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Attorneys for Plaintiff and other allegedly aggrieved employees

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

CECILIA GARCIA, individual and class
representative on behalf of herself and all
other similarly situated non-exempt former
and current employees,

Plaintiffs,

vs.

VENTURA ORTHOPEDICS MEDICAL
GROUP, INC., a California Corporation;
and DOES 1 through 100, inclusive,

Defendants.

REPRESENTATIVE PAGA ACTION

Case No. 56-2021-00558283-CU-OE-VTA

ASSIGNED FOR ALL PURPOSES TO:
HON. MARK BORRELL, DEPT. 40

**JOINT STIPULATION OF
SETTLEMENT AND RELEASE
UNDER THE CALIFORNIA LABOR
CODE PRIVATE ATTORNEYS
GENERAL ACT, CALIFORNIA
LABOR CODE §§ 2698, *ET SEQ.***

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I.

PREAMBLE

1. This Joint Stipulation of Settlement and Release (“Agreement” or “Settlement”) under the California Labor Code Private Attorneys General Act, California Labor Code, sections 2698, *et seq.* (“PAGA”) is entered into between Plaintiff Cecilia Garcia (“Garcia” or “Named Plaintiff”) individually and as representative on behalf of certain additional allegedly aggrieved employees as further defined in Section III of this Agreement (collectively, with the Named Plaintiff, the “Aggrieved Employees”), and defendant Ventura Orthopedics Medical Group, Inc. (“Ventura Orthopedics” or “Defendant”). The allegedly Aggrieved Employees and Defendant will sometimes be referred to collectively herein as the “Settling Parties.”

2. On April 26, 2021, Garcia, a former employee of Defendant, submitted a Notice of Labor Code Violations Pursuant to Labor Code section 2699.3 (the “PAGA Notice”) to the Labor and Workforce Development Agency (“LWDA”) describing the following alleged violations of the California Labor Code and applicable Industrial Welfare Commission (“IWC”) Wage Order: (1) failure to provide timely, complete and uninterrupted meal and rest periods and/or pay premium pay; (2) failure to properly pay all overtime and double-time wages due; (3) failure to pay minimum wages for all hours worked; (4) derivative failure to provide employees with accurate wage statements in violation of California Labor Code section 226, *et seq.*; (5) derivative failure to maintain records in violation of California Labor Code section 1174; and (6) derivative failure to timely pay employees all wages due upon termination of employment in violation of California Labor Code sections 201-203.

3. On September 22, 2021, Plaintiff filed the Class Action Complaint (“Complaint”) in the instant action (“Action”) in Ventura County Superior Court (“Court”), Case Number 56-2021-00558283-CU-OE-VTA. Plaintiff’s Complaint alleged the following causes of action: (1) Failure To Provide Required Meal Periods; (2) Failure To Provide Required Rest Periods; (3) Failure To Pay Overtime Wages; (4) Failure To Pay Minimum Wage; (5) Failure To Timely Pay Wages; (6) Failure To Pay All Wages Due To Discharged And Quitting Employees; (7) Failure To Maintain Required Records; (8) Failure To Furnish Accurate Itemized Statements; (9) Failure To Indemnify

1 Employees For Necessary Expenditures Incurred In Discharge Of Duties; (10) Unfair And
2 Unlawful Business Practices; and (11) Private Attorney General Act Of 2004 (“Putative Class
3 Claims”). With respect to the eleventh (11) cause of action (“PAGA Claim”), Plaintiff based this
4 claim on allegations that Defendant had violated California Labor Code sections 201, 202, 204,
5 226, 226.7, 510, 1182, and 2802, and sought to represent all “aggrieved employees” who had
6 experienced similar violations (“Putative Class Claims”). With respect to claim eleven (11)
7 (“PAGA Claim”), Plaintiff based this claim on allegations that Defendant’s had violated California
8 Labor Code sections 200, 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1174.5, 1182,
9 1182.12, 1194, 1197, 1198, 1198.5 and 2802, and the applicable Industrial Welfare Commission
10 Wage Order(s) and sought to represent all allegedly “Aggrieved Employees” who had experienced
11 similar violations.

12 4. Plaintiff’s PAGA Notice and Complaint shall be referred to herein collectively as
13 the “PAGA Complaints.”

14 5. On December 21, 2021 (Order filed January 4, 2022), the honorable Court granted
15 Plaintiff’s request to dismiss the first through tenth causes of action without prejudice. This caused
16 the dismissal of the Named Plaintiff’s individual claims and the Putative Class Claims, leaving the
17 PAGA Claim as the only remaining claim in the Action.

18 6. On June 8, 2023, the Settling Parties attended a private mediation before Kelly A.
19 Knight, Esq. and reached an agreement in principle to settle the Action, which is now set forth in
20 greater detail in this Agreement.

21 7. During the course of this Action, the Settling Parties have engaged in litigation and
22 significant informal discovery including the production by Defendant of relevant policies and
23 procedures, the relevant data points related to the allegedly Aggrieved Employees including their
24 PAGA pay periods worked, and a random sample of time and payroll data. This Agreement comes
25 after almost two years of litigation and settlement negotiations.

26 8. The Settling Parties have now agreed to avoid further litigation and to settle and
27 resolve any claims under PAGA that were or could have been asserted in the PAGA Complaints
28 based on the facts alleged therein, to the fullest extent permitted by law and without any admission

1 of liability or wrongdoing by either party. The Named Plaintiff and allegedly Aggrieved
2 Employees' Counsel have concluded that the Settlement reflected herein is fair, reasonable, and in
3 the best interests of the allegedly Aggrieved Employees and respectfully request that the Settlement
4 be approved by the Court.

5 9. This Agreement shall become effective upon the "Effective Date," as set forth in
6 Section VI below. The Settling Parties hereby agree to do all things and to engage in all procedures
7 reasonably necessary and appropriate to obtain Court approval of this Agreement, in consideration
8 for: (a) the payment by Defendant of the consideration described herein, subject to the terms,
9 conditions and limitations of this Agreement; and (b) the release of claims by the allegedly
10 Aggrieved Employees (including the Named Plaintiff), as described in Paragraphs 39 through 40
11 of this Agreement, and entry of Judgment in this Action.

12 II.

13 **PAYMENTS TO THE ALLEGEDLY AGGRIEVED EMPLOYEES, NAMED PLAINTIFF** 14 **AND ALLEGEDLY AGGRIEVED EMPLOYEES' COUNSEL, NAMED PLAINTIFF,** 15 **CLAIMS ADMINISTRATOR, AND LWDA**

16 10. Subject to Court approval and the provisions of this Agreement, Defendant shall pay
17 a total of One Hundred and Ninety Four Thousand Four Hundred Twenty One Dollars and Zero
18 Cents (\$194,421.00) (the "Gross Settlement Value" or "GSV"), in consideration for the settlement
19 of all claims described in Paragraph 39 that the allegedly Aggrieved Employees (including the
20 Named Plaintiff) may have against Defendant.

21 11. No portion of the GSV shall be disbursed or distributed until after the Effective Date.

22 12. The Gross Settlement Value is the maximum amount that Defendant shall be
23 required to pay for settlement of all claims described in Paragraph 39. The GSV will cover
24 compensation for PAGA penalties to the allegedly Aggrieved Employees, the cost of claims
25 administration, compensation to the LWDA under California Labor Code section 2699(i), and
26 attorneys' fees and reimbursement of litigation costs and expenses to allegedly Aggrieved
27 Employees' Counsel.

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1 **III.**

2 **SCOPE OF THE ALLEGEDLY AGGRIEVED EMPLOYEES BOUND BY THIS**
3 **SETTLEMENT**

4 13. The Settling Parties agree that the following employees of Defendant shall be bound
5 by this Settlement, including the release of claims described in Paragraph 39 of this Agreement:
6 All non-exempt employees who are or previously were employed by Defendant within the State of
7 California during the period of April 26, 2020, through the date of the Court's Order Granting
8 Approval of this Settlement ("Release Period").

9 14. All allegedly Aggrieved Employees shall be bound by the release of claims
10 described in Paragraph 39 of this Agreement.

11 15. The Settling Parties' settlement of the claims described in Paragraph 39, and the
12 rights of the Settling Parties and the allegedly Aggrieved Employees hereunder, are contingent
13 upon approval by the Court of this Agreement. In consideration of the covenants undertaken herein
14 by Defendant, including Defendant's agreement to pay an amount not to exceed the Gross
15 Settlement Value, this Agreement settles any and all claims described in Paragraph 39 of this
16 Agreement.

17 **IV.**

18 **APPOINTMENT OF CLAIMS ADMINISTRATOR AND AGGRIEVED EMPLOYEES'**
19 **COUNSEL**

20 16. Subject to the Court's approval, the Settling Parties propose ILYM Group, Inc. as
21 the third-party company to be appointed as "Claims Administrator" for this Settlement. The Claims
22 Administrator will be responsible for, *inter alia*, calculating the share of the Settlement to be made
23 available to each of the allegedly Aggrieved Employees; mailing Settlement Checks to the allegedly
24 Aggrieved Employees; researching and updating addresses through skip-traces and similar means;
25 answering questions from the allegedly Aggrieved Employees; reporting on the status of the
26 Settlement to the Settling Parties; preparing declarations regarding its due diligence in completing
27 and facilitating the claims administration process; providing the Settling Parties with data regarding
28 the calculation of distributions; establishing and maintaining a non-interest-bearing distribution

1 account for purposes of distributing Settlement Checks, and distribution of attorneys' fees and
2 costs, and the payment to the LWDA; and performing such other tasks as required to administer
3 this Agreement or as directed by the Settling Parties. The fees and/or expenses of the Claims
4 Administrator shall be paid out of the GSV.

5 17. Subject to the Court's approval, the Settling Parties hereby stipulate to the Court's
6 appointment of Grant Savoy and Shoham Solouki of Salouki Savoy, LLP, 316 W. 2nd St., Suite
7 1200, Los Angeles, California 90012, (213) 814-4940 (phone), (213) 814-2550 (facsimile) as
8 counsel with respect to the allegedly Aggrieved Employees ("Aggrieved Employees' Counsel").

9 **V.**

10 **SETTLEMENT APPROVAL AND ADMINISTRATION**

11 18. The Settling Parties' settlement of the claims described in Paragraph 39, and their
12 rights and obligations hereunder, are expressly conditioned on the Court's approval of this
13 Settlement as to the allegedly Aggrieved Employees defined in Section III. The Court shall approve
14 of this Settlement through the entry of an order and judgment approving this PAGA Settlement and
15 dismissing this PAGA Claim with prejudice ("Approval Order and Judgment").

16 19. Aggrieved Employees' Counsel shall file a Motion for Approval of the Settlement
17 with the Court, and request the setting of the Motion for Approval for hearing ("Approval
18 Hearing"). Aggrieved Employees' Counsel shall provide a draft of the motion and supporting
19 documents to Defendant's Counsel one week before filing the same with the Court for review and
20 comment. In conjunction with this motion, Aggrieved Employees' Counsel shall submit this
21 Agreement and supporting papers, and the proposed Approval Order and Judgment. The Approval
22 Order and Judgment shall reflect, *inter alia*, the Settlement and entry of judgment of this Action
23 and the Court's approval of the Settlement pursuant to the terms of this Agreement, provide for the
24 payment of the GSV to the Claims Administrator to be distributed pursuant to this Agreement,
25 contain the release of claims of the allegedly Aggrieved Employees (including the Named Plaintiff)
26 described in Paragraph 39 of this Agreement, and state that the Court's Approval Order and
27 Judgment shall bar and be res judicata with respect to any claims asserted by the allegedly
28 Aggrieved Employees (including the Named Plaintiff) that are covered by this Agreement and the

1 release of claims herein.

2 20. Pursuant to California Labor Code section 2699(1)(2), Aggrieved Employees’
3 Counsel shall submit a fully-executed copy of this Agreement to the LWDA on the same day that
4 the Motion for Approval of the Settlement and this Agreement are filed with the Court. With the
5 submission of this Agreement to the LWDA, Aggrieved Employees’ Counsel shall provide the
6 LWDA with notice of the date scheduled for the Approval Hearing. Any objections or opposition
7 by the LWDA to the Settlement must be presented to the Court before or at the Approval Hearing.
8 Failure by the LWDA to object to or oppose approval of the Settlement within this time will waive
9 any right of the LWDA to appeal the Approval Order and Judgment. Accordingly, if the LWDA
10 does not assert any objection or opposition to this Settlement, the Approval Order and Judgment
11 shall state that the Court received no objection or opposition from the LWDA. Pursuant to
12 California Labor Code section 2699(1)(3), Aggrieved Employees’ Counsel shall submit a copy of
13 the Approval Order and Judgment to the LWDA no later than ten (10) calendar days after its entry
14 by the Court.

15 21. Not later than ten (10) business days after the Effective Date, and to the extent
16 possible based on the presence of information in their records, Defendant or Defendant’s Counsel
17 shall provide to the Claims Administrator a spreadsheet (“Spreadsheet”) in electronic format that
18 contains the name, Social Security number, last known mailing address, and last known phone
19 number of each allegedly Aggrieved Employee (“Employee Data”). To protect the allegedly
20 Aggrieved Employees’ privacy rights, the Claims Administrator must maintain the Employee Data
21 in confidence, use the Employee Data only for purposes of this Settlement and for no other purpose,
22 and restrict access to the Employee Data to Claims Administrator employees who need access to
23 the Employee Data to effect and perform under this Agreement.

24 22. Prior to mailing Settlement Payments to the allegedly Aggrieved Employees, the
25 Claims Administrator shall perform a search based on the National Change of Address Database
26 for information to update and correct for any known or identifiable address changes. Any mailings
27 returned to the Claims Administrator as non-deliverable on or before the Check Cashing Deadline,
28 as defined by Paragraph 39, shall be sent promptly via regular first-class U.S. mail to the forwarding

1 address affixed thereto. If no forwarding address is provided, the Claims Administrator shall
2 promptly attempt to determine the correct address using a skip-trace, or other search using the
3 name, address and/or Social Security number of the allegedly Aggrieved Employee involved, and
4 shall perform a single re-mailing.

5 VI.

6 THE EFFECTIVE DATE

7 23. This Agreement shall become final and effective on the occurrence of all of the
8 following events described in Paragraphs 23(a) through 23(c) (the “Effective Date”):

9 (a) Entry by the Court of the Approval Order and Judgment, as described in
10 Paragraphs 18 and 19 of this Agreement, appointment of Aggrieved Employees’ Counsel
11 as described in Paragraph 17 of this Agreement, and appointment of a Claims Administrator
12 as described in Paragraph 16 of this Agreement.

13 (b) Submission by Aggrieved Employees’ Counsel of both this Agreement and
14 the Approval Order and Judgment to the LWDA, as described in Paragraph 20 of this
15 Agreement.

16 (c) The occurrence of the “Effective Date of Judgment,” which shall be deemed
17 to be the last to occur of the following:

18 (i) If an appeal or other review is sought from the Approval Order and
19 Judgment (including any appeal from a decision regarding the approval of
20 Aggrieved Employees’ Counsel’s fees and costs), the next day after the Approval
21 Order and Judgment is affirmed or the appeal or other review is dismissed or denied,
22 and the judgment is no longer subject to judicial review or other challenge;

23 (ii) If an objection to the Settlement is filed or an opposition to the Motion
24 for Approval of the Settlement is filed, but no appeal or other review is sought from
25 the Approval Order and Judgment, the sixty-fifth (65th) calendar day after the
26 Approval Order and Judgment is signed and entered by the Court; or

27 (iii) If no objection or opposition is filed, seven (7) calendar days after the
28 Approval Order and Judgment is signed and entered by the Court.

1 **VII.**

2 **EFFECT OF NON-APPROVAL OR FAILURE OF THE EFFECTIVE DATE TO OCCUR**

3 24. The Settling Parties agree to work cooperatively to try to obtain Court approval of
4 this Settlement, including considering reasonable modifications to the Settlement, if needed, to the
5 extent needed to obtain Court approval. However, if the Effective Date does not occur for any
6 reason, this Agreement shall be void. In such event:

7 (a) Nothing in this Agreement shall be construed as a determination, admission,
8 or concession of any substantive or procedural issue in this Action, and nothing in this
9 Agreement may be offered into evidence in any hearing or trial, or in any subsequent
10 pleading or in any judicial, arbitral, or administrative proceeding;

11 (b) The Settling Parties expressly reserve their rights with respect to the
12 prosecution and defense of this Action as if this Agreement never existed. In particular,
13 Defendant does not waive, but rather expressly reserves, all rights to challenge any and all
14 claims and allegations asserted in this Action upon all procedural and substantive grounds,
15 including the ability to challenge representative treatment on any grounds and to assert any
16 and all potential defenses or privileges. The Settling Parties agree that Defendant retains
17 and reserves these rights, and they agree not to take a position to the contrary. Specifically,
18 the Settling Parties agree that, if this Action were to proceed, they will not present any
19 argument based on this Agreement, or any exhibit, attachment, act performed or document
20 executed pursuant to this Agreement;

21 (c) The Settling Parties shall each bear half (50%) of any costs for notice or
22 claims administration incurred by the Claims Administrator through the date that the
23 Settlement is determined to be void;

24 (d) Any funds tendered by Defendant to the Claims Administrator shall be fully
25 refunded to Defendant within five (5) calendar days of the date that the Settlement is
26 determined to be void; and

27 (e) Notwithstanding the foregoing, the Settling Parties agree that, if the
28 Settlement does not proceed to conclusion for any reason, the parties' rights and obligations

1 in the Action will be tolled from June 8, 2023, to the date that the Settlement is determined
2 to be void.

3 **VIII.**

4 **ATTORNEYS' FEES, SERVICE AWARD, COSTS, AND EXPENSES**

5 25. This Action alleges a claim for attorneys' fees, and costs, pursuant to, *inter alia*, the
6 California Labor Code. The Settling Parties agree that any and all such claims for attorneys' fees
7 and costs have been settled as a part of this Agreement.

8 26. Defendant recognizes that Aggrieved Employees' Counsel will apply to the Court
9 for an award of attorneys' fees in an amount up to, but not more than one third (1/3) of the GSV,
10 or sixty-four thousand, eight hundred and seven dollars and zero cents (\$64,807.00), as well as an
11 award for actual costs and expenses in an amount up to, but not more than twenty five thousand
12 dollars and zero cents (\$25,000.00). Said attorneys' fees, costs and expenses shall be paid from the
13 GSV. Defendant will not oppose Aggrieved Employees' Counsel's application under this
14 Paragraph 26 for said amount, and Aggrieved Employees' Counsel's application under this
15 Paragraph 26 shall be scheduled for determination at the Approval Hearing. The Named Plaintiff,
16 Aggrieved Employees' Counsel, and/or the allegedly Aggrieved Employees shall not seek payment
17 of attorneys' fees or reimbursement of costs or expenses except as set forth herein.

18 27. Any awards pursuant to Paragraph 26 will be funded solely and completely from the
19 GSV.

20 28. If the Court does not approve the total amount of attorneys' fees, expenses and costs
21 pursuant to Paragraph 26 of this Agreement, any remaining portion of the requested amount will
22 be added to the Net Settlement Value (as that term is defined in Paragraph 30(c) of this Agreement).

23 29. Any proceedings or Court decisions related to Aggrieved Employees' Counsel's
24 application for attorneys' fees, and costs and expenses shall not terminate or cancel this Agreement,
25 or otherwise affect the finality of the Approval Order and Judgment, or affect the settlement and
26 releases set forth herein concerning this Action. Further, nothing in this Agreement shall prevent,
27 waive, impair or impinge upon Aggrieved Employees' Counsel's right to appeal the Court's
28 decision related to the application for attorneys' fees, and costs and expenses.

IX.

PLAN FOR ALLOCATION AND DISTRIBUTION OF THE SETTLEMENT FUND

30. The GSV shall be allocated, in order, as follows:

(a) First, to any attorneys' fees, and reasonable and necessary costs and expenses of Aggrieved Employees' Counsel, as may be awarded by the Court pursuant to Paragraph 26 of this Agreement.

(b) Second, to the costs and expenses incurred by, or fees imposed by, the Claims Administrator in performing its duties under this Agreement, which are estimated not to exceed four thousand nine hundred dollars and zero cents (\$4,900.00).

(c) Third, to the "Net Settlement Value" or "NSV." The Net Settlement Value or NSV shall be defined as the maximum possible value of the GSV less the items described in Paragraphs 30(a) and 30(b) above.

(i) From the Net Settlement Value, the Claims Administrator will first allocate the payment to the LWDA under PAGA pursuant to Paragraph 33 of this Agreement.

(ii) The remainder of the Net Settlement Value shall then be allocated to the allegedly Aggrieved Employees. The Net Settlement Value shall be distributed to each allegedly Aggrieved Employee on an equal share, pro-rata basis, as further described in Paragraph 35 below. The Claims Administrator shall be responsible for the allocation and distribution of the remainder of the Net Settlement Value to the allegedly Aggrieved Employees.

(iii) Payment of attorneys' fees, expenses and costs will happen simultaneously with payments to the LWDA and allegedly Aggrieved Employees.

31. The Claims Administrator shall make payments from the distribution account only pursuant to the terms of this Agreement and only after the Effective Date. Prior to disbursement of any funds from the GSV, the Claims Administrator will provide a disbursement summary of the calculations for the sums listed in Paragraphs 30(a), 30(b) and 30(c) above, and Paragraph 35 below, review and approval by counsel for all Settling Parties. No funds out of the GSV should be

distributed unless and until counsel for Settling Parties approve the distribution calculations.

32. For the purpose of calculating applicable taxes:

(a) Each allegedly Aggrieved Employee shall be individually responsible for his, her or their share of taxes attributable to receipt of his, her or their Settlement Payment.

(b) One hundred percent (100%) of each Settlement Payment as discussed in Paragraph 30, subsections (a) through (c), or any other provision of this Agreement, will be allocated to ordinary income, payable on a Form 1099. No part of each Settlement Payment will be classified as wages. All respective tax forms will be supplied by the Claims Administrator. Neither Named Plaintiff, Aggrieved Employees' Counsel, Defendant nor Defendant's Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

X.

CALCULATION OF PAYMENTS TO THE LWDA AND ALLEGEDLY AGGRIEVED EMPLOYEES

33. The Claims Administrator will allocate seventy-five percent (75%) of the Net Settlement Value to the LWDA pursuant to California Labor Code section 2699(i) and pay that amount to the LWDA in accordance with Paragraph 37 of this Agreement and applicable law. Any payment to the LWDA under this Agreement shall be funded solely from the NSV.

34. The Claims Administrator will allocate twenty-five percent (25%) of the Net Settlement Value to the allegedly Aggrieved Employees (the "Aggrieved Employees Fund").

35. The Claims Administrator will calculate each "Individual PAGA Payment" by (a) dividing the amount of the Aggrieved Employees Fund by the total number of PAGA Period Pay Periods worked by all allegedly Aggrieved Employees during the PAGA Period and (b) multiplying the result by each allegedly Aggrieved Employee's respective PAGA Period Pay Periods. The allegedly Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. ("Settlement Payment" or "Settlement Check"). The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make

any additional payments to the allegedly Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

XI.

PROCESS FOR FUNDING AND DISTRIBUTION OF THE SETTLEMENT

36. Defendant shall fund the GSV to the Claims Administrator as follows:

(a) The first installment of One Hundred Thousand Dollars and Zero Cents (\$100,000.00) will be paid by September 1, 2023 and held in trust in LightGabler's ("Defendant's Counsel") client trust account until approval of the PAGA Settlement by the Court, at which time within two (2) business days it will be paid to the Claims Administrator's designated fund for this Settlement.

(b) The second installment of Ninety-Four Thousand Four Hundred and Twenty One Dollars and Zero Cents (\$94,421.00) will be paid to the Claims Administrator's designated fund for this Settlement by December 31, 2023, or within two (2) business days of the date of approval of the PAGA Settlement by the Court; whichever is later.

The Claims Administrator will set up and hold the GSV in a non-interest-bearing distribution account immediately upon receipt of the fund transfer discussed in this Paragraph 36.

37. Not later than ten (10) calendar days after receiving both of the installment payments from Defendant described in Paragraph 36, the Claims Administrator shall make the payments described in Paragraphs 30(a) through 30(c), pay seventy-five percent (75%) of the NSV to the LWDA pursuant to Paragraphs 30(c)(i) and 33 and applicable law, and mail Settlement Checks to all the allegedly Aggrieved Employees whose address is known. A notice provided to the allegedly Aggrieved Employees with the Settlement Checks must be approved in writing by the Settling Parties and the Court. The mailing will be sent by first-class mail.

38. After the Claims Administrator mails out the Settlement Payments, the allegedly Aggrieved Employees shall have one hundred and twenty (120) calendar days to cash the check that was mailed to them. After one hundred and twenty (120) calendar days from the date of mailing, the checks shall become null and void (the "Check Cashing Deadline"), and any monies

1 remaining in the distribution account shall be distributed to the State of California Unclaimed
2 Wages Fund in the name of the allegedly Aggrieved Employee.

3 XII.

4 RELEASES

5 39. In exchange for the consideration, undertakings, and covenants agreed to by
6 Defendant in this Agreement, and to the fullest extent permitted by applicable law, the Named
7 Plaintiff, on behalf of herself, her respective former and present spouses, representatives, agents,
8 attorneys, heirs, administrators, successors, and assigns generally, the allegedly Aggrieved
9 Employees, and the State of California, hereby releases, discharges, and covenants not to sue
10 Defendant, including any of its past or present directors, officers, shareholders, owners, attorneys,
11 representatives, administrators, principals, employees, independent contractors, insurers,
12 reinsurers, agents, parents, subsidiaries, divisions, affiliates, affiliated entities, related entities,
13 predecessors, successors, lessees, trustees, and assigns, and any individual or entity that could be
14 jointly liable with any of these (individually and collectively “Defendant Releasees”) from and with
15 respect to all claims, transactions, occurrences or causes of action, and each of them, that occurred
16 during and in any way related to employment with Defendant from the beginning of the Release
17 Period through the date this Court’s Approval Order and Judgment is entered, inclusive, arising
18 under PAGA (including but not limited to, claims under PAGA for civil penalties under California
19 Labor Code sections 558, 226.3, and 2699(f)), which the Named Plaintiff, the allegedly Aggrieved
20 Employees, and the State of California may have against Defendant Releasees, or any of them,
21 based on the allegations set forth in the PAGA Complaints, including all original versions and
22 amendments thereto if any, or that could have been raised in the PAGA Complaints based upon the
23 facts set forth therein.

24 40. Aggrieved Employees’ Counsel and the Named Plaintiff represent and warrant
25 that—aside from this Action and the PAGA Complaints—it and they have not filed any complaints,
26 charges, lawsuits, or other legal actions with any court or government agency relating to any claims
27 being released in Paragraph 39 of this Agreement. Aggrieved Employees’ Counsel and the Named
28 Plaintiff further represent and warrant that it and they have not heretofore directly or indirectly

1 assigned, encumbered, purported to transfer or transferred to any person not a party to this
2 Agreement any released matter.

3 **XIII.**

4 **ADDITIONAL TERMS AND CONDITIONS**

5 41. Settlement Fair and Reasonable: Aggrieved Employees' Counsel has considerable
6 experience in litigating and settling wage-and-hour representative actions of this type, and is
7 sufficiently familiar with the facts of this case and the applicable laws and regulations to make an
8 informed judgment as to the fairness of this Settlement. In light of this experience, and for reasons
9 that will be more fully explained in the Motion for Approval of the Settlement, Aggrieved
10 Employees' Counsel and the Named Plaintiff believe that the settlement terms herein are fair and
11 reasonable with regard to the interests of the allegedly Aggrieved Employees.

12 42. Settlement the Result of Arm's-Length Bargaining: The terms of the Settlement of
13 this Action resulted from almost two years of litigation and approximately a year of arm's-length
14 negotiations.

15 43. Notices: Except for any notices provided to allegedly Aggrieved Employees with
16 their Settlement Checks, which will be sent by the Claims Administrator, all notices, requests,
17 demands and other communications related to or in connection with this Agreement shall be in
18 writing, and shall be provided by appropriate method depending on the urgency (e.g., personal
19 delivery, facsimile, overnight delivery, or first-class U.S. mail) to:

20
21 **TO NAMED PLAINTIFF AND
22 ALLEGEDLY AGGRIEVED
EMPLOYEES:**

23 Grant Joseph Savoy, Esq.
24 Shoham Solouki, Esq.
25 SOLOUKI | SAVOY LLP
26 316 W. 2nd Street, Suite 1200
27 Los Angeles, California 90012
28 Email: grant@soloukisavoy.com;
Shoham@SoloukiSavoy.com;
Telephone: 213-814-4940
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TO DEFENDANT:

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Kathleen M. Fellows, Esq.
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Camarillo, CA 93010
Email: cbeaton@lightgablerlaw.com;
kfellows@lightgablerlaw.com
Telephone: 805-248-7208
Facsimile: 805-248-7209

1 44. No Admission of Liability: Nothing herein shall constitute any admission by
2 Defendant of wrongdoing or liability or of the truth of any factual allegations in this Action.
3 Nothing herein shall constitute an admission by Defendant that this Action was properly brought
4 as a representative action other than for settlement purposes. To the contrary, Defendant has denied
5 and continues to deny each and every material factual, procedural, and/or legal allegation and
6 alleged claim asserted in this Action. To this end, the settlement of this Action, the negotiation and
7 execution of this Agreement, and all acts performed or documents executed pursuant to or in
8 furtherance of this Agreement or the Settlement are not, shall not be deemed to be, and may not be
9 used as an admission or evidence of any wrongdoing or liability on the part of Defendant, or of the
10 truth of any of the factual allegations in this Action; and are not, shall not be deemed to be, and
11 may not be used as, an admission or evidence of any fault or omission on the part of Defendant in
12 any civil, criminal or administrative proceeding in any court, administrative agency or other
13 tribunal.

14 45. Modification by Writing Only: This Agreement, and its terms and its Exhibit, may
15 be modified only in a writing signed by all counsel of record for the Settling Parties and approved
16 by the Court; provided, however, that after entry of the Approval Order and Judgment, the Settling
17 Parties may by written agreement effect such amendments, modifications or expansions of this
18 Agreement without further notice to the LWDA or allegedly Aggrieved Employees and without
19 approval by the Court if such changes are consistent with the Court's Approval Order and Judgment
20 and do not materially alter any rights hereunder.

21 46. Representations:

22 (a) The Named Plaintiff, on behalf of herself and the allegedly Aggrieved
23 Employees, has expressly authorized Aggrieved Employees' Counsel to take all appropriate
24 action required or permitted to be taken pursuant to this Agreement to effectuate its terms.

25 (b) Each attorney executing this Agreement on behalf of any party hereto hereby
26 warrants that full authority to do so has been given by his/her client(s).

27 (c) Defendant, Aggrieved Employees' Counsel, and the Named Plaintiff waive
28 their right to file an appeal, writ, or any challenge whatsoever to the terms of this

1 Agreement; provided, however, that Aggrieved Employees' Counsel and the Named
2 Plaintiff may appeal the Court's determination with regard to the requests for attorneys'
3 fees, expenses and costs set out in Paragraphs 25 and 26. Consistent with Paragraph 29,
4 however, any such appeal will have no effect whatsoever on the other terms and provisions
5 of this Agreement, including, by way of example but not of limitation, the release set out in
6 Paragraph 39 of this Agreement.

7 47. Further Cooperation. The Settling Parties and their respective counsel of record
8 shall proceed diligently to prepare and execute all documents, to seek the necessary Court
9 approvals, and to do all other things reasonably necessary to conclude this Settlement.

10 48. Construction and Integration. This Agreement, including its Exhibit, constitutes the
11 entire agreement and understanding between the Settling Parties, and supersedes any previous
12 agreements or understandings between the Settling Parties. No representations, warranties or
13 inducements have been made to any party concerning the subject matter of this Agreement and/or
14 its Exhibit other than the representations, warranties and covenants contained in such documents.
15 This Agreement and related Exhibit shall be construed each as a whole, and with reference to one
16 another, according to their fair meaning and intent. Each of the Settling Parties represent that
17 her/its/their counsel has participated and cooperated in the drafting and preparation of this
18 Agreement and the related Exhibit; hence, in any construction to be made of this Agreement and/or
19 the Exhibit, the same shall not be construed against any party on the basis that said party was the
20 drafter.

21 49. Governing Law: This Agreement and the Exhibit hereto shall be deemed to have
22 been negotiated, executed and delivered, and to be wholly performed, in the State of California.
23 The rights and obligations of the parties under the Agreement shall be construed and enforced in
24 accordance with, and be governed by, the substantive and procedural laws of the State of California
25 without regard to California's choice of law principles.

26 50. Counterparts: This Agreement may be executed in one or more counterparts by
27 facsimile, electronically (i.e. DocuSign), or email, which may be filed with the Court. All executed
28 counterparts, and each of them, shall be deemed to be one and the same instrument. Once available,

1 a complete set of executed counterparts shall be filed with the Court. Copies of the complete set
2 of executed counterparts may be used for all purposes in lieu of the originals, and shall have the
3 same force and effect as the originals.

4 51. Attorneys' Fees, Costs and Expenses: Except as otherwise specifically provided for
5 herein, each party shall bear his/her/its own attorneys' fees, costs and expenses, taxable or
6 otherwise, incurred by them in or arising out of all claims described in the PAGA Complaints, the
7 Action and/or Paragraph 39, and shall not seek reimbursement thereof from any other party to this
8 Agreement.

9 52. California Code of Civil Procedure Section 384 Does Not Apply: The Settling
10 Parties agree that, since this is not a class action, California Code of Civil Procedure section 384
11 does not apply to this Agreement.

12 53. Calculation of Time: To resolve ambiguity, any reference to a span of "days" in this
13 Agreement should be interpreted as a reference to calendar days unless stated to the contrary. To
14 the extent that a given span of days ends on a national holiday, or weekend, the calculation should
15 be deemed as ending on the next business day, e.g., a calculation that ends on a Saturday will carry
16 forward to the following Monday.

17 54. Publicity: The Named Plaintiff and Aggrieved Employees' Counsel (including all
18 counsel listed in Paragraphs 17 and 43) agree that they will not publicize or announce this
19 Settlement in press releases, marketing materials, or on the internet, unless required by the Court,
20 to obtain approval of this Settlement by the Court, pursuant to a subpoena or other valid legal
21 process, or by regulatory or other legal disclosure obligations. Notwithstanding this Paragraph 54,
22 the Settling Parties agree that the following may be stated in response to inquiries into this dispute
23 and such statement shall not be considered a breach of this Agreement: "The matter has been
24 resolved and it was resolved confidentially."

25 55. Continuing Jurisdiction: Except as otherwise specifically provided herein,
26 Department 40 of the Superior Court of the State of California for the County of Ventura shall
27 retain jurisdiction to construe, interpret and enforce this Agreement and the Settlement, to supervise
28 all notices, the administration of the Settlement and this Agreement, and the distribution of the

1 settlement funds, and to hear and adjudicate any dispute arising from or related to the Settlement
2 and/or this Agreement. The Parties incorporate Code of Civil Procedure section 664.6 for this
3 purpose. After the settlement is effectuated, the Court can order dismissal of the action.

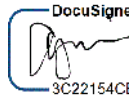
4 56. Agreement Binding on Successors. This Agreement will be binding upon, and inure
5 to the benefit of, the successors of each of the Settling Parties.

6 57. Use and Return of Allegedly Aggrieved Employee Data. Information provided to
7 Aggrieved Employees' Counsel pursuant to California Evidence Code section 1152, and all copies
8 and summaries of the data provided in connection with the mediation, other settlement negotiations,
9 or in connection with the Settlement, may be used only with respect to this Settlement, and no other
10 purpose, and may not be used in any way that violates any existing contractual agreement, statute,
11 or rule of court. Not later than 90 days after the Claims Administrator discharges its obligation to
12 pay out of all Settlement funds, the Named Plaintiff and Aggrieved Employees' Counsel shall
13 destroy all paper and electronic versions of any and all allegedly Aggrieved Employee Data
14 received from Defendant, or Defendant's Counsel, unless, prior to the Claims Administrator's
15 payment of all Settlement funds, Defendant makes a written request to the Aggrieved Employees'
16 Counsel for the return, rather than the destruction ,of the data.

17 58. Headings. The descriptive heading of any section or paragraph of this Agreement is
18 inserted for convenience of reference only and does not constitute a part of this Agreement.

19 **IN WITNESS WHEREOF**, the undersigned Settling Parties and their duly-authorized
20 representatives accept and agree to the terms of this Agreement and hereby execute it voluntarily
21 and with a full understanding of its consequences.

22
23
24 *[Signatures on Next Page]*
25
26
27
28

DocuSigned by:

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12/5/2023

Cecilia Garcia
Plaintiff, individually, and on behalf of the
allegedly Aggrieved Employees as the Named
Plaintiff

Date

By: _____
Ventura Orthopedics Medical
Group, Inc.

Date

APPROVED AS TO FORM:

SOLOUKI SAVOY, LLP

Shoham Solouki

December 5, 2023

By: Shoham Solouki
Attorneys for the Named Plaintiff and the
allegedly
Aggrieved Employees

Date

LightGabler

By: Chandra A. Beaton
Kathleen M. Fellows
Attorneys for Defendant Ventura Orthopedics
Medical Group, Inc.

Date

Cecilia Garcia
Plaintiff, individually, and on behalf of the
allegedly Aggrieved Employees as the Named
Plaintiff

Date

Minerva Butler

December 5, 2023

By: Minerva Butler, CFO
Ventura Orthopedics Medical
Group, Inc.

Date

APPROVED AS TO FORM:

SOLOUKI SAVOY, LLP

By: Shoham Solouki
Attorneys for the Named Plaintiff and the
allegedly
Aggrieved Employees

Date

LightGabler



By: Chandra A. Beaton
Kathleen M. Fellows
Attorneys for Defendant Ventura Orthopedics
Medical Group, Inc.

12/11/2023
Date