

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 OR 15(d) of The Securities Exchange Act of 1934

Date of report (Date of earliest event reported): **March 5, 2024**

PHUNWARE, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation)

001-37862

(Commission File Number)

30-1205798

(IRS Employer Identification No.)

1002 West Avenue, Austin, Texas

(Address of principal executive offices)

78701

(Zip Code)

Registrant's Telephone Number, Including Area Code: **(512) 693-4199**

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.0001 per share	PHUN	The NASDAQ Capital Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01 Entry into a Material Definitive Agreement.

As previously reported, on March 30, 2021, Phunware, Inc. (the “Company”) filed an action against its former counsel Wilson Sonsini Goodrich & Rosati, PC (“WSGR”), which was styled Phunware, Inc., v. Wilson Sonsini Goodrich & Rosati, Professional Corporation, Does 1-25, Case No. 21CV381517 and filed in the Superior Court of the State of California for the County of Santa Clara (the “Uber Litigation”). The Company’s claims asserted in the Uber Litigation were subsequently ordered to arbitration (the “Uber Arbitration”). In the Uber Arbitration, WSGR sought to recover attorney’s fees and costs for services rendered to the Company in connection with a separate litigation matter against Uber Technologies, Inc.

On March 5, 2024, the Company entered into a Settlement Agreement and Release of Claims (the “Settlement Agreement”) with WSGR settling the Uber Litigation. As part of the Settlement Agreement, the Company was required to (i) pay WSGR a total sum of \$2,193,852.02 no later than March 8, 2024, (ii) file requests for dismissal of the Uber Litigation, with prejudice, with the Santa Clara Superior Court, and (iii) request that the Uber Arbitration be dismissed and closed with prejudice. In addition, WSGR is required to request that the Uber Arbitration be dismissed and closed with prejudice. The Settlement Agreement also provides that the Company and WSGR release each other from all claims that the Company or WSGR may have against one another with respect to the Uber Litigation or the Uber Arbitration.

The full text of the Settlement Agreement is attached hereto as Exhibit 10.1 and is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

<i>Exhibit No.</i>	<i>Exhibit Title</i>
10.1	Settlement Agreement and Release of Claims dated March 5, 2024, by and between Phunware, Inc. and Wilson Sonsini Goodrich & Rosati, Professional Corporation
104	Cover Page Interactive Data File (embedded within the inline XBRL document)

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: March 14, 2024

Phunware, Inc.

By: /s/ Troy Reisner
Troy Reisner
Chief Financial Officer

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Settlement Agreement And Release of Claims (“**Agreement**”) is entered into by and between Phunware, Inc. (“**Phunware**”) on the one hand, and Wilson Sonsini Goodrich & Rosati, Professional Corporation (“**WSGR**”) on the other. Phunware and WSGR are collectively referred to as the “**Parties**” and “**Party**” means each individually.

RECITALS

A. On March 30, 2021, Phunware filed a Complaint against WSGR in the Superior Court of the State of California for the County of Santa Clara, Case No. 21CV381517 (the “**Uber Litigation**”). Phunware’s claims asserted in the Uber Litigation were ordered to arbitration.

B. WSGR initiated a JAMS arbitration proceeding, Reference No. 112005900 (the “**Uber Arbitration**”). In the Uber Arbitration, WSGR seeks attorneys’ fees and costs in the amount of \$2,193,852.02 plus prejudgment interest (the “**Uber Fee Claim**”), which represents the amount that WSGR contends Phunware owes in connection with WSGR’s representation of Phunware relating to the matter captioned *Phunware, Inc. v. Uber Technologies, Inc.*, CGC-1-561546.

C. Phunware’s claims asserted in the Uber Litigation and the Uber Fee Claim are both pending in and part of the Uber Arbitration.

D. The Parties have engaged in arms’ length settlement discussions. The Parties negotiated in good faith and reached an agreement so as to avoid the costs, risks, and burdens that would be imposed by further arbitration in the Uber Arbitration or subsequent litigation involving claims made in the Uber Arbitration and/or in the Uber Litigation.

E. This Agreement is not intended to resolve, impact or affect any claims between the Parties in the matter they call *Wild Basin*, also pending in arbitration before JAMS Reference No. 5110000159.

F. In consideration of the promises, agreements and releases contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

AGREEMENT

1. Payment/Consideration. Phunware will pay to WSGR the total sum of \$2,193,852.02 (the “**Settlement Amount**”). No later than March 8, 2024, at 5:00 p.m. Pacific Standard Time, Phunware must pay the Settlement Amount to WSGR by electronic wire transfer. WSGR will provide a W-9 and wire transfer instructions to Phunware for payment of the Settlement Amount on or before March 6, 2024.

2. Dismissal of Litigation. Within five (5) days of execution of this Agreement, Phunware shall file Requests for Dismissal, with prejudice, with the Santa Clara Superior Court for the Uber Litigation.

3. Dismissal of Arbitration. Within five (5) days of execution of this Agreement, Phunware shall request that JAMS dismiss and close with prejudice its claims and/or counterclaims asserted in the Uber Arbitration.

Within five (5) days of WSGR's timely receipt of the Settlement Amount as set forth in Section 1, above, WSGR shall request that JAMS dismiss and close with prejudice its claims and/or counterclaims asserted in the Uber Arbitration.

4. Release of Claims. The Parties, on their own behalf and on behalf of their respective present and former agents, employees, employers, officers, directors, shareholders, corporations, parent and subsidiary corporations, partners, joint venturers, estates, beneficiaries, representatives, executors, administrators, predecessors, successors and assigns, and each of them, and all those claiming by, through, under or in concert with them or any of them hereby release, acquit and forever discharge each other, and all of their present and/or former partners, attorneys, employees, agents, representatives, predecessors, successors, affiliates, and insurers from any and all claims, demands, debts, losses, obligations, liabilities, costs, expenses, rights and causes of action, of any kind or character whatsoever, under any theory the Parties now own, hold, have or claim to have or at any time owned, held, had or claimed to have against one another with respect to: (i) the claims asserted in the Uber Litigation; (ii) Phunware's claims asserted in the Uber Arbitration; and (iii) WSGR's claims asserted in the Uber Arbitration (i.e., the Uber Fee Claim).

The Parties expressly confirm and agree that this Agreement relates solely to the claims referenced in the first paragraph of this Section 4 and excludes and does not release, discharge, impact or affect: (1) any claims that Phunware asserted in the Complaint filed by Phunware against WSGR in Superior Court of the State of California for the County of Santa Clara, Case No. 21CV386411, which claims were ordered to arbitration and which claims Phunware is asserting in arbitration before JAMS, Reference No. 51110000159 (the "**Wild Basin Arbitration**"); and (2) any claims that WSGR is asserting in the Wild Basin Arbitration with respect to fees, costs, or interest for its representation of Phunware on matters outside of the Uber Fee Claim.

With respect to the matters released in this Agreement, the Parties expressly waive any and all rights under Section 1542 of the Civil Code of the State of California, or under any other similar state or federal statute or any common law principle of similar effect. The consequences of such waiver have been explained to the Parties who represent that they fully understand the consequences of such waiver. California Civil Code Section 1542 provides:

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

5. Compromise of Disputed Claim. This Agreement shall not in any way be used or construed as an admission of any liability or any wrongdoing of any kind whatsoever by any of the Parties, and each Party specifically disclaims any liability to the other, or to any other persons or entities, with respect to any claims in the Uber Litigation or the Uber Arbitration.

6. Execution of Documents.

(a) This Agreement may be executed in several counterparts and, as executed, shall constitute one agreement, binding on all Parties who have executed a counterpart, notwithstanding that all Parties are not signatories to the original or to the same counterparts.

(b) Each Party acknowledges and represents that it has complete authority to execute, deliver and perform this Agreement.

(c) This Agreement may be executed by telecopy or electronically submitted signatures. This Agreement shall be binding on all Parties notwithstanding that all Parties' telecopied or electronically submitted signature pages are not to the same counterparts.

7. Construction/Severability. If any provision of this Agreement shall be determined to be invalid, void or illegal, such provision shall be construed and amended in a manner which would permit its enforcement, but in no event shall such provision affect, impair or invalidate any other provision in this Agreement. Each Party acknowledges that it has participated equally in the drafting of this Agreement and reviewed the terms of the Agreement. As such, no rule of construction shall apply in any interpretation of this Agreement which might result in this Agreement being construed in favor of or against any Party, including without limitation, any rule of construction to the effect that ambiguities ought to be resolved against the drafting Party.

8. Voluntary Agreement With the Advice of Counsel. Each of the Parties has entered into this Agreement freely and voluntarily and after having consulted with counsel and having the terms contained in this Agreement explained to each of them by counsel. The Parties appreciate and understand the terms contained in the Agreement and are fully satisfied with the settlement set forth in it. The Parties acknowledge and represent that they enter into this Agreement and all of the contemplated dismissal-related documents of their own free will and not due to any representation, commitment, promise, pressure or duress from any other Party.

9. Miscellaneous.

(a) Notwithstanding any provision contained in this Agreement to the contrary, in the event of a dispute relative to any provision in this Agreement, the prevailing party shall recover its/her reasonable attorneys' fees, costs and expenses incurred in enforcing this Agreement, in addition to any damages caused by such dispute. Except as otherwise provided, any litigation to enforce this Settlement Agreement or any resulting judgment is subject to arbitration, as provided in the Parties' engagement agreement and the Santa Clara Superior Court order sending this matter to arbitration in the matter referred to herein as the Uber Arbitration. The Parties agree that the currently appointed arbitrator in the Uber Arbitration, Zela Claiborne of JAMS, retains jurisdiction to enforce this Agreement and any breach.

(b) Each Party warrants that it has made no assignment or other transfer, and will make no assignment or other transfer, directly or indirectly, of this Agreement and/or of any claim or any other right, remedy or other interest of any kind which is the subject of and which is released pursuant to this Agreement, and that no other person or entity has or had any interest of any kind in such claims referred to above.

(c) As used in this Agreement, captions and paragraph headings are provided solely for convenience and shall not be deemed to restrict or limit the meaning of the text. The language of all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning and not strictly for or against any of the Parties.


(d) This Agreement, its interpretation, and its enforcement, are subject to the laws of the State of California, without regard to choice of law issues or federal courts' interpretation of same.

(e) Each of the Parties shall bear its own costs and expenses incurred in connection with the negotiation, drafting, and consummation of this Agreement.

10. Integration. This Agreement contains the entire agreement between the Parties regarding its subject matter. This Agreement cannot be modified or amended, except in writing executed by the Party to be charged. Except as expressly set forth in this Agreement, there have been no representations or promises made by any Party and relied upon by the other in entering into this Agreement.


PHUNWARE, INC.

Dated: March 5, 2024

DocuSigned by:

3EE42F4F39FC42C...
Michael Snavelly
Chief Executive Officer

WILSON SONSINI GOODRICH & ROSATI

Dated: March x, 2024

DocuSigned by:

AC0722343F52404...
Rodney G. Strickland
General Counsel

