

DC-23-13542

CAUSE NO. _____

<p>JOLENE LEVIN AND AVRON LEVIN</p> <p style="text-align: center;"><i>Plaintiffs,</i></p> <p>v.</p> <p>NORVANIVEL USA, LLC,</p> <p style="text-align: center;"><i>Defendant.</i></p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>IN THE DISTRICT COURT OF</p> <p style="text-align: center;">116th</p> <p style="text-align: center;">_____ JUDICIAL DISTRICT</p> <p style="text-align: center;">DALLAS COUNTY, TEXAS</p>
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PLAINTIFFS’ ORIGINAL PETITION

Plaintiffs Jolene (“Ms. Levin”) and Avron Levin (“Mr. Levin”) (collectively “Plaintiffs” or the “Levins”) file this Petition against Defendant NorvaNivel USA, LLC (“Defendant” or the “Company”) and would respectfully show the Court as follows:

I. NATURE OF THE CASE

This is a case of wrongful terminations being used to squeeze out minority business owners. Plaintiffs Jolene and Avron Levin are a husband-and-wife entrepreneur couple that started a business in Sydney, Australia designing innovative, educational furniture. After developing their furniture business there for several years, the Levins moved the business to the United States. Once in the United States, the Levins started NorvaNivel USA, LLC, a company that designs and manufactures premium learner-centered educational spaces and products that promote engagement and inclusion. After a few years, the Levins sold a portion of their business to UnitedforGrowth, LLC (“UFG”), a company headed by Mr. Mark Lewis (“Mr. Lewis”). Jolene Levin, through the Tamale Discretionary Trust, retained a 30% ownership interest in the Company.¹

¹ The transaction created a new company, but retained the same name, NorvaNivel USA, LLC. As used herein, the “Company” refers to NorvaNivel USA, LLC, an Ohio limited liability company.

As a part of this transaction, the Levins were retained in high-level management to guide the Company's vision and future. Mr. Levin was employed by the Company in a design capacity. Ms. Levin is the director of the minority Member,² Co-Manager of the Company, and was employed by the Company in key leadership roles.

Both the Levins were employed by the Company under nearly identical employment agreements. Ms. Levin's employment is governed by an Employment Agreement effective January 20, 2022 ("Ms. Levin's Agreement") which was amended on July 31, 2022 ("Ms. Levin's Amended Agreement") (collectively "Ms. Levine's Employment Agreement"). Under the Employment Agreement, Ms. Levin was employed by the Company for an initial two-year period commencing on January 20, 2022, first as President of the Company and then as Co-Founder and Director of Strategy of the Company. *See* Ex. A; Ex. B. Her assigned duties included, among other things, "forming strategic partnerships of the Company's business." Ex. B, Section 2. Mr. Levin's employment is governed by an Employment Agreement effective January 20, 2022 (Mr. Levin's Agreement) which provides that Mr. Levin was employed for an initial two-year period commencing on January 20, 2022, as Design Director of the Company.³ *See* Ex. C.

Shortly after the transaction was finalized, it became clear that UFG and Mr. Lewis were not invested in the success of the Company and instead were merely trying to take as much of the innovative work product created by the Levins for their own competing company. UFG and Mr. Lewis pretextually and wrongfully terminated the Levins on April 20, 2023—eight months prior to the term of employment provided in the Employment Agreements. The pretextual reason for the termination was that the Levins breached the confidentiality requirements of the Employment Agreement. In reality, Ms. Levin had conversations with individuals in the educational industry

² Ms. Levin is director of the Tamale Discretionary Trust which owns 30% of the Company.

³ Mr. Levin was also employed by UFG. Mr. Levin only brings claims in this suit against the Company.

about potential future opportunities related to the Company, and she was fired because of disagreements with Mr. Lewis about the direction of the Company. Mr. Levin was also fired even though he did not disclose any information. The Levins files this action to seek relief to which they are entitled under the Employment Agreements for their terminations without cause.⁴

II. DISCOVERY CONTROL PLAN AND RULE 47 STATEMENT

1. Pursuant to Texas Rules of Civil Procedure 190.3, the Levins intend to conduct discovery under a Level 3 discovery control plan and affirmatively plead that this suit is not governed by the expedited actions process.

2. The Levins seeks monetary relief greater than \$250,00 but not more than \$1,000,000, inclusive of damages, attorneys' fees, and costs, and non-monetary relief in addition to all other relief to which she is justly entitled.

III. PARTIES

3. Plaintiff Jolene Levin is a natural person residing in Texas.

4. Plaintiff Avron Levin is a natural person residing in Texas.

5. Defendant NorvaNivel USA, LLC is an Ohio limited liability company that has engaged in business in Texas by entering into contracts with Texas residents. Defendant NorvaNivel USA, LLC is a foreign limited liability company organized under the laws of Ohio. NorvaNivel USA, LLC is doing business in Texas and is required to register in the state of Texas and to designate an agent for service of process. *See* Tex. Bus. Orgs. Code Ann. §§ 9.001, 9.004. Defendant has not registered in the State of Texas and has not designated an agent for service of

⁴ Plaintiff notes that UFG has filed a verified complaint for a temporary restraining order against the Levins in a case styled *UnitedforGrowth, LLC vs. Jolene Levin and Avron Levin*, Case No. 23 M000332, pending in the Court of Common Pleas in Geauga County, Ohio. The Company is not a party to that suit and UFG lacks standing to pursue a claim against Ms. Levin. Ms. Levin was employed by the Company. *See* Ex. A. While Mr. Levin was employed by UFG and the Company, UFG had no authority to terminate Mr. Levin's employment with the Company. *See* Ex. C. Although the Levins have raised this standing defect, UFG has taken no steps to remedy the defect and add the Company to the lawsuit in Ohio.

process in Texas. Accordingly, pursuant to Section 17.044(a)(1) of the Texas Civil Practice and Remedies Code, the Texas Secretary of State is an agent for service or process on NorvaNivel USA, LLC. *See also* Tex. Bus. Orgs. Code Ann. § 5.251. NorvaNivel USA, LLC may be served by serving two copies of process on the Texas Secretary of State who will then mail a copy of the process to NorvaNivel USA, LLC's registered agent in Ohio, Mr. Mark Lewis, at 745 South Street, Chardon, OH 44024.

IV. JURISDICTION AND VENUE

6. The controversy that is the subject of this suit falls within the Court's general jurisdiction as Plaintiffs seek monetary relief in excess of the minimum jurisdictional limits of this Court.

7. This Court has personal jurisdiction over Defendant because Defendant conducts business in the State of Texas and has contracted with the Levins, residents of Texas, to perform contracts in the State of Texas, and Defendant employed Plaintiffs inside in the State of Texas. Further, Defendant maintains a regular place of business in Texas by operating an office and manufacturing facility in the state of Texas where most of Defendant's employees work, including Plaintiffs. This suit arises out of Defendant's breach of the Employment Agreements, which governed Plaintiffs' employment in Texas at Defendant's office and manufacturing facility in Texas.

8. Venue is proper in this Court because all or a substantial part of the acts or omissions giving rise to this lawsuit occurred in Dallas County, Texas.

V. FACTS

9. The Levins founded NorvaNivel USA, LLC, a Delaware limited liability company after moving to the United States and began selling educational furniture.

10. The Levins sold NorvaNivel's assets, and essentially a portion of NorvaNivel, in a transaction that resulted in a new limited liability company sharing the same name (the "Company"). The Tamale Discretionary Trust, of which Ms. Levin is a director, became a 30% owner of the Company. UFG is the majority member, holding 70% of the membership interests. UFG is controlled by Mr. Lewis.

A. *The Levins Retained to Direct the Company's Strategy*

11. After the transaction, Ms. Levin was placed in high level management positions with the Company. Ms. Levin became a Co-Manager of the Company, along with Mr. Lewis. Ms. Levin had extensive responsibilities as Manager and Member.

12. Ms. Levin was also employed by the Company, first as President, then as the Co-Founder and Director of Strategy of the Company. The Employment Agreement provides that she was to be employed for an initial two-year period commencing on January 20, 2022. *See* Ex. A, Employment Agreement effective January 20, 2022 § 2; Ex. B, Amendment to Employment Agreement effective July 31, 2022. As Co-Founder and Director of Strategy, Ms. Levin was responsible for sales, revenue generation, and forming strategic partnerships of the Company's business and working to make the Company profitable. Ex. A, § 1–2. Per the Employment Agreement, Ms. Levin is entitled "to a yearly base salary of \$125,000 annually ("Base Salary"), which equates to \$5,208.33 per pay period (24 pay periods/year)." *Id.* § 5. In Ms. Levin's Amended Agreement, Ms. Levin was also provided a direct sales performance bonus of "15% of Gross Margin less sales commissions experience (Net Gross Margin)" for sales closed from July 31, 2022 and December 31, 2022 and shipped by March 31, 2023." Ex. B, Exhibit A.

13. Mr. Levin was also employed by the Company in a high-level management position. Mr. Levin was employed as the Design Director of the Company for an initial two-year period commencing on January 20, 2022. *See* Ex. C, Employment Agreement effective January

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