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6 Attorneys for Plaintiff,
HERMILA RIOS, on behalf of herself
7 and all others similarly situated

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN BERNARDINO**

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11 HERMILA RIOS, on behalf of herself and all
12 others similarly situated,

13 Plaintiffs,

14 v.

15 NONGSHIM AMERICA, INC., a California
16 corporation; and DOES 1 through 100,
inclusive,

17 Defendants.

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

APR 12 2019

By *Wimala Blanchard*
WIMALA BLANCHARD, Deputy

CASE NO.: CIVDS1807390

[Assigned for all purposes to the Hon. David
Cohn in Dept. 26]

~~[PROPOSED]~~ **ORDER FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

HEARING INFORMATION:

DATE: April 12, 2019
TIME: 8:30 a.m.
DEPT: 26

1 On April 12, 2019, this Court considered plaintiff Hermila Rios's ("Plaintiff") Motion for
2 Preliminary Approval of Class Action Settlement* and Provisional Class Certification for Settlement
3 Purposes Only ("Motion for Preliminary Approval"), Declaration of David D. Bibiyan, the Joint
4 Stipulation Re: Class Action and Representative Action Settlement (the "Settlement Agreement"),
5 the Notice of Proposed Class Action Settlement ("Class Notice"), and the documents submitted in
6 support of the Motion for Preliminary Approval. David D. Bibiyan of Bibiyan Law Group, P.C.
7 appeared for and on behalf of Plaintiff and the Plaintiff Class. Eric Nelson Lindquist of the Law
8 Offices of Eric Nelson Lindquist and Julie M. Capell of Davis Wright Tremaine LLP appeared on
9 behalf of defendant Nongshim America, Inc. ("Defendant"). There were no other appearances
10 made.

11 Having considered the Motion for Preliminary Approval, the Declaration of David D.
12 Bibiyan, and all supporting legal authorities and documents, the Court ordered as follows:

13 1. The definitions set out in the Settlement Agreement are incorporated by
14 reference into this Order; all terms defined therein shall have the same meaning in this Order.

15 2. The Court certifies the following settlement class for the purpose of settlement only: all
16 current and former non-exempt, hourly-paid employees of Defendant who worked in California
17 from March 28, 2014 through February 17, 2019.

18 3. The Court preliminarily appoints named plaintiff Hermila Rios as Class
19 Representative and David D. Bibiyan of Bibiyan Law Group, P.C. as Class Counsel.

20 4. The Court preliminarily approves the proposed class settlement upon the terms and
21 conditions set forth in the Settlement Agreement. The Court finds, on a preliminary basis, that the
22 settlement appears to be within the range of reasonableness of settlement that could ultimately be
23 given final approval by the Court. It appears to the Court on a preliminary basis that the settlement
24 amount is fair, adequate and reasonable as to all potential settlement class members when balanced
25 against the probable outcome of further litigation relating to liability and damages issues. It further
26 appears that extensive and costly investigation and research has been conducted such that counsel
27 for the parties at this time are reasonably able to evaluate their respective positions. It moreover
28 appears to the Court that the settlement at this time will avoid substantial additional costs by all

1 parties, as well as the delay and risks that would be presented by the further prosecution of the
2 Action. It also appears that the settlement has been reached as the result of intensive, non-collusive,
3 arms-length negotiations utilizing an experienced third party neutral.

4 5. The Court approves, as to form and content, the proposed Class Notice that has been
5 submitted herewith.

6 6. The Court directs the mailing of the Class Notice by first-class mail to the settlement
7 class members in accordance with the procedures set forth in the Settlement Agreement. The Court
8 finds that the dissemination of the Class Notice set forth in the Settlement Agreement complies with
9 the requirements of law, and appears to be the best notice practicable under the circumstances.

10 7. The Court hereby preliminarily approves the definition and disposition of the Gross
11 Settlement Amount of \$1,080,000.00, which is inclusive of attorneys' fees not to exceed one-third
12 of the Gross Settlement Amount or \$360,000.00, in addition to costs not to exceed \$15,000.00,
13 incentive award of \$5,000.00 to the named Plaintiff, costs of claims administration of no more than
14 \$17,500.00, and PAGA penalties in the amount of \$30,000.00, of which \$22,500.00 (75%) will be
15 paid to the Labor Workforce and Development Agency ("LWDA") and \$7,500.00 (25%) will be
16 paid to participating class members. Defendant shall pay the employer's share of payroll taxes on
17 the wage portion of the settlement payments to settlement class members apart, separate from and
18 in addition to the Gross Settlement Amount.

19 8. The Court deems CPT Group, Inc. ("CPT Group") the Claims Administrator, and
20 payment of administrative costs, not to exceed \$17,500.00, out of the Gross Settlement Amount for
21 services to be rendered by CPT Group on behalf of the class. The Claims Administrator shall
22 prepare and submit to Class Counsel and Defendant's Counsel a declaration attesting to the
23 completion of the notice process as set forth in the Settlement Agreement, including an explanation
24 of efforts to resend any Class Notice returned undeliverable and the total number of opt-outs and
25 objections received before and after the deadline.

26 9. The Court directs Defendant to provide the Claims Administrator with the "Class
27 List" for Class Members providing the following information: (1) names; (2) last known home
28 address and telephone numbers; (3) dates of employment or number of workweeks for the class

1 member during the class period; and (4) social security number. Defendant shall provide the "Class
2 List" as referenced herein to the Claims Administrator pursuant to the terms of the Settlement
3 Agreement.

4 10. The Claims Administrator shall use the National Change of Address database (U.S.
5 Postal Service) to check for updated addresses for Class Members and shall then mail, via first class
6 U.S. Mail, the Class Notice to Class Members as approved in paragraph 5 herein, in accordance
7 with the procedure set forth in the Settlement Agreement.

8 11. The deadline by which settlement class members may dispute the number of
9 workweeks, opt out or object shall be forty-five (45) days from the date of mailing of the Class
10 Notice and Response Form. Any Class Member who desires to be excluded from the settlement
11 must timely mail his or her written request for exclusion in accordance with the Class Notice. All
12 such persons who properly and timely exclude themselves from the settlement shall not be class
13 participants, and shall have no rights with respect to the settlement, and no interest in the settlement
14 proceeds.

15 12. The deadline for filing objections to any of the terms of the settlement shall be forty-
16 five (45) days from the date of mailing of the Class Notice and Response Form. Any Class Member
17 who wishes to object to the settlement should serve a written objection on the Claims Administrator,
18 who will email a copy of the objection to Class Counsel and counsel for Defendant. Class Counsel
19 will lodge a copy of the objection with the Court. The objection should set forth, in a clear and
20 concise manner, the factual and legal basis for the objection. Any Class Member who fails to make
21 his or her objection in the manner provided for in this Order may still appear in person at the final
22 approval hearing to voice his or her objection with or without being represented by counsel.

23 13. All papers filed in support of final approval, including supporting documents for
24 attorneys' fees and costs, shall be filed by per code, 2019.

25 14. Class Counsel and Counsel for Defendant shall file any responses to any written
26 objections submitted to the Court by five (5) court days before the final approval hearing.

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7-18-19
15. A final approval hearing shall be held with the Court on _____ at _____ a.m./p.m. in Department "S-26" of the above-entitled Court to determine: (1) whether the proposed settlement is fair, reasonable, and adequate and should be finally approved by the Court; (2) the amount of attorneys' fees and costs to award Class Counsel; and (3) the amount of incentive award to the Class Representative.

16. In the event the settlement does not become effective in accordance with the terms of the Settlement, or the settlement is not finally approved, or is terminated, cancelled or fails to become effective for any reason, this Order shall be rendered null and void and shall be vacated, and the parties shall revert to their respective positions as of the commencement of the Action. The parties will be free to assert any claim or defense that could have been asserted at the outset of the Action.

IT IS SO ORDERED.

Dated: 4-12, 2019

DAVID COHN

Judge of the Superior Court