sokoun Chhin shall issue payments to (1) Aggrieved Employees; (2) the LWDA; (3) Plaintiff's Counsel for Plaintiff's Counsel's Court-approved attorneys' fees and litigation costs and expenses; and (4) Plaintiff.

6. **Accounting.** Within 45 days after all payments have been made under the Settlement, Defendants Briana Chhin and Sokoun Chhin will provide an accounting under oath to the Plaintiff of the amounts paid from the settlement.

7. **Tax Consequences.** Neither Plaintiff nor the Individual Defendants, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Settlement Agreement.

V. MISCELLANEOUS PROVISIONS

1. **Drafting.** The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Party shall be considered the "drafter" of this Settlement Agreement for purposes of having terms construed against that Party.

2. **Successors.** This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, and successors.

3. **Costs and Fees.** The Parties shall each bear their own costs and attorneys' fees incurred in connection with this Settlement Agreement, the Action, and Plaintiff's claims, except as otherwise set forth specifically herein.

4. **Governing Law.** This Settlement Agreement shall be construed under and governed by the laws of the State of California. This Settlement Agreement shall be deemed to have been entered into in Los Angeles, California, and all questions of validity, interpretation, or performance of any of its terms or of any rights or obligations of the Parties to this Settlement Agreement shall be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Settlement Agreement, it shall be brought in the State of California, County of Los Angeles.

5. **Complete Agreement.** The Parties each acknowledge and represent that no promise or representation not contained in this Settlement Agreement has been made to them with respect to the subject matter of this Settlement Agreement, and acknowledge and represent that this Settlement Agreement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the PAGA claim in the Action.

6. **Nullification of Settlement Agreement.** In the event that: (i) the Court does not approve the settlement as materially provided herein; or (ii) the settlement does not become final for any other reason, then this Settlement Agreement and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their respective positions before the Settlement was executed.

7. **Judgment and Continued Jurisdiction.** The Parties agree that the Court will have continuing jurisdiction under Cal. Code Civ. Proc. § 664.6 for purposes of addressing: (i) the interpretation and enforcement of the terms of the settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement Agreement.

8. **Amendment or Modification.** This Settlement Agreement may be amended or modified only by a written instrument, signed by either the Parties or their successors-in-interest, or by counsel for all Parties. For the purposes of this section, neither an email message nor a text message shall constitute a written instrument.

9. **Authorization to Enter into Settlement Agreement.** Counsel for all Parties warrant and represent that they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

10. **Execution and Counterparts.** This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

11. **Acknowledgement that the Settlement is Fair and Reasonable.** The Parties believe this Settlement Agreement is a fair, adequate and reasonable settlement of the Action, and have arrived at this settlement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this settlement.

12. **Invalidity of Any Provision.** Before declaring any provision of this Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Settlement Agreement valid and enforceable.

13. **Severability.** If any term or provision of this Settlement Agreement is held to be invalid or unenforceable, the remaining portions of this Settlement Agreement will continue to be valid and will be performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

14. **Waiver.** No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

15. **Enforcement Action.** In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

16. **Mutual Preparation.** The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed more strictly against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

17. **Representation by Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and this Settlement Agreement has been executed with the consent and advice of counsel and reviewed in full.

18. **Cooperation and Execution of Necessary Documents.** All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement.

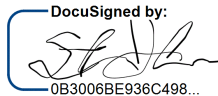
19. **Appearances: Neither** the execution of this Settlement Agreement by any party, person and/or individual, nor the submission of this Settlement Agreement to the court for approval, shall not constitute a special or general appearance by any party, person and/or individual.

20. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this settlement, and further intend that this Settlement Agreement will be fully enforceable and binding on all Parties and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

IN WITNESS THEREOF, the Parties each acknowledge that she/it has read the foregoing Settlement Agreement, accepts, and agrees to the provisions contained in this Settlement Agreement and hereby executes it voluntarily and with full understanding of its consequences.

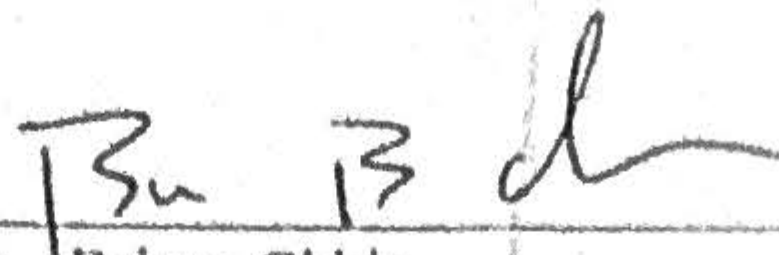
7/1/2024

Dated: May __, 2024

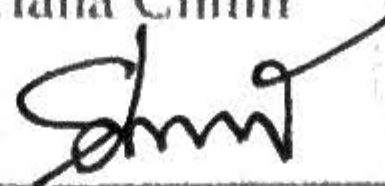
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0B3006BE936C498...

By: Steven Jenkins

Dated: June 28, 2024


By: Briana Chhin

Dated: June 28, 2024


By: Sokoun Chhin

Dated: June 28, 2024

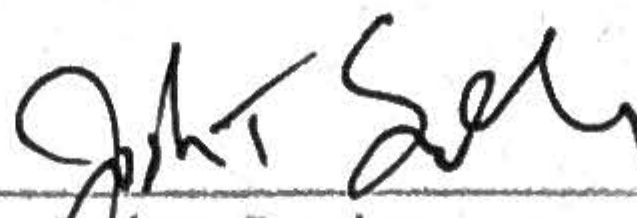

By: Joshua Synder

EXHIBIT 2

NOTICE OF PAGA SETTLEMENT

Jenkins v. Niva Labs LLC et al.

Superior Court of California for the County of Los Angeles, Case No. 23CHCV02971

SIMID «SIMID»
«FirstName» «LastName»
«Address1» «Address2»
«City» «State» «Zip»

You are receiving this Notice as a result of a lawsuit brought on a representative basis under the Private Attorneys General Act, California Labor Code § 2698 *et seq.* (“PAGA”) (“the Action”). The Action was brought Plaintiff is Steven Jenkins (“Plaintiff”), against Defendants NIVA LABS LLC, BRIANA B. CHHIN, SOKOUN CHHIN and JOSHUA SNYDER (“Defendants”) on behalf of the State of California and other allegedly aggrieved employees who worked for Defendants in California from July 26, 2022, through May 10, 2024.

Plaintiff alleged that Defendants owed civil penalties under PAGA for alleged violations of the California Labor Code. The parties reached a settlement of Plaintiff’s claims, and on [DATE], the Court approved the settlement, including the amount of civil penalties to be paid under the settlement. A portion of the civil penalties to be paid under the settlement goes to the State of California’s Labor and Workforce Development Agency, and another portion goes to the allegedly aggrieved employees. In agreeing to this settlement, Defendants do not admit that it is liable in any way to the State of California and/or the allegedly aggrieved employees. Defendants expressly denies all claims and allegations in the Action, denies that it owes any penalties, and asserts that it has fully complied with all applicable Labor Code provisions. In approving the settlement, the Court did not decide the merits of Plaintiff’s claims.

The settlement consists of a Gross Settlement Amount of \$10,00.00. The Court has awarded the following amounts to be paid out of that Gross Settlement Amount: (1) an award of attorneys fees in the amount of \$ _____; (2) costs of litigation reimbursement in the amount of \$ _____; (3) costs of settlement administration fees in the amount of \$ _____; and (4) Plaintiff’s Representative Enhancement Award for serving as the named Plaintiff, and executing a full release of claims, in the amount of \$ _____.

Following the award of the above contingent costs, there will be a Net Settlement Amount of \$ _____ which will be the the total PAGA penalty. 75% of this amount (\$ _____) will be paid to the California Labor and Workforce Development Agency. The remaining 25% (\$ _____) will be paid between all of the allegedly aggrieved employees. Your enclosed share is calculated based on the total number of pay periods you worked during the PAGA Period, which is from July 26, 2022, through May 10, 2024.

According to the Defendants’ records, you have been identified as one of the employees on whose behalf this case was brought. Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties based upon the Court approved allocation. This check will remain valid for 180 days from the date of issuance.

While you were not a party of the Action, you and the State of California have been bound by the settlement entered in this matter and approved by the Court, including the release contained in the settlement. The release pertains to civil penalties under PAGA only. The release includes all claims under PAGA that were alleged in the Action, including claims for civil penalties for alleged violations of the California Labor Code governing meal and rest periods, unpaid minimum and overtime wages, itemized wage statements, business expense reimbursement, and final pay requirements. You will bound by the release of PAGA claims in the Action, even if you do not cash the enclosed check.

Please Note: One hundred percent (100%) of your portion of the civil penalties under this settlement will be considered penalties and may be subject to local, state, or federal tax withholdings and will be reported to the IRS and state tax authorities. You should rely on your own tax advisors as to the tax consequences of your portion of the settlement. Neither Plaintiff nor Defendants have made any representations or warranties regarding the taxation of your portion of the settlement. Nothing within this notice or any other communication shall constitute or be construed or relied upon as tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended).

Do not call or write the Court or Office of the Clerk to ask questions about the settlement or to ask questions about the claims process. If you have any questions, you may call or write to the Settlement Administrator using the contact information at the top of this correspondence.