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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF SAN FRANCISCO

14 BIANCA CURRY, on behalf of herself and on
15 behalf of all persons similarly situated,

16 Plaintiffs,

17 v.

18 UNITED HEALTH CARE STAFFING, INC.,
19 a California Corporation; ON-CALL
20 THERAPISTS, INC., a California
21 Corporation; DOES 1 through 50, inclusive,

22 Defendants.

CASE NO.: **CGC-21-597339**
[Consolidated with Case No. CGC-22-598120]

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: May 22, 2023
Hearing Time: 9:30 a.m.

Judge: Hon. Richard B. Ulmer
Dept.: 302

Action Filed: December 28, 2021
Trial Date: Not set

This matter came before the Honorable Richard B. Ulmer of the Superior Court of the State of California, in and for the County San Francisco, on May 22, 2023, for the motion by Plaintiff Bianca Curry (“Plaintiff”) for preliminary approval of the class settlement with Defendants United Health Care Staffing, Inc. and On-Call Therapists, Inc. (“Defendants”). The Court, having considered the briefs, argument of counsel and all matters presented to the Court and good cause appearing, hereby GRANTS Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

IT IS HEREBY ORDERED:

1. The Court preliminarily approves the Class Action and PAGA Action Settlement Agreement (“Agreement”) submitted as Exhibit #1 to the Declaration of Kyle Nordrehaug in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement. This preliminary approval is based on the Court’s determination that the Settlement set forth in the Agreement is within the range of possible final approval, pursuant to the provisions of section 382 of the California Code of Civil Procedure and California Rules of Court, rule 3.769.

2. This Order incorporates by reference the definitions in the Agreement, and all terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

3. The Gross Settlement Amount is Seven Hundred Thousand Dollars (\$700,000). It appears to the Court on a preliminary basis that the settlement amount and terms are fair, adequate and reasonable as to all potential Class Members when balanced against the probable outcome of further litigation and the significant risks relating to certification, liability and damages issues. It further appears that investigation and research have been conducted such that counsel for the Parties are able to reasonably evaluate their respective positions. It further appears to the Court that settlement at this time will avoid substantial additional costs by all Parties, as well as avoid the delay and risks that would be presented by the further prosecution of the Action. It further appears that the Agreement has been reached as the result of serious and non-collusive, arms-length negotiations. The Court therefore preliminarily finds that the Settlement is fair, adequate,

PRELIMINARY APPROVAL ORDER

1 and reasonable when balanced against the probable outcome of further litigation and the
2 significant risks relating to certification, liability, and damages issues.

3 4. The Agreement specifies an attorneys' fees award not to exceed one-third of the
4 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed Twenty
5 Thousand Dollars (\$20,000), and a proposed Class Representative Service Payment to the Plaintiff
6 in an amount not to exceed Seven Thousand Five Hundred Dollars (\$7,500) The Court will not
7 approve the amount of attorneys' fees and costs, nor the amount of any service award, until the
8 Final Approval Hearing. Plaintiff will be required to present evidence supporting these requests
9 prior to final approval.

10 5. The Court recognizes that Plaintiff and Defendants stipulate and agree to
11 certification of a class for settlement purposes only. This stipulation will not be deemed
12 admissible in this or any other proceeding should this Settlement not become final. For settlement
13 purposes only, the Court conditionally certifies the following Class: "all individuals who were
14 employed by Defendants in California and classified as a non-exempt employee or alleged to have
15 been misclassified as an independent contractor at any time during the Class Period." The Class
16 Period is December 28, 2017 through February 4, 2023.

17 6. The Court concludes that, for settlement purposes only, the Class meets the
18 requirements for certification under section 382 of the California Code of Civil Procedure in that:
19 (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
20 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
21 community of interest amongst the members of the Class with respect to the subject matter of the
22 litigation; (c) the claims of the Plaintiff are typical of the claims of the members of the Class;
23 (d) the Plaintiff can fairly and adequately protect the interests of the members of the Class; (e) a
24 class action is superior to other available methods for the efficient resolution of this controversy;
25 and (f) counsel for the Class is qualified to act as counsel for the Class and the Plaintiff is an
26 adequate representative of the Class.

27 7. The Court provisionally appoints Plaintiff as the representative of the Class. The
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1 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik
2 of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class.

3 8. The Court hereby approves, as to form and content, the Court Approved Notice of
4 Class Action Settlement and Hearing Date for Final Court Approval (“Class Notice”), submitted
5 as Exhibit A to the Agreement. The Court finds that the Class Notice appears to fully and
6 accurately inform the Class of all material elements of the proposed Settlement, of the Class
7 Members’ right to be excluded from the Class by submitting a written opt-out request, and of each
8 Class Member’s right and opportunity to object to the Settlement. The Court further finds that the
9 distribution of the Class Notice substantially in the manner and form set forth in the Agreement
10 and this Order meets the requirements of due process, is the best notice practicable under the
11 circumstances, and shall constitute due and sufficient notice to all persons entitled thereto. The
12 Court orders the mailing of the Class Notice by first class mail, pursuant to the terms set forth in
13 the Agreement. If a Class Notice Packet is returned because of an incorrect address, the
14 Settlement Administrator will promptly search for a more current address for the Class Member
15 and re-mail the Class Notice Packet to the Class Member no later than seven (7) business days
16 after the receipt of the undelivered Class Notice.

17 9. The Court hereby appoints ILYM Group as Administrator for the Settlement. No
18 later than fifteen (15) calendar days after issuance of this Order, Defendant shall provide to the
19 Administrator an electronic spreadsheet with the Class Data. This information will otherwise
20 remain confidential and will not be disclosed to anyone, except as required to applicable taxing
21 authorities, to carry out the procedures in the Agreement, or pursuant to Defendant’s express
22 written authorization or by order of the Court. The Administrator will perform address updates
23 and verifications as necessary prior to the mailing of the Class Notice. Using best efforts to mail it
24 as soon as possible, and in no event later than fourteen (14) calendar days after receiving the Class
25 Data spreadsheet, the Administrator will mail the Class Notice to all Class Members via first-class
26 U.S. Mail.

1 10. The Court hereby preliminarily approves the proposed procedure for exclusion
2 from the Settlement. Any Class Member may individually choose to opt-out of and be excluded
3 from the Class as provided in the Class Notice by following the instructions set forth in the Class
4 Notice. All requests for exclusion must be postmarked by no later than the Response Deadline,
5 which is sixty (60) calendar days after the Administrator mails the Class Notice Packet to Class
6 Members. If the Class Notice Packet is re-mailed, this Response Deadline will be extended an
7 additional fourteen (14) calendar days. Any person who chooses to opt-out of and be excluded
8 from the Class will not be entitled to any recovery under the Settlement and will not be bound by
9 the Settlement or have any right to object, appeal or comment thereon. Aggrieved Employees shall
10 be sent their share of the PAGA Payment and will be subject to the release of the Released PAGA
11 Claims regardless of whether they opt-out of the Class. Class Members who have not requested
12 exclusion shall be bound by all determinations of the Court, the Agreement, and the Judgment. A
13 request for exclusion applies only to the individual submitting the request for exclusion, and any
14 attempt to effect an opt-out on behalf of any other individual or individuals (including a group,
15 class, or subclass of individuals) is not permitted and will be deemed invalid.

16 11. Any Class Member who has not opted-out may appear at the Final Approval
17 Hearing and may object or express the Member's views regarding the Settlement and may present
18 evidence and file briefs or other papers that may be proper and relevant to the issues to be heard
19 and determined by the Court as provided in the Class Notice. Class Members will have until the
20 Response Deadline set forth in the Class Notice to submit their written objections to the
21 Settlement Administrator in accordance with the instructions in the Class Notice. If the Class
22 Notice is re-mailed, the Response Deadline will be extended an additional fifteen (15) calendar
23 days. Alternatively, Class Members may appear at the Final Approval Hearing to make an oral
24 objection.

25 12. A Final Approval Hearing shall be held before this Court on October 11, 2023 at
26 9:30 a.m. in Department 302 at the Civic Center Courthouse of the San Francisco County Superior
27 Court to determine all necessary matters concerning the Settlement, including: whether the
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1 proposed settlement of the Action on the terms and conditions provided for in the Agreement is
2 fair, adequate and reasonable and should be finally approved by the Court; whether the Final
3 Approval Order and Judgment should be entered herein; whether the plan of allocation contained
4 in the Agreement should be approved as fair, adequate and reasonable to the Class Members; and
5 to finally approve attorneys' fees and costs, the service award, and the expenses of the
6 Administrator. The motion for final approval and the motion for attorneys' fees, costs and service
7 award shall be filed with the Court and served on all counsel no later than sixteen (16) court days
8 before the hearing and both motions shall be heard at the Final Approval Hearing.

9 13. Neither the Settlement nor any exhibit, document, or instrument delivered
10 thereunder shall be construed as a concession or admission by Defendants in any way that the
11 claims asserted have any merit or that this Action was properly brought as a class or representative
12 action, and shall not be used as evidence of, or used against Defendants as, an admission or
13 indication in any way, including with respect to any claim of any liability, wrongdoing, fault or
14 omission by Defendants or with respect to the truth of any allegation asserted by any person.
15 Whether or not the Settlement is finally approved, neither the Agreement, nor any exhibit,
16 document, statement, proceeding or conduct related to the Settlement or Agreement, nor any
17 reports or accounts thereof, shall in any event be construed as, offered or admitted in evidence as,
18 received as or deemed to be evidence for any purpose adverse to the Defendant, including, but not
19 limited to, evidence of a presumption, concession, indication or admission by Defendant of any
20 liability, fault, wrongdoing, omission, concession or damage.

21 14. In the event the Settlement does not become effective in accordance with the terms
22 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to
23 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
24 and the Parties shall revert to their respective positions as of before entering into the Agreement,
25 and expressly reserve their respective rights regarding the prosecution and defense of this Action,
26 including all available defenses and affirmative defenses, and arguments that no claim in the
27 Action could be certified as a class action and/or managed as a representative action. In such an
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1 event, the Court's orders regarding the Settlement, including this Order, shall not be used or
2 referred to in litigation or otherwise for any purpose.

3 15. The Court reserves the right to adjourn or continue the date of the Final Approval
4 Hearing and all dates provided for in the Agreement without further notice to Class Members and
5 retains jurisdiction to consider all further applications arising out of or connected with the
6 proposed Settlement.

7 16. The Action is stayed and all trial and related pre-trial dates are vacated, subject to
8 further orders of the Court at the Final Approval Hearing.

9 **IT IS SO ORDERED.**

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11 Dated: _____

HON. RICHARD B. ULMER
JUDGE, SUPERIOR COURT OF CALIFORNIA