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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

ROMULO ADRIANO, as an aggrieved
employee pursuant to the Private Attorneys
General Act (“PAGA”), on behalf of the State of
California and other aggrieved employees,

Plaintiff,

vs.

VISBY MEDICAL, INC., a Delaware
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No. 21CV387068

PAGA SETTLEMENT AGREEMENT

PAGA SETTLEMENT AGREEMENT

Subject to Court approval by the Superior Court of the State of California for the County of Santa Clara (“Court”), Plaintiff Romulo Adriano (“Plaintiff”) and Defendant Visby Medical, Inc. (“Defendant”) (collectively with Plaintiff, the “Parties”) hereby agree to the following binding settlement (“Settlement” or “Settlement Agreement”) of the action entitled *Adriano v. Visby Medical, Inc.*, No. 21CV387068 (Santa Clara County Superior Court) (the “Action”).

DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1. “Action” means *Adriano v. Visby Medical, Inc.*, No. 21CV387068 (Santa Clara County Superior Court).
2. “Aggrieved Employees” means all persons who were employed by Defendant in the State of California as non-exempt employees at any time from July 23, 2020 through April 19, 2023.
3. “Court” means the Superior Court for the State of California, County of Santa Clara.
4. “Gross Settlement Amount” means the settlement amount of Seven Hundred Twenty-Five Thousand Dollars (\$725,000) to be paid by Defendant in full satisfaction of all Settled Claims arising from the Action.
5. “LWDA” means the California Labor and Workforce Development Agency.
6. “PAGA Penalties Fund” means the Gross Settlement Amount less the Attorneys’ Fees and Costs, Service Award, and Settlement Administrator Costs.
7. “Plaintiff’s Counsel” means Capstone Law APC.
8. “Released Parties” means Defendant Visby Medical, Inc. and its present and former parents, subsidiaries, affiliates, joint ventures, shareholders, officers, directors, employees, agents, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, or under Defendant.
9. “Service Award” means the amount to be paid to Plaintiff as payment for his service on behalf of the LWDA and Aggrieved Employees.
10. “Settled Claims” means all claims for PAGA civil penalties under the California Labor

Code, Wage Orders, regulations, and/or other provisions of law alleged to have been violated in the Action or reasonably could have been alleged in the Action arising out of the alleged facts and/or matters alleged in the Action with respect to Aggrieved Employees during the Settlement Period.

11. “Settlement Period” means July 23, 2020 through the earlier of July 18, 2023 or the date of entry of the Order and Judgment.

TERMS

12. Gross Settlement Amount. In consideration for Plaintiff’s promises and representations described in this Settlement Agreement, and subject to all of the conditions of the Settlement being met, Defendant will pay Seven Hundred Twenty-Five Thousand Dollars (\$725,000) (“Gross Settlement Amount”) to settle the Action. The Gross Settlement Amount includes Plaintiff’s attorneys’ fees, litigation costs and expenses, consideration for Plaintiff’s service on behalf of the LWDA and Aggrieved Employees, Settlement Administration Costs, and payments to Aggrieved Employees and the LWDA for their share of the PAGA Penalties Fund. No portion of the Gross Settlement Amount will be retained by, or revert to, Defendant.

13. PAGA Penalties Fund. The PAGA Penalties Fund will be paid to Aggrieved Employees and the LWDA in full satisfaction of all claims for PAGA civil penalties under the California Labor Code, Wage Orders, regulations, and/or other provisions of law alleged to have been violated in the Action with respect to Aggrieved Employees. Pursuant to PAGA, Seventy-Five Percent (75%) of the PAGA Penalties Fund will be paid to the LWDA, and the remaining Twenty-Five Percent (25%) will be paid to all Aggrieved Employees according to the following formula:

13(a) Defendant will provide: (i) the total number of pay periods worked by each Aggrieved Employee during the Settlement Period, and (ii) the total number of pay periods worked by all Aggrieved Employees during the Settlement Period.

13(b) Each Aggrieved Employee’s payment from the PAGA Penalties Fund will be calculated as follows: Settlement Payment = 25% of PAGA Penalties Fund × [Pay Periods Worked by Individual Aggrieved Employee During the Settlement Period ÷ Total Pay Periods Worked by All Aggrieved

Employees during the Settlement Period].

13(c) If the number of pay periods during the period from July 23, 2020 through April 19, 2023 is greater than 26,642, then Defendant will proportionally increase the Gross Settlement Amount according to the following formula:

$$\text{Total Number of Pay Periods} \div 26,642 \times \text{Gross Settlement Amount.}$$

14. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or motion by Plaintiff's Counsel for Attorneys' Fees and Costs of not more than Two Hundred Forty One Thousand Six Hundred Sixty-Seven Dollars (\$241,667), plus the reimbursement of all out-of-pocket costs and expenses associated with Plaintiff's Counsel's litigation and settlement of the Action (including expert/consultant fees, investigations costs, etc.), not to exceed Twenty-Five Thousand Dollars (\$25,000), both of which will be paid from the Gross Settlement Amount. Any portion of the Attorneys' Fees and Costs not awarded to Plaintiff's Counsel will be added to the PAGA Penalties Fund.

15. Service Award. For his service on behalf of the LWDA and Aggrieved Employees, Defendant agrees not to oppose or impede any application or motion by Plaintiff for a service award of up to Five Thousand Dollars (\$5,000) ("Service Award"). Plaintiff understands and agrees that this Settlement Agreement shall remain in full force and effect even if the full amount of Service Award sought by Plaintiff is not ultimately awarded by the Court.

16. General Release. For a general release of all claims Plaintiff may have against Released Parties arising out of his employment, Defendant agrees to pay Plaintiff the sum of Five Thousand Dollars (\$5,000) ("General Release Payment"). The General Release Payment will be paid separately from the Gross Settlement Amount. Upon receipt of the General Release Payment, Plaintiff, on behalf of himself, his heirs, beneficiaries, executors, agents, successors and assigns, will be deemed to have fully released and discharged Defendant from, and covenant not to sue, any and all claims, known and unknown, under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law, including but not limited to claims arising from or related to his employment with Defendant and his compensation while an employee of Defendant ("Plaintiff's Released Claims"). The Plaintiff's Released Claims include, but are not limited to, all claims arising from or related to Plaintiff's claims for unpaid wages, including, but not limited to, failure to pay minimum wages, straight time

1 compensation, overtime compensation, double-time compensation, and interest; the calculation of the
2 regular rate of pay; wages related to alleged illegal time rounding; missed meal period and rest-period
3 wages; reimbursement for all necessary business expenses; payment for all hours worked, including off-
4 the-clock work; wage statements; deductions; failure to keep accurate records; unfair business practices;
5 penalties, including, but not limited to, recordkeeping penalties, wage statement penalties, minimum-
6 wage penalties, and waiting-time penalties; and attorneys' fees and costs. The Plaintiff's Released
7 Claims include all claims arising under the California Labor Code (including, but not limited to, sections
8 200, 201, 201.1, 201.3, 201.5, 202, 203, 204, 205.5, 206, 210, 216, 218, 218.5, 218.6, 221, 222, 222.5,
9 223, 224, 225, 225.5, 226, 226.3, 226.7, 226.8, 227.3, 256, 450, 510, 511, 512, 516, 550, 551, 552, 558,
10 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 2698 et seq., 2699 et seq., and 2802);
11 all claims arising under: the Wage Orders of the California Industrial Welfare Commission; his
12 individual claims under the California Private Attorneys General Act of 2004 (PAGA); California
13 Business and Professions Code section 17200, et seq.; the California Civil Code, to include but not
14 limited to, sections 3287, 3336 and 3294; 12 CCR § 11040; 8 CCR § 11060; California Code of Civil
15 Procedure § 1021.5; the California common law of contract; the FLSA, 29 U.S.C. § 201, et seq.; 29 CFR
16 778.223; 29 CFR 778.315; federal common law; and the Employee Retirement Income Security Act, 29
17 U.S.C. § 1001, et seq. (ERISA). The Plaintiff's Released Claims also include all claims for lost wages
18 and benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and costs arising under
19 federal, state, or local laws for discrimination, harassment, retaliation, and wrongful termination, such as,
20 by way of example only, (as amended) 42 U.S.C. § 1981, Title VII of the Civil Rights Act of 1964, the
21 Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), the
22 California Fair Employment and Housing Act (FEHA), and public policy; and the law of contract and
23 tort. This release excludes the settlement of this Action and the release of claims not permitted by law,
24 including without limitation claims for workers' compensation benefits. The Plaintiff's Released Claims
25 include all claims, whether known or unknown. Even if Plaintiff discovers facts in addition to or
26 different from those that he now knows or believes to be true with respect to the subject matter of
27 Plaintiff's Released Claims, those claims will remain released and forever barred. Thus, Plaintiff
28 expressly waives and relinquishes the provisions, rights and benefits of section 1542 of the California

1 Civil Code, which reads:

2 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
3 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST**
4 **IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND**
5 **THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED**
6 **HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

7
8 17. Waiver of Age Claims. By signing this Agreement, Plaintiff acknowledges: he has
9 carefully read and understood the terms of the Plaintiff's Released Claims; he has been given at least
10 twenty-one (21) days to consider the terms of the Plaintiff's Released Claims; he has been and hereby is
11 advised to consult with an attorney before signing this Agreement; he understands this Agreement is
12 legally binding and by signing it he is giving up certain rights; he has voluntarily chosen to enter into this
13 Agreement and has not been forced or pressured in any way to sign it; he knowingly and voluntarily
14 releases the Released Parties from any and all claims he may have, known or unknown, in exchange for
15 the General Release Payment obtained by signing this Agreement; he understands the Plaintiff's
16 Released Claims in this Agreement includes a waiver and release of all claims he may have under the
17 Age Discrimination in Employment Act ("ADEA") and the Older Workers Benefit Protection Act
18 ("OWBPA"); and he understands the Plaintiff's Released Claims does not waive any rights or claims
19 that may arise under either the ADEA or the OWBPA after this Agreement is signed and becomes
20 effective, which is the eighth day after he signs it.

21 18. Plaintiff knowingly and voluntarily waives the remainder of the 21-day consideration
22 period, if any, following the date he signs this Agreement. Plaintiff has not been asked by the Released
23 Parties to shorten the time period to consider whether to sign this Agreement. The Released Parties have
24 not threatened to withdraw or alter the benefit due to Plaintiff prior to the expiration of the 21-day period,
25 nor have the Released Parties provided different terms to Plaintiff because he has decided to sign this
26 Agreement prior to the expiration of the 21-day consideration period. Plaintiff agrees with Defendant
27 that changes to this Agreement, whether material or immaterial, will not restart the running of the 21-day
28 consideration period.

19. Revocation. Plaintiff understands that if he signs this Agreement, he can change his mind and revoke the Plaintiff's Released Claims portion of the Agreement within seven (7) calendar days after signing it by returning it with written revocation notice to Shirley Wang, Saber Law Group, 101 Howard Street, Suite 400, San Francisco, California 94105; Fax: 415-278-1401 and email: swang@saberlaw.com.

20. Effective Date. Plaintiff understands the Plaintiff's Released Claims portion of this Agreement will not become enforceable until the date of entry of the Order and Judgment. Plaintiff also understands that if he revokes this Agreement, the entire Agreement shall become null and void and he shall not receive any General Release Payment under this Agreement.

21. Settlement Administration Costs. The Parties will retain CPT Group, Inc. as the third-party settlement administrator ("Settlement Administrator"). The Settlement Administrator will be responsible for establishing a qualified settlement fund ("QSF") and issuing payments and appropriate tax forms to Aggrieved Employees, the LWDA, Plaintiff, and Plaintiff's Counsel. The Settlement Administration Costs will be paid from the Gross Settlement Amount. Based on the estimate that there are approximately Six Hundred (600) Aggrieved Employees, Settlement Administration Costs are estimated at Seven Thousand Dollars (\$7,000).

22. Court Approval of the Settlement and Distribution of Settlement Payments. The Parties will present this Settlement Agreement to the Court and the LWDA. The Parties will request that the Court issue an order and judgment approving and incorporating by reference the terms and conditions of the Settlement Agreement (the "Order and Judgment").

23. List of Aggrieved Employees. Within thirty (30) calendar days after entry of the Order and Judgment, Defendant will provide the Settlement Administrator a complete list of all Aggrieved Employees ("Aggrieved Employee List"). The Aggrieved Employee List will be formatted in Microsoft Office Excel and will include each Aggrieved Employees full name; most recent mailing address and telephone number; Social Security number; the respective number of pay periods during which each Aggrieved Employee worked during the Settlement Period; and any other relevant information needed to calculate settlement payments.

24. Funding of the Settlement. Within thirty (30) calendar days after entry of the Order and

Judgment, Defendant will deposit half of the Gross Settlement Amount into a Qualified Settlement Fund to be established by the Settlement Administrator. Defendant will fund the remaining half of the Gross Settlement Amount on or before January 31, 2024, or within twenty (20) business days after entry of the Order and Judgment if, as of January 31, 2024, no entry of the Order and Judgment has yet been issued. Defendant must submit a supporting declaration that is acceptable to Plaintiff's Counsel, under penalty of perjury, from the VP of Finance justifying the need to fund the Gross Settlement Amount in two halves. Within fourteen (14) calendar days of the full funding of the Settlement, the Settlement Administrator will issue payments to: (a) Aggrieved Employees; (b) the Labor and Workforce Development Agency; (c) Plaintiff; (d) Plaintiff's Counsel; and (e) itself. The Settlement Administrator, and not Defendant, will issue the appropriate tax forms for all payments issued under this Settlement.

25. Settlement Payments to Aggrieved Employees. The Settlement Administrator will issue each Aggrieved Employee one check for his or her share of the PAGA Penalties Fund along with an explanatory letter, attached as Exhibit A. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. 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, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address or Social Security number of the Aggrieved Employee involved, and will then perform a single re-mailing. Checks will remain negotiable for 180 days. Those funds represented by un-cashed checks which remain outstanding 180 days after the mailing of the Settlement checks by the Settlement Administrator will be tendered to Worksafe. All settlement payments to Aggrieved Employees will be treated as miscellaneous income for which a 1099 will be issued.

26. Release as to PAGA Settled Claims. Upon entry of the Order and Judgment, Plaintiff and all Aggrieved Employees will be forever barred from pursuing against Defendant any and all Settled Claims during the Settlement Period. Aggrieved Employees, other than Plaintiff, will not be deemed to have released any individual wage and hour claims by virtue of this Settlement. Plaintiff, on behalf of himself and as a representative of the State of California, and all Aggrieved Employees, hereby fully

1 release Defendant and all Released Parties from any and all Settled Claims. Upon entry of the Order and
2 Judgment, Plaintiff and all Aggrieved Employees will be forever barred from pursuing any and all of the
3 claims covered by this release of Settled Claims. Defendant preserves its rights to enforce any release of
4 claims entered into by any Aggrieved Employee.

5 27. No Right to Exclusion or Objections by Representative Action Members. Because this
6 settlement resolves claims and actions brought pursuant to PAGA by Plaintiff acting as a proxy and as a
7 Private Attorney General of, and for, the State of California and the LWDA, the Parties agree that no
8 Aggrieved Employee has the right to exclude himself or herself from the Settlement. Aggrieved
9 Employees will be bound by the terms of the Settlement Agreement, upon its approval by the Court,
10 regardless of whether he or she cashes any payment received as a result of this Settlement. The Parties
11 also agree that no Aggrieved Employee has the right to object to the terms of the Settlement Agreement.

12 28. No Admission of Liability or Violation. Defendant has contended and continues to
13 contend that the allegations in the Action have no merit and do not give rise to liability. Defendant
14 denies all of the allegations in Plaintiff's PAGA notice to the LWDA and in the Action, including
15 specifically that it has violated any federal, state, or local law. Defendant maintains that it has complied
16 in good faith with California wage and hour law and dealt fairly and legally with Plaintiff and the
17 Aggrieved Employees. Nonetheless, Defendant has concluded that further proceedings in the Action
18 would be protracted and expensive, and that the Action be fully and finally settled in the manner and
19 upon the terms and conditions set forth in this Agreement in order to dispose of burdensome and
20 protracted litigation. This settlement is a compromise of such disputed claims. Defendant has agreed to
21 settle the Action on the terms and conditions set forth in this Agreement for the sole purpose of avoiding
22 the burden, expense, and uncertainty of continuing the Action. Except as necessary in any proceeding to
23 enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be offered or
24 received as evidence in any action or proceeding to establish any liability or admission on the part of any
25 Defendant or Released Party to establish the existence of any condition constituting a violation of or non-
26 compliance with federal, state, local or other applicable law.

27 29. No Credit Toward Benefit Plans. Payments to Aggrieved Employees as referenced
28 herein will not be utilized to calculate any additional benefits under any benefit plans to which any

1 Aggrieved Employee may be eligible, including, but not limited to profit-sharing plans, bonus plans,
2 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit
3 plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights,
4 contributions, or amounts to which any Aggrieved Employee may be entitled under any benefit plans.

5 30. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
6 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
7 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of
8 action or right herein released and discharged.

9 31. No Public Comment. The Parties and their counsel agree that they will not promote,
10 market, advertise, or discuss publicly, including on any website or through social media, issuing any
11 press releases, initiating any contact with the press, responding to any press inquiry, or having any
12 communication with the press, this Action, including the facts and claims alleged therein, and/or the fact,
13 amount or terms of the Settlement. However, for the limited purpose of establishing adequacy of counsel
14 in future actions, or seeking approval of comparable settlements, Plaintiff's Counsel may reference the
15 Action by name and provide only information about the settlement available in the public record.
16 Notwithstanding the foregoing, Defendant shall have the right to disclose the Action, Settlement terms as
17 may be required under federal and/or state or local laws, under generally accepted accounting principles,
18 or in Defendant's sole judgment, may be required to respond in general terms to inquiries from the
19 media, investment-related entities, and as may be required under the ordinary course of business.

20 32. Nullification of Settlement Agreement. In the event that: (i) the Court does not approve
21 the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then
22 this Settlement Agreement, and any documents generated to bring it into effect, will be null and void,
23 and the Parties will be returned to their original respective positions.

24 33. Judgment and Continued Jurisdiction. After entry of the Order and Judgment, the Court
25 will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement
26 of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters
27 as may be appropriate under court rules or as set forth in this Settlement.

28 34. Entire Agreement. This Settlement Agreement constitutes the entirety of the Parties'

1 settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding
2 on the Parties.

3 35. Amendment or Modification. This Settlement Agreement may be amended or modified
4 only by a written instrument, signed by either the Parties or their successors-in-interest or counsel for all
5 Parties, and approved by the Court.

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

15 37. Binding on Successors and Assigns. This Settlement Agreement will be binding upon,
16 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

17 38. California Law Governs. All terms of this Settlement Agreement will be governed by
18 and interpreted according to the laws of the State of California.

19 39. Execution and Counterparts. This Settlement Agreement is subject only to the execution
20 of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All
21 executed counterparts and each of them, including electronic signatures (e.g., DocuSign), facsimiles, and
22 scanned copies of the signature pages, will be deemed to be one and the same instrument.

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

28 41. Waiver of Certain Appeals. The Parties agree to waive appeals; except, however, that

1 Plaintiff may appeal any reduction to the Attorneys' Fees and Costs below the amount they request from
2 the Court, and either party may appeal any court order that materially alters the Settlement's terms.

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

7 43. Captions. The captions and section numbers in this Settlement Agreement are inserted
8 for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
9 provisions of this Settlement Agreement.

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

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

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

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

27 48. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good
28 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this

1 Settlement Agreement.

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

7 50. Denial of Liability. The Parties expressly recognize that the making of this agreement
8 does not in any way constitute an admission or concession of wrongdoing on the part of Defendant.
9 Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements,
10 discussions or communications, nor any materials prepared, exchanged, issued or used during the
11 pendency of the Action, is intended by the Parties to, nor will any of the foregoing constitute, be
12 introduced, be used or be admissible in any way in any other judicial, arbitral, administrative,
13 investigative or other forum or proceeding, as evidence of any violation of any federal, state, or local law,
14 statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity.
15 Notwithstanding the foregoing, this agreement may be used in any proceeding in the Court that has as its
16 purpose the interpretation, implementation, or enforcement of the Settlement or any orders or judgments
17 of the Court entered into in connection therewith.

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21 **THIS SECTION LEFT BLANK**
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READ CAREFULLY BEFORE SIGNING

PLAINTIFF

DocuSigned by:

Romulo Adriano

46BCC328D70A4B9...

Dated: 8/16/2023

Romulo Adriano

DEFENDANT

DocuSigned by:

Colleen Ludwig

A3E922597301484...

Colleen Ludwig—Chief Counsel
Visby Medical, Inc.

Dated: 8/7/2023

APPROVED AS TO FORM

CAPSTONE LAW APC

Raul Perez

Raul Perez
Attorneys for Plaintiff Romulo Adriano

Dated: 8/16/2023

SABER LAW GROUP

DocuSigned by:

Shirley Wang

3C218E354F1847F...

Shirley Wang
Attorneys for Defendant Visby Medical, Inc.

Dated: 8/7/2023

Exhibit A

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

**Re: Payment From *Adriano v. Visby Medical, Inc.*, No. 21CV387068
(Santa Clara County Superior Court)**

Dear <<FIRST_NAME>> <<LAST_NAME>>:

Enclosed you will find a check made payable to you. This is your payment from the settlement of the lawsuit entitled *Adriano v. Visby Medical, Inc.*, No. 21CV387068 (Santa Clara County Superior Court) (the “Action”).

The Action was filed against Defendant Visby Medical, Inc. (“Defendant”) pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* (called “PAGA”). The Action was brought by a former employee of Defendant on behalf of the State of California and all allegedly “aggrieved employees” of Defendant. You have been identified as one of the employees on whose behalf the case was brought because you were employed as a non-exempt employee by Defendant for a period between July 23, 2020 through April 19, 2023 (“Settlement Period”). The Plaintiff in the Action claimed that Defendant owed civil penalties recoverable under PAGA for alleged violations of the California Labor Code and California Wage Orders. Defendant denies that it violated the Labor Code or California Wage Orders. Defendant maintains that it has complied in good faith with California wage and hour law and dealt fairly and legally with Plaintiff and the aggrieved employees. Defendant nevertheless agreed to a settlement in order to avoid protracted and expensive litigation. Moreover, in agreeing to this settlement, Defendant does not admit that it is liable in any way for any penalties.

The Court has not ruled on the merits of the Action but it has approved the settlement of PAGA civil penalties, of which 75% will be paid to the California Labor and Workforce Development Agency, and the remaining 25% will be paid to aggrieved employees. Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties.

As an aggrieved employee, you have released your right to bring any claims for PAGA civil penalties under the California Labor Code, Wage Orders, regulations, and/or other provisions of law alleged to have been violated in the Action or reasonably could have been alleged in the Action arising out of the alleged facts and/or matters alleged in the Action with respect to aggrieved employees during the Settlement Period. Aggrieved employees, other than Plaintiff, will not be deemed to have released any individual wage and hour claims based on alleged violations of the Labor Code or of a California Wage Order, for which they have a private right of action, by virtue of the Settlement.

You are not a party to this lawsuit, but you and the government will be bound by the settlement in this matter as to civil penalties. If you have any questions, you can contact the settlement administrator (whose contact information is at the top of this letter).

Very Truly Yours,
[Administrator]