

FIRST AMENDMENT TO PAGA SETTLEMENT AGREEMENT

This is a First Amendment to the PAGA Settlement Agreement executed on or about April 19, 2024 (“***Settlement Agreement***” or “***Agreement***”) by and between Plaintiff Mahoo Amin (“***Plaintiff***”), on behalf of himself and on behalf of the State of California, on the one hand, and Defendant USGI Medical, Inc. (“***Defendant***”), on the other hand, (each a “***Party***” or collectively, the “***Parties***”). All capitalized terms used in this amendment that are not otherwise defined shall have the meaning set forth in the Settlement Agreement.

RECITALS

WHEREAS, the Parties entered into and fully executed the Settlement Agreement on or about April 19, 2024;

WHEREAS, the Parties submitted the proposed Settlement Agreement to the Court for approval on or about May 2, 2024;

WHEREAS, on or about August 2, 2024, the Court issued a tentative ruling identifying issues with the proposed Settlement Agreement and its related documents for the Parties to consider, which was confirmed by the Court in a minute order (the “***Order***”);

WHEREAS, upon receipt of the Order, the Parties met and conferred and agreed to amend certain portions of the Settlement Agreement to address the issues identified by the Court;

WHEREAS, in consideration of the promises, the respective covenants and commitments set forth in the Settlement Agreement as amended and modified in this amendment, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged;

NOW THEREFORE, pursuant to Section 9.3 (Attorney Authorization), Section 9.4 (Cooperation), and Section 9.7 (Modification of Agreement) of the Settlement Agreement, this First Amendment to the Settlement Agreement (the “***First Amendment***”) is entered into between Plaintiff, on behalf of himself and on behalf of the State of California, on the one hand, and Defendant, on the other hand, and this First Amendment amends and supplants the Settlement Agreement as follows:

AGREEMENT

1. Section 1.9 of the Agreement is deleted in its entirety and is replaced with the following:

“***Individual PAGA Payment***” means the PAGA Member’s pro-rata share of the twenty-five (25%) of the PAGA Penalties calculated according to the number of Pay Periods the PAGA Member worked during the PAGA Period.

2. Section 1.22 of the Agreement is deleted in its entirety and is replaced with the following:

“***PAGA Notice***” means Plaintiff’s May 18, 2023, August 15, 2024, and August 22, 2024 letters to the LWDA providing notice pursuant to Labor Code section 2699.3(a).

3. Section 3.2.2 of the Agreement is deleted in its entirety and is replaced with the following:

To the Administrator: An Administrator Expenses Payment not to exceed one thousand nine hundred and fifty dollars and no cents (\$1,950.00) except for a showing of good cause and as approved by the Court. To the extent the administration expenses are less or the Court approves payment less than one thousand nine hundred and fifty dollars and no cents (\$1,950.00), the Administrator will retain the remainder in the Net Settlement Amount.

4. Section 3.2.4.1 of the Agreement is deleted in its entirety and is replaced with the following:

The Administrator will distribute the portion of the Net Settlement Amount available for distribution to PAGA Settlement Group Members (twenty-five percent (25%) of the Net Settlement Amount) in pro-rata shares among all PAGA Settlement Group Members. An Individual PAGA Payment shall be calculated by: (a) dividing the PAGA Members' 25% share of the PAGA Penalties by the total number of PAGA Pay Periods worked by all PAGA Members during the PAGA Period (the "***Pay Period Value***"); and (b) multiplying the Pay Period Value by the number of Pay Periods worked by each PAGA Member during the PAGA Period. The PAGA Group Members assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

5. Section 4.4.3 of the Agreement is deleted in its entirety and is replaced with the following:

In the event that any checks mailed to the PAGA Members remain uncashed after the expiration of one hundred eighty (180) days, or an envelope mailed to a PAGA Member is returned and no forwarding address can be located for him or her after reasonable efforts have been made (including but not limited to skip tracing), then any such funds shall be transmitted to the Administrator and distributed to the State Controller's Office Unclaimed Property Fund in the name of the PAGA Member.

6. Section 5.2 of the Agreement is deleted in its entirety and is replaced with the following:

Release by PAGA Members. Upon entry of the Order approving the Settlement, Plaintiff, on behalf of the LWDA and State of California, and all Releasing PAGA Members shall release and forever discharge the Released Parties from any kind of claim or action for civil penalties under PAGA during the PAGA Period based on or arising out of the allegations in the letters submitted by Plaintiff to the LWDA on May 18, 2023, August 15, 2024, and August 22, 2024, and the complaint(s) filed in the Action including, but not limited to, any and all claims under California Labor Code sections 200, 201, 201.3, 202, 203, 204, 210, 218.6, 226, 226.3, 226.7, 432, 500, 510, 512, 515, 516, 558, 1174, 1174.5, 1182.11, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 3287, 3288, and 2698 through 2699 *et. seq.*, and relevant applicable IWC Wage Orders.

7. Section 6.2 of the Settlement Agreement is deleted in its entirety and is replaced with the following:

Responsibilities of PAGA Counsel. PAGA Counsel shall submit a copy of Settlement Agreement, including any amendments, to the LWDA at the same time the Settlement Agreement, or amendment, is submitted to the Court for approval, in compliance with California Labor Code section 2699(1)(2). Within ten (10) calendar days after entry of an Order approving the Settlement, including any amendments, Plaintiff shall submit a copy of the Court's Order in compliance with California Labor Code section 2699(1)(3). If Plaintiff fails to satisfy these conditions in compliance with California Labor Code section 2699(1), the Settlement, and its amendments, shall be voidable at Defendant's option after Defendant has provided Plaintiff's Counsel seven (7) days' written notice to cure the deficiency and such deficiency has not been resolved.

8. Effective as of the date this Amendment is fully executed, all references in the Settlement Agreement to the "Settlement Agreement" or "Agreement" shall mean the Settlement Agreement as amended by this First Amendment. Except as expressly amended herein, the terms of the Settlement Agreement continue unchanged and shall remain in full force and effect.

9. This Amendment may be executed in counterparts, which shall be deemed to be part of one original, and facsimile and electronic image copies of signatures (including by pdf, DocuSign, or any electronic signature complying with the U.S. federal E-SIGN Act of 2000) or other transmission method shall be equivalent to original signatures.

10. Pursuant to Section 9.7 of the Settlement Agreement, the Settlement Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives. The Parties' respective counsel executing this First Amendment hereby warrant and represent that they are duly authorized to execute this First Amendment on behalf of the Party they represent, as set forth in Paragraph 9.3 (Attorney Authorization) of the Settlement Agreement.

The Parties have agreed to the terms of this First Amendment and have signed below through their respective counsel.

LOYR, APC

Dated: _____

Young W. Ryu, Esq.
Kee Souk Mah, Esq.
Attorneys for Plaintiff MAHOO AMIN

COOLEY LLP

Dated: _____

Summer Wynn
Claire Norman
Attorneys for Defendant USGI MEDICAL, INC.