

Brian J. Mankin, Esq. [CSB No. 216228]
brian@lmlfirm.com
Peter J. Carlson, Esq. [CSB No. 295611]
peter@lmlfirm.com
LAUBY, MANKIN & LAUBY LLP
5198 Arlington Avenue, PMB 513
Riverside, CA 92504
Tel: (951) 320-1444 | Fax: (951) 320-1445

Attorneys for Plaintiff, on a representative basis, and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

ASHLEY BROWN, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

MINUTECLINIC DIAGNOSTIC
MEDICAL GROUP OF CALIFORNIA,
INC., a California Corporation; et al.;

Defendants.

Case No.: 30-2021-01185270-CU-OE-CXC
*[Assigned to Hon. Lon F. Hurwitz, Dept
CX103, for all purposes]*

**[PROPOSED] ORDER AND JUDGMENT
OF FINAL APPROVAL**

Complaint filed: February 22, 2021

The Motion for Final Approval of the Settlement (the “Final Approval Motion”) as set forth in the Amended Class and PAGA Action Settlement Agreement and Release¹ (the “Settlement Agreement”) between Plaintiff Ashley Brown (“Plaintiff” or “Class Representative”) and Defendants MinuteClinic Diagnostics Medical Group of California, Inc., MinuteClinic Diagnostic Medical Group of Orange County, Inc., and MinuteClinic Diagnostic Medical Group of San Diego, Inc. (collectively, “Defendants” or “MinuteClinic”) (collectively, “the Parties”) came for hearing in Department CX103 of the above-entitled court. The Final Approval Motion was unopposed by Defendants. Having considered the Final Approval Motion,

¹ See Exhibit 1 to ROA 76.

1 the Settlement Agreement, the Declarations, and all other materials properly before the Court
2 and having conducted an inquiry pursuant to California Rules of Court, Rule 3.769(g), the Court
3 finds that the Settlement Agreement was entered by all parties in good faith, and the Settlement
4 Agreement is approved. Due and adequate notice having been given to the Class, and the Court
5 having considered the Settlement Agreement, all papers filed and proceedings had herein and all
6 oral and written comments received regarding the proposed settlement, and having reviewed the
7 record in this Litigation, and good cause appearing,

8 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

9 1. The Court, for purposes of this Judgment and Order (“Judgment”), refers to all
10 defined terms (i.e., terms with initial capitalization) as set forth in the Settlement Agreement.

11 2. The Court has jurisdiction over the subject matter over this Action, the Class
12 Representative, the Class Members, the PAGA Employees (aka “Aggrieved Employees”), the
13 Labor and Workforce Development Agency (“LWDA”), and Defendants.

14 3. For sole purposes of effectuating this Order and Judgment, this Court has certified
15 the following the class:

16 a. “Class Members” is defined as all current and former non-exempt employees
17 of MinuteClinic who worked in California at any time during the Class
18 Period. The Class Period is February 22, 2017, through February 16, 2023.

19 b. The Court deems this definition sufficient for purposes of California Rules of
20 Court, rule 3.765(a).

21 c. “Participating Class Members” includes “Class Members who do not opt out
22 of the Class Claims portion of this Settlement by submitting a timely valid
23 Request for Exclusion.”

24 4. With respect to the Class Members and for the sole purposes of approving this
25 Settlement, this Court finds and concludes as follows: (a) the Class Members are ascertainable
26 and so numerous that joinder of all members is impracticable; (b) there are questions of law or
27 fact common to the Class Members, and there is a well-defined community of interest among the
28 Class Members with respect to the subject matter of the Action; (c) the claims of the Class

1 Representative are typical of the claims of the Class Members; (d) the Class Representative has
2 fairly and adequately protected the interests of the Class Members; (e) a class action is superior
3 to other available methods for an efficient adjudication of this controversy; and (f) the counsel of
4 record for the Class Representative, *i.e.*, Class Counsel, are qualified to serve as counsel for the
5 Plaintiff in their individual and representative capacity and for the Class.

6 5. The Court finds that the distribution of the Class Notice, as provided for in the
7 Order Granting Preliminary Approval for the Settlement, constituted the best notice practicable
8 under the circumstances to all Class Members and fully met the requirements of California law
9 and due process under the California and United States Constitution. Based on evidence and
10 other material submitted, the actual notice to the class was adequate. The Court further finds that
11 Plaintiff properly gave notice of this Settlement to the LWDA.

12 6. The Court finds that the instant Action presented a good faith dispute of the
13 claims alleged, and the Court finds in favor of settlement approval. Specifically, as defined in
14 the Settlement Agreement, the Released Class Claims on behalf of the Participating Class
15 Members included any and all claims, demands, rights, liabilities, and causes of action that have
16 been or could have been asserted in the instant Action based on the allegations in the operative
17 Complaint and LWDA Notice in this Action for the duration of the Class Period, including but
18 not limited to, claims for (1) Failure to Pay Minimum Wages, (2) Failure to Pay Overtime
19 Wages, (3) Failure to Provide Meal Breaks; (4) Failure to Provide Rest Breaks, (5) Failure to
20 Timely Pay Final Wages; (6) Failure to Provide Accurate Wage Statements, and (7) Unfair
21 Competition. In addition, each Participating Class Member who cashes their settlement payment
22 shall be deemed to have released all claims set forth above under the California Labor Code and
23 the FLSA. By this Judgment, each of the Participating Class Members shall be deemed to have
24 fully, finally, and forever released, relinquished, and discharged all Released Class Claims
25 against the Released Parties.

26 7. Additionally, as defined in the Settlement Agreement, the PAGA Released Claims
27 means all claims for civil penalties under the Private Attorneys General Act, Labor Code § 2698
28 *et seq.*, that have been or could have been asserted against the Released Parties, on behalf of

Aggrieved Employees (aka “PAGA Employees”)² and State of California, based on the facts stated in Plaintiff’s operative Complaint and in Plaintiff’s February 11, 2021, notice letter to the LWDA, including all PAGA claims seeking civil penalties for (1) Failure to Pay Minimum Wages, (2) Failure to Pay Overtime Wages, (3) Failure to Provide Meal Periods; (4) Failure to Provide Rest Breaks, (5) Failure to Timely Pay Wages; (6) Failure to Timely Pay Final Wages; and (7) Failure to Provide Accurate Wage Statements, and based on or arising from alleged violations of the California Labor Code, including Sections 200, 201, 202, 203, 204, 208, 210, 218.6, 226, 226.3, 226.7, 256, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, 2699, et seq., and of the California Wage Orders. By this Judgment, the State of California and each of the PAGA Employees shall be deemed to have fully, finally, and forever released, relinquished, and discharged all PAGA Released Claims against the Released Parties.

8. There are two valid Requests for Exclusion to the Settlement. Except for these two individuals, all other 699 Participating Class Members are entitled to payment pursuant to the Settlement and this Judgment. Furthermore, all PAGA Employees are entitled to payment pursuant to this Settlement and Judgment.

9. There are no objections to the Settlement.

10. The Court approves the Settlement, as set forth in the Settlement Agreement and each of the releases and other terms, as fair, just, reasonable, and adequate as to the Parties. The Court has considered all relevant factors for determining the fairness of the Settlement and has concluded that all such factors weigh in favor of granting final approval. In particular, the Court finds that the Settlement was reached following meaningful discovery and investigation conducted by Class Counsel; that the Settlement is the result of serious, informed, adversarial, and arm’s-length negotiations between the Parties; and that the terms of the Settlement are in all respects fair, adequate, and reasonable. In so finding, the Court has considered all evidence presented, including evidence regarding the strength of Plaintiff’s case; the risk, expense, and complexity of the claims presented; the likely duration of further litigation; the amount offered in

² Pursuant to the Settlement Agreement, “PAGA Employees” is defined as all current and former non-exempt employees on MinuteClinic who worked in California at any time during the PAGA Period of December 19, 2019, through February 16, 2023.

1 the Settlement; the extent of investigation and discovery completed; and the experience and
2 views of counsel. The Parties are directed to perform in accordance with the terms set forth in the
3 Settlement Agreement and this Order and Judgment.

4 11. The Parties are to bear their own costs, except as otherwise provided in the
5 Settlement Agreement and this Order and Judgment.

6 12. By this Judgment, Class Representative is also deemed to have fully, finally, and
7 forever released any and all claims, known or unknown, against the Released Parties, as set forth
8 in the Settlement Agreement.

9 13. Neither the Settlement Agreement nor the Settlement contained therein, nor any
10 act performed or document executed pursuant to or in furtherance of the Settlement Agreement
11 or the Settlement (i) is or may be deemed to be or may be used by Plaintiff or Participating Class
12 Members as an admission of, or evidence of, the validity of any of the Released Class Claims, or
13 of any wrongdoing, liability, fault, omission, waiver of defenses, or concession of Defendants or
14 any of the other Released Parties; or (ii) is or may be deemed to be or may be used by Plaintiff or
15 PAGA Employees as an admission of, or evidence of, the validity of any of the PAGA Released
16 Claims, or of any wrongdoing, liability, fault, omission, waiver of defenses, or concession of
17 Defendants or any of the other Released Parties; or (iii) is or may be deemed to be or may be
18 used by Plaintiff, Participating Class Members, or PAGA Employees as an admission of, or
19 evidence of, any wrongdoing, liability, fault, omission, waiver of defenses, or concession of
20 Defendants or any of the other Released Parties in any civil, criminal, or administrative
21 proceeding in any court, administrative agency, or other tribunal. Defendants or any of the other
22 Released Parties may file the Settlement Agreement and/or the Judgment from this Action in any
23 other action that may be brought against it or them in order to support a defense or counterclaim
24 based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment
25 bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or
26 counterclaim.

27 14. The Gross Settlement Amount to be paid under the Settlement Agreement is
28 \$670,000. From this amount, Class Counsel sought an award of attorney's fees of \$233,333.33,

litigation expenses of \$14,120.14, Settlement Administrator Costs of \$9,750 to ILYM Group, \$30,000 to the LWDA for PAGA penalties and \$10,000 to the PAGA Employees. Defendants do not oppose these requests. The Court finds that the Settlement Amount is fair, reasonable and adequate, and approves the following payments from the Settlement Amount:

- A) \$233,333.33 to Class Counsel for attorneys' fees;
- B) \$14,120.14 to Class Counsel for costs/expenses;
- C) \$9,750 to the Administrator, ILYM Group;
- E) \$30,000 to the LWDA;
- F) \$10,000 to the PAGA Employees;
- G) After deducting the foregoing payments from the Gross Settlement

Amount, the remainder shall form the Net Settlement Amount payable to the Participating Class Members as set forth in the Settlement Agreement and as calculated by the Settlement Administrator.

15. Upon entry of this Order and Judgment, Defendants are directed to fund the Settlement Amount in accordance with the Settlement Agreement and the timeline set forth below. The Settlement Administrator is directed to calculate the Participating Class Member's Individual Class Payments from the Net Settlement Amount, as well as the PAGA Employees' individual PAGA payments, and issue all payments in accordance with the Settlement Agreement and the timeline set forth below:

30 calendar days following the date this Order and Judgment is entered	The Effective Date occurs.
15 calendar days after the Effective Date	Defendants are directed to deposit the Gross Settlement Amount into the Qualified Settlement Fund, plus its share of payroll taxes as calculated by the Settlement Administrator.
10 calendar days after Defendants' deposit of the Settlement Amount into the Qualified Settlement Fund	Settlement Administrator to issue all payments to Participating Class Members, PAGA Employees, Class Counsel, LWDA and itself.

180 calendar days after the Settlement Administrator issues Individual Settlement Payments	Deadline for Participating Class Members and PAGA Employees to cash checks.
March 15, 2024	Class Counsel to file a declaration from the Settlement Administrator setting forth the disbursements that were actually made, including status of issuing any uncashed funds to the State Controller.

16. The envelope transmitting the settlement checks shall bear the notation “YOUR CLASS ACTION SETTLEMENT CHECK IS ENCLOSED.” Concurrently with mailing the settlement checks to the Participating Class Members and PAGA Employees, the Settlement Administrator shall include a Notice of Entry of Judgment to all Class Members either on a postcard or as a detachable portion of the check for the Participating Class Members, noting the following: “Please be advised that on [INSERT DATE] the Superior Court of California for the County of Orange entered Judgment in the case entitled *Ashley Brown v. MinuteClinic Diagnostic Medical Group of California, Inc., et al*, Case No. 30-2021-01185270-CU-OE-CXC, on behalf of the Participating Class Members and the PAGA Employees, which includes all current and former non-exempt employees of MinuteClinic who worked in California at any time during the Class Period or the PAGA Period, respectively. The Class Period is February 22, 2017, through February 16, 2023. The PAGA Period is December 19, 2019, through February 16, 2023.”

17. Participating Class Members and PAGA Employees shall have 180 days to negotiate the settlement check from the date of issuance by the Settlement Administrator. In the event that a Participating Class Member and/or PAGA Employees does not negotiate his/her check within this time period, the check will be canceled. The value of the unclaimed funds in the Settlement Administrator’s account as a result of a failure to timely cash a settlement check shall be issued to the State Controller’s Office in the name of the Class Member or PAGA Employees.

18. This document shall constitute a Judgment for purposes of California Rule of Court 3.769(h). The Court reserves exclusive and continuing jurisdiction over the Action, the

1 Class Representative, the Class Members, the PAGA Employees, the LWDA, and Defendant for
2 the purposes of supervising the implementation, enforcement, construction, administration, and
3 interpretation of the Settlement Agreement and this Judgment.

4 IT IS SO ORDERED.

5 Dated: _____

6 _____
Hon. Lon F. Hurwitz