

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of: :

SOUTH NASSAU WALK-IN MEDICAL CARE, P.C., :

Petitioner, :

DOCKET NO. PR 18-053

To Review Under Section 101 of the Labor Law: :

An Order to Comply with Articles 5, 6 and 7 of the Labor Law, dated July 19, 2018, :

RESOLUTION OF DECISION

- against - :

THE COMMISSIONER OF LABOR, :

Respondent. :

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APPEARANCES

Nixon Peabody LLP, Jericho, (Jeffery A. Meyer of counsel), for petitioner.

Pico P. Ben-Amotz, General Counsel, NYS Department of Labor, Albany (Steven J. Pepe of counsel), for respondent.

WHEREAS:

The above proceeding was commenced on September 17, 2018, when petitioner, South Nassau Walk-In Medical Care, P.C. (herein after "South Nassau") filed a petition for review pursuant to Labor Law § 101 and Part 66 of the Industrial Board of Appeals' Rules of Procedure and Practice (12 NYCRR Part 66) challenging an order issued against them and Sandeep Gupta and Jasminder Luthra. South Nassau is the sole petitioner in this matter.

The petition alleges that petitioner did not acquire ownership of the business for more than a year and one half after the claim period contained in the order to be reviewed and that South Nassau did not contractually or statutorily assume any liability and/or responsibility for the claims contained in the order. As such, South Nassau concludes that it cannot be considered an employer as defined by the Labor Law.

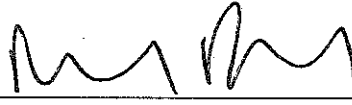
On November 30, 2018, respondent moved the Board to withdraw the order to comply as to the petitioner. In her papers, respondent stated that "[p]ursuant to a review of Petitioner, South Nassau Walk-In-Medical Care, P.C.'s assertions, the Respondent finds no basis for liability."

Petitioner did not oppose the motion.

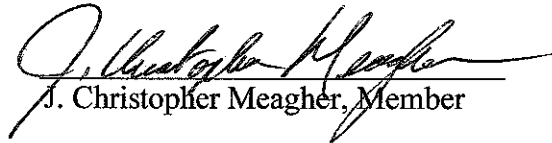
After review of the motion, the petition and all papers and correspondence, and after full consideration of the Board's Rules of Procedure and Practice, the Board grants the motion and the order is amended to remove petitioner South Nassau Walk-In Medical Care, P.C. from the order. The order named two other individuals, Sandeep Gupta and Jasminer Luthra, who separately petitioned the Board to review the order pursuant to Labor Law § 101(1) under Board Docket No. 18-054. The Order as issued against Sandeep Gupta and Jasminer Luthra remains valid unless declared invalid in a proceeding before the Board under Labor Law § 103 (1). Thus, the Board is granting the petition and revoking the order only as to South Nassau Walk-In Medical Care, P.C.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. Effective as of the date of this Resolution of Decision, the Board approves respondent's motion to amend the Order Under Articles 5, 6, and 7 of the Labor Law issued July 19, 2018 to remove South Nassau Walk-In Medical Care, P.C.; and
2. The petition of South Nassau Walk-In Medical Care, P.C. is granted.

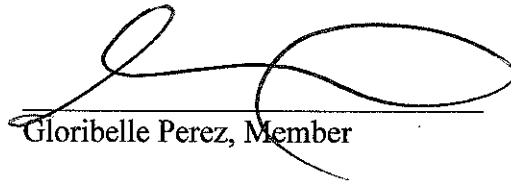


Molly Doherty, Chairperson



J. Christopher Meagher, Member

Michael A. Arcuri, Member



Gloribelle Perez, Member

Dated and signed by the Members
of the Industrial Board of Appeals
in New York, New York, on
January 30, 2019.

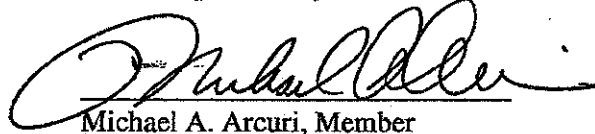
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Molly Doherty, Chairperson

J. Christopher Meagher, Member



Michael A. Arcuri, Member

Gloribelle Perez, Member

Dated and signed by a Member
of the Industrial Board of Appeals
in Utica, New York, on
January 30, 2019.