

**THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA**

LAVINIA PRINCE, *individually
and on behalf of all others similarly
situated*

Plaintiff,

v.

BRICKYARD HEALTHCARE, INC. ET AL
Defendants.

Case No.: 1:22-cv-01753

Honorable Matthew P. Brookman

COLLECTIVE ACTION SETTLEMENT AGREEMENT

This settlement agreement (the “Agreement” or “Settlement Agreement”) is entered into as of the date of the last signature on this Agreement, between Lavinia Prince (“Named Plaintiff”), for herself, the Settlement Collective, as defined below, and Brickyard Healthcare, Inc.; Brickyard LP; and Merrillville Operating, LLC (“Defendants”) (collectively, with Named Plaintiff and the Settlement Collective, the “Parties”), by their respective counsel, to resolve wage claims asserted in *Prince et al. v. Brickyard Healthcare, Inc. et al.*, Case No.: 1:22-cv-01753 (S.D. Ind.) (the “Action”).

I. RECITALS

WHEREAS, on September 2, 2022, Named Plaintiff filed the Action in the United States District Court for the Southern District of Indiana (“Court”), for herself and a putative group of similarly situated employees, alleging that Defendants failed to include non-discretionary bonuses and shift premiums in the “regular rate” used to calculate overtime wages owed to its employees in violation of the Fair Labor Standards Act (“FLSA”);

WHEREAS, Defendants deny the allegations in the Action and state that they did not violate the law and that they have no liability for any claims asserted in the Action, but that they have agreed to the terms of this Agreement because it will: (1) avoid the further expenses and disruption of business due to the pendency and expense of the litigation; and (2) put the claims asserted in the Action to rest. Nothing in this Agreement shall be deemed or used as an admission of liability by Defendants or any of the Released Parties (as defined herein) of any fault, liability or wrongdoing, or as an admission that this action may proceed as a collective action under the FLSA and/or a class action under Rule 23 of the Federal Rules of Civil Procedure for any purpose other than settlement;

WHEREAS, the Parties participated in mediation conducted by experienced class and collective action mediator Michael Russell. Following the mediation and further discussions between the Parties and Mr. Russell, the Parties reached an agreement in principle, which included a Common Fund Amount (as defined herein) of \$215,000.00, exclusive of Defendants’ share of payroll taxes on the wage-based component of the Common Fund Amount;

WHEREAS, Collective Counsel have conducted a thorough investigation of the claims asserted by Plaintiff against Defendants in the Action;

WHEREAS the purpose of this Agreement is to finally and fully compromise, resolve, discharge, and settle the Released Claims, subject to the Court's approval;

WHEREAS, in exchange for (a) the dismissal of the Action with prejudice; (b) the settlement and release of all Released Claims against all Released Parties; and (c) otherwise subject and pursuant to the terms and conditions of this Agreement, Defendants have agreed to pay up to an amount not to exceed the Common Fund Amount (plus Defendants' share of payroll taxes on the wage-based component of the Common Fund Amount);

WHEREAS, the Parties shall cooperate in the formal steps necessary to carry out the terms set forth in this Agreement, which is subject to approval by the Court;

NOW, THEREFORE, it is hereby stipulated and agreed by the Named Plaintiff, for herself and for the Settlement Collective Members, and Defendants that, subject to the Court's approval, the Action will be settled, compromised, and dismissed on the merits and with prejudice, and the Released Claims will be finally and fully settled, compromised, and dismissed as to the Released Parties in the manner and upon the terms and conditions set forth in this Agreement (the "Settlement").

II. DEFINITIONS

The terms set forth below shall have the meanings defined herein wherever used in this Agreement (including its exhibits).

- A. "Action" means the above-captioned action, inclusive of the claims asserted therein pursuant to the federal Fair Labor Standards Act and Indiana law.
- B. "Agreement" means this written Settlement Agreement, which sets forth the terms of the settlement and final amicable resolution of this Action.
- C. "Collective Counsel" means Migliaccio & Rathod LLP and Cohen & Malad, LLP.
- D. "Collective Representative" means Named Plaintiff.
- E. "Common Fund Amount" means the aggregate amount of money to be paid by Defendants in connection with this Agreement. The Common Fund Amount is \$215,000.00. In addition to the Common Fund Amount, Defendants shall be responsible for paying all employer-paid payroll taxes including FUTA and the employer's share of FICA and state unemployment, as required by law with respect to settlement payments to Participating Settlement Collective Members.
- F. "Court" means the United States District Court for the Southern District of Indiana (Judge Matthew P. Brookman, presiding).
- G. "Defendants" means Brickyard Healthcare, Inc.; Brickyard LP; and Merrillville

Operating, LLC.

H. “Defense Counsel” means Dinsmore & Shohl LLP.

I. “Effective Date” means the date upon which all of the following have occurred in the Action: (a) entry of the Approval Order; (b) issuance of an order dismissing the Action with prejudice in accordance with the terms of this Agreement; and (c) the expiration of the appeal rights of the Parties (which, if no objections to the proposed settlement are submitted, shall be deemed to be 30 days following entry of the order dismissing the Action with prejudice in accordance with the terms of this Agreement, or, if objections to the proposed settlement are submitted, shall be deemed to be 30 days following entry of the order dismissing the Action with prejudice and entering judgment in accordance with the terms of this Agreement if no timely notice of appeal is filed, or if a timely notice of appeal is filed, shall be deemed to be 7 days following the expiration of all such appeals and related proceedings without any material alteration of the terms of the Approval Order).

J. “Approval Order” means the order to be entered by the Court: (a) approving the terms of this Agreement as fair, reasonable, and adequate, and directing consummation of its terms and provisions; (b) granting certification of the Settlement Collective and granting approval of the settlement and release of claims by the Named Plaintiff and Participating Settlement Collective Members, as set forth herein; and (d) dismissing the Action on the merits and with prejudice and permanently enjoining all Named Plaintiff and Participating Settlement Collective Members from prosecuting against Defendants and the Released Parties, any Released Claims.

K. “Named Plaintiff” means Lavinia Prince.

L. “Participating Settlement Collective Members” means all Settlement Collective Members who cash the Settlement Check issued to them pursuant to this Agreement.

M. “Parties” means, collectively, Named Plaintiff, individually and as representative of the Participating Settlement Collective Members, and Defendants.

N. “Qualified Settlement Fund” or “QSF” means the account established by the Third-Party Administrator into which Defendants are to deposit the settlement amounts to be paid pursuant to this Agreement. The QSF will be controlled by the Third-Party Administrator subject to the terms of this Agreement and the Court’s Approval Order. Interest, if any, earned on amounts deposited in the QSF is Defendants’ exclusive property and will be returned to Defendants following issuance of all settlement payments.

O. “Released Claims” means any and all claims, debts, obligations, guarantees, costs, expenses, attorneys’ fees, demands, actions, rights, causes of action, and liabilities against any of the Released Parties, arising under Federal or state law, that were or could have been asserted in the Complaint relating to the alleged failure to include bonuses and incentives into the regular rate for the purposes of calculating overtime pay, including claims arising under the Fair Labor Standards Act of 1938 (“FLSA”) and any analogous

state or local laws, whether known or unknown, and whether anticipated or unanticipated, that arose or accrued while employed by Defendants from September 2, 2019 through the date of the Approval Order.

P. “Released Parties” means: Brickyard Healthcare, Inc.; Brickyard LP; and Merrillville Operating, LLC, as well as their owners, predecessors, successors, assigns, agents, directors, officers, employees, representatives, attorneys, insurers, and parents, divisions, subsidiaries, and affiliates, and all persons acting by, through, under, or in concert with any of them.

Q. “Settlement Checks” means check(s) issued by the Third-Party Administrator to Settlement Collective Members for their shares of the Common Fund Amount, pursuant to the settlement allocation agreed to by the Parties and as set forth below.

R. “Settlement Collective Members” means any hourly worker Defendants employed from September 2, 2019 to the present who was paid an overtime rate that did not account for the extra shift bonuses that he/she was paid in the same week.

S. “Third-Party Administrator” means RG/2 Claims Administration LLC, as mutually agreed by the Parties.

III. SETTLEMENT COLLECTIVE

A. For purposes of this Agreement, the “Settlement Collective” shall be defined as all hourly workers Defendants employed from September 2, 2019 to the present who: were paid an overtime rate that did not account for the extra shift bonuses that he/she was paid in the same week.

B. Nothing herein may be construed as an admission or acknowledgement by the Parties that any collective action treatment is either proper or improper in the Action, except for purposes of settlement. Neither the Agreement nor approval by the Court of the Agreement is admissible in any other proceeding regarding the propriety of collective action treatment.

IV. COMPROMISE ACKNOWLEDGMENT

A. The Parties agree that this Agreement is entered into solely as a compromise with respect to disputed wage claims, and that this Agreement is not, and may not be construed as, either an admission of liability or proof of a lack of liability. The Parties agree that this Agreement is not, and may not be construed as, an admission by Defendants that they have acted wrongfully with respect to Named Plaintiff, any Settlement Collective Members, or any other person. Furthermore, the Parties agree this Settlement does not constitute an adjudication of the merits of the action, or any other matters released in this Settlement. Accordingly, the Parties agree that none of them have prevailed on the merits.

B. The Parties have engaged in an intensive investigation of the facts relevant to this Action and formal and informal discovery of the claims and defenses in the Action, including analyzing the relevant law and payroll information. Relying upon their fact investigations and

analyses, the Parties have engaged in arm's-length settlement negotiations, including formal mediation with a neutral mediator.

C. Nothing in this Agreement or any action taken to implement it or any statements, discussions, communications, or materials prepared or used during settlement negotiations may be used in any other proceeding of any kind or be considered evidence of a violation of any federal, state, or local law, statute, rule, or executive order, or any obligation or duty at law or equity. However, the Agreement may be used to inform any proceeding that has as its purpose the interpretation or enforcement of the Agreement.

V. CERTIFICATION OF A COLLECTIVE FOR SETTLEMENT PURPOSES ONLY

A. For settlement purposes only, the Parties stipulate to the certification of a Settlement Collective as defined in Section III.A. above.

B. Defendants agree not to object to Named Plaintiff's request that Migliaccio & Rathod LLP and Cohen & Malad, LLP, be appointed "Collective Counsel" for purposes of this Agreement.

C. The certification of the Settlement Collective, appointment of Named Plaintiff as "Collective Representative," and appointment of Collective Counsel by the Court will be binding on the Parties with respect to settlement of the Action only.

VI. TERMS OF THE SETTLEMENT AGREEMENT

A. Settlement Amounts

1. Common Fund

a. In full consideration for the terms, conditions, and promises in this Agreement, Defendants agree to pay \$215,000.00 to establish a common fund, which shall be a Qualified Settlement Fund, to resolve this Action ("the Common Fund Amount"). The Common Fund Amount is the maximum amount that Defendants are obligated to pay under this Agreement, exclusive of Defendants' share of payroll taxes on the wage-based component of the Common Fund Amount. The Common Fund Amount includes the entire amount Defendants are obligated to pay under this Agreement, including, without limitation, settlement wage payments to Settlement Collective Members, attorneys' fees, litigation costs, interest, penalties, enhancement payments, and Third-Party Administrator costs (described *infra* Section VI.A.4), except that Defendants are separately responsible for payment of all employer-side payroll taxes owed on the wage-based component of the Common Fund Amount.

b. The computation of the payments to Settlement Collective Members is based on data and representations provided by Defendants. Specifically, Defendants represented and warranted that 1) the shift differentials; Covid Bonuses; and incentive hours, excluding the Extra Shift Bonus, were all included in calculating the overtime rate for Defendants' employees at all relevant times at all facilities; 2) the following facilities included the Extra Shift Bonus in the overtime rate at all relevant times: Beverly Health and Rehabilitation Services, Brandywine Indiana Operating LLC, Indianapolis Operating LLC, North

Willow Operating LLC, Brookview Operating LLC, Valparaiso Operating LLC, Brickyard Richmond, Brickyard Petersburg LLC; and 3) the Extra Shift Bonus was incorporated into the overtime rate for all employees beginning December 17, 2020. Defendants represent and warrant that to the best of their knowledge and belief, these representations are accurate and the data supplied is complete and accurate in its reflection of the dates of employment and compensation paid to the Settlement Collective Members during the relevant time period under Indiana and federal law, and Defendants further understand that these representations are a material term of this agreement.

2. Attorneys' Fees and Litigation Costs

a. Defendants agree not to oppose a request by Collective Counsel for an attorneys' fee award of \$71,666.67 (1/3 of the Common Fund Amount) plus reimbursement of their costs in the Action, estimated to be \$13,220.50. Collective Counsel agrees not to seek attorneys' fees or costs in excess of these amounts. Collective Counsel further agrees that any allocation of fees between or among Collective Counsel and any other attorney representing any member of the Settlement Collective will be the sole responsibility of Collective Counsel. Collective Counsel's attorneys' fees and litigation costs will be paid solely from the Common Fund Amount.

b. Within ten business days after the entry of the Approval Order, Defendants will wire the Common Fund Amount to an account designated by the Third-Party Administrator who, thereafter, will promptly distribute the Court-approved attorneys' fee and cost amounts to Collective Counsel and the Service Award to the Named Plaintiff (defined infra Section VI.A.3).

c. This settlement is not contingent on the Court approving Collective Counsel's motion for attorneys' fees or Named Plaintiff's requested service payment. If the Court denies or reduces Collective Counsel's requested attorneys' fees, or Named Plaintiff's service payment, the remainder of this settlement shall remain in place, with the exception that any fees or service payments denied or reduced by the Court shall be deducted from the total amount of the Common Fund Amount.

3. Named Plaintiff Service Award

Defendants agree not to oppose Named Plaintiff's request for approval of a Service Award out of the Common Fund Amount of up to \$5,000.00 for her service as Collective Representative. If this payment (referred to as a "Service Award") is approved by the Court, the Service Award will be treated as non-wage income and included on an IRS form 1099 provided by the Third-Party Administrator to the Named Plaintiff.

4. Responsibilities and Costs of Third-Party Administrator

a. The "Third-Party Administrator" will be an entity selected by Collective Counsel (subject to approval by Defendants, who shall not unreasonably withhold approval) who will be responsible for: formatting and mailing notice; researching and updating addresses through skip-traces and similar means; reporting on the status of the administration of

the Settlement to the Parties; resolving any settlement payment dispute, in concert with the counsel for the Parties; providing the Parties with all necessary data; setting up, administering and making payments from the settlement fund; distributing settlement payments and withholding therefrom the Settlement Collective Members' share of payroll taxes and remitting such funds along with the employer's share of payroll taxes to the appropriate taxing authorities, along with any associated tax reporting, return and filing requirements, and performing such additional duties as the Parties may mutually direct. All disputes relating to the Third-Party Administrator performance of its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Settlement until all payments and obligations contemplated by this Settlement have been fully carried out. The administration costs will be paid from the Common Fund Amount, and shall include all costs necessary to administer the Settlement. The actions of the Third-Party Administrator shall be governed by the terms of the Settlement Agreement. Defendants will provide Collective Counsel and the Third-Party Administrator with, as to each Collective Action Member and to the extent the information is currently in Defendants' records: 1) name; 2) last known home address; 3) last known personal email address; 4) social security number; and 5) last known telephone number. Defendants will provide to the Third-Party Administrator its damages analysis for purposes of calculating the settlement payment amount for each Collective Action Member, as set forth in Section VI.5.B, *infra*. Defendants will produce this information either (i) sixty (60) days after signing this Agreement or (ii) seven (7) days after the entry of the Approval Order, whichever is later.

b. The Third-Party Administrator's fee will include all costs necessary to administer the Settlement, and barring a second round of fund distribution or unforeseen costs, will not exceed \$15,197.00. This fee will be paid from the Common Fund Amount. The Parties agree to cooperate in the settlement administration process and to make all reasonable efforts to control and minimize the costs incurred in the administration of the Settlement.

c. The Parties will cooperate fully to promptly resolve any issues identified by the Third-Party Administrator regarding communications to Settlement Collective Members, the administration of the Settlement and disbursement of Settlement Checks, and any other issues related to the Third-Party Administrator's duties under this Agreement.

5. Payment Amounts to the Settlement Collective Members

a. The Common Fund Amount, less all amounts allocated to attorneys' fees, litigation costs, and costs of the Third-Party Administrator, as described in Sections VI.A.2, 3 and 4, will be allocated among the Settlement Collective on an even *pro rata* basis based on the difference between the amount a Settlement Collective Member was paid and how much that person would have received if non-discretionary bonuses were included when calculating their overtime rate (during the time period covered by this Agreement). For Settlement Collective Members, the "Settlement Collective Period" extends from September 2, 2019 to the date of Approval Order. By way of illustration, if a particular Settlement Collective Member had unpaid overtime of \$1, and the total amount of unpaid overtime for all Settlement Collective Members was \$100, the Settlement Collective Member's total share of the Common Fund Amount allocated to payments to Settlement Collective Members would be 1%.

b. Defendants engaged an expert to prepare a damages analysis based on the data in Defendant's possession in preparation for the mediation in this matter. The purpose of the analysis was to calculate the difference between the value of overtime payments that were paid and the value of what overtime payments would have been if the Extra Shift Bonus was included in every employee's regular rate throughout the relevant time period. Defendants will share their expert analysis with Collective Counsel on an Attorneys' Eyes-Only Basis for purposes of assisting in the allocation of payments among the collective; the only individuals who shall have access to Defendants' damages calculation shall be Collective Counsel and the Third-Party Administrator. Collective Counsel agrees to destroy/delete their copy of the damages analysis after distribution. Defendants shall also provide the Third-Party Administrator with information sufficient to locate each Settlement Collective Member for distribution of a Settlement Check, as set forth in Section VI.A.4.a, *supra*.

c. Fifty percent of the payment each Settlement Collective Member receives from the Common Fund Amount will be deemed wages with the remaining fifty percent being deemed non-wage liquidated damages. Defendants will consequently only be responsible for withholding payroll taxes on half of the funds dispersed to each Settlement Collective Member.

d. The appropriate withholding of federal, state, and local income taxes, each Settlement Collective Member's share of FICA, FUTA, SUTA, Medicare, and any other payroll taxes including backup withholding, if required, will be made from the settlement payments to Settlement Collective Members. The Third-Party Administrator will also issue an IRS form W-2 to all Settlement Collective Members at the times and in the manner required by the Internal Revenue Code and consistent with this Agreement. If the Internal Revenue Code, the regulations issued thereunder, or other relevant tax laws change after the Effective Date, the processes in this subparagraph may be modified in a manner to ensure compliance with such changes. The Third-Party Administrator will be solely responsible for all withholdings.

e. Each Settlement Collective Member is solely responsible to pay all federal, state, and local taxes owed as a result of any consideration received under this Agreement.

B. Waiver And Release

1. In exchange for the Settlement Amounts and the other good and valuable consideration provided pursuant to the terms of this Agreement, the Settlement Collective Members, for themselves and each of their heirs, representatives, successors, assigns, and attorneys, will release and forever discharge all Released Claims (as defined in Section II above) arising or accruing prior to the date of the Approval Order of the Settlement that they have or may have, against the Released Parties.

2. In exchange for the Settlement Amounts and the other good and valuable consideration provided pursuant to the terms of this Agreement, the Named Plaintiff agrees to execute the General Release Agreement, which includes a waiver and release of all claims, including but not limited to the Released Claims, against Defendant, in the form attached hereto as **Exhibit A**.

3. Upon approval of the Agreement by the Court, execution of the Agreement by Collective Counsel will fully effectuate the release provisions herein to which each Settlement Collective Member is bound.

C. Court Approval

1. Named Plaintiff agrees to submit a joint motion for approval of the settlement and proposed Order granting approval by January 15, 2024.

D. Common Fund

1. Within ten business days of the entry of the Approval Order, Defendants will deposit the \$215,000.00 Common Fund in an account designated by the Third-Party Administrator.

2. The Common Fund will be used to make all required payments under this Agreement.

3. The Parties agree to treat the Common Fund as a “qualified settlement fund” within the meaning of Treas. Reg. Section 1.468B-1. In addition, the Parties will jointly and timely make the “relation back election” to the earliest permitted date, as provided in Treas. Reg. Section 1.468B-1(j)(2). Such election will be made in compliance with the procedures and requirements set forth in such Treasury regulations. The Third-Party Administrator is solely responsible for preparing and delivering the necessary documents for signature by the Parties and making the appropriate filing.

4. For purposes of Internal Revenue Code of 1986 Section 468B(d)(2)(C) and Treas. Reg. Section 1.468B-2(k)(3), the Third-Party Administrator will be comprised of “persons a majority of whom are independent of the taxpayer,” will be the qualified “administrator,” and will timely and properly file all information and other tax returns necessary or available with respect to the settlement amounts including, without limitation, the returns described in Treas. Reg. Sections 1.468B-2(k)(1) and 1.468B-2(l). The returns will be consistent with this Agreement and in all events will reflect that all taxes, including any estimated taxes, interest, or penalties arising with respect to the payments made to Named Plaintiff, Settlement Collective Members and Collective Counsel, will be paid out of the Common Fund Amount. All taxes, expenses, and costs incurred relating to the operation and implementation of this paragraph, including, without limitation, any expenses of tax counsel or accountants and mailing costs and expenses relating to the filing or failing to file any returns (“tax expenses”) will be paid out of the Common Fund Amount and payments made to Named Plaintiff, Settlement Collective Members and Collective Counsel. Taxes and tax expenses will be treated as, and considered to be, a cost of administering the individual settlement amounts and the qualified Third-Party Administrator will be obligated to withhold from individual settlement amounts any funds necessary to pay such taxes and tax expenses and any taxes that may be required to be withheld pursuant to Treas. Reg. Section 1.468B-2(l)(2).

E. Distribution

1. Within ten business days after settlement approval is granted, Defendants shall deposit the full Common Fund Amount, less any amount already paid to the Third Party Administrator, to an account designated by the Third Party Administrator. Upon deposit, the Third-Party Administrator shall be immediately authorized to distribute the amount. The Third-Party Administrator shall distribute settlement award checks to all non-Named Plaintiff settlement claimants with a release (similar to the release listed in this Memorandum) on the back of the check. The Third-Party Administrator shall issue for each Claimant an IRS form 1099 showing the amount of liquidated damages paid and an IRS form W-2 showing the amount of back pay in the year it was paid.

2. Within fifteen business days of the Effective Date, the Third-Party Administrator will send the Settlement Collective Members' Settlement Checks by First Class U.S. Mail with a summary notice of the Settlement (**Exhibit B**) and link to the settlement website where important case documents can be accessed and viewed. Before sending the checks and summary notice of the Settlement, the Third-Party Administrator will run a National Change of Address ("NCOA") database search for the addresses and make any necessary updates.

3. Each settlement check will be accompanied by the language stating that, by cashing the check, the Settlement Collective Member will join the Action and release all Released Claims against the Released Parties.

4. If a recipient does not negotiate his/her check within 180 days of mailing, and the Third Party Claims Administrator is unable to reach settlement recipient to send a re-issued check, the proceeds from uncashed checks may be used to cover any additional uncompensated administration invoices at the discretion of Collective Counsel. If the parties agree there are sufficient funds afterwards to warrant a redistribution to those class members who negotiated their first settlement check, the Third Party Claims Administrator will redistribute those residual funds which will be reportable on a Form 1099. Those redistribution checks will have a 90 day check void date. If the parties agree that the amount of residual funds from uncashed checks is insufficient to economically conduct a redistribution, such funds will be donated to a *cy pres* beneficiary chosen by Collective Counsel and approved by Defendants, which approval shall not be unreasonably withheld. Any re-distribution shall be considered liquidated damages or interest and thus reportable on a Form 1099.

VII. GENERAL PROVISIONS

A. Parties' Authority

1. The signatories to this Agreement represent that they are fully authorized to enter into this Agreement and bind the Parties to the terms and conditions in the Agreement.

2. The Parties acknowledge that, throughout the negotiations that led to this Agreement, they have been represented by counsel experienced in wage and hour collective litigation and that this Agreement is made with the consent and approval of counsel who have prepared the Agreement.

B. Mutual Full Cooperation

The Parties agree to cooperate fully to accomplish the terms of this Settlement, which includes, but is not limited to, executing all required documents, meeting the deadlines set forth herein, using their best efforts to effectuate this Settlement and the terms set forth herein, and complying with any Order the Court may issue relating to this Settlement.

C. Disputes Related to the Settlement Agreement

The Court will retain continuing jurisdiction to enforce the terms of the Settlement Agreement and to resolve any dispute that arises out of the finalization of the settlement or administration of the settlement. The Parties agree that, if a dispute arises as to the settlement (including its terms, documentation, or administration), they will submit the dispute to Mr. Michael Russell first, who will advise the parties of a potential resolution. If Mr. Russell's proposal does not resolve the issue to the satisfaction of the parties, either Party (or both Parties) may then submit the issue to the Court.

D. Confidentiality

4. The Parties agree that the proposed settlement terms shall remain confidential and not be disclosed to the media or public until a Settlement Agreement is filed for approval. The Parties and their counsel agree not to make any disparaging public statements, both before and after approval.

E. Entire Agreement

Except with respect to any terms or statement of settlement stated in the court record, this Agreement and its exhibits constitute the entire agreement between the Parties concerning the subject matter hereof. No extrinsic evidence of any kind will modify or contradict the terms of this Agreement.

F. Modification

This Agreement may not be changed, altered, or modified, except in a writing signed by the Parties and approved by the Court.

G. Voiding the Agreement

1. If the Court does not approve this Agreement, the Parties will file a joint motion for a stay of proceedings and work cooperatively and in good faith for up to 45 days to revise the Agreement as needed to obtain Court approval. In this event, no Party may use subsequent legal developments or other intervening events, other than the decision(s) denying or reversing approval of the Agreement, as justification for renegotiating the settlement.

2. Notwithstanding Section VII.G.1, if the Court rejects any portion of Sections VI.A.2.a or VI.A.3, the Parties agree that such portions will be removed from the Agreement or modified in a manner consistent with the Court's ruling. The enforceability of the remainder of the Agreement will not be affected by such removal or modification.

3. If the Parties are ultimately unable to secure approval for this Settlement Agreement, they will be restored to their respective places in the litigation before the date of this Agreement. In such event, the terms and provisions of this Agreement will have no further force or effect; the Parties' right and defenses will be restored, without prejudice, to their respective positions as if this Agreement had never been executed; and any orders entered by the Court in connection with this Agreement will be vacated.

H. Counterparts

This Agreement may be executed in counterparts, and when each Party has executed at least one counterpart, the counterpart will be deemed an original, and when taken together, the counterparts will constitute one Agreement, which will be binding and effective as to all Parties.

I. Binding on Assigns and Successors

This Agreement will be binding upon, and inure to the benefit of, the Parties, and their respective heirs, trustees, executors, successors, legal administrators, and assigns.

J. Enforcement of this Agreement and Continuing Jurisdiction

The Court possesses exclusive and continuing jurisdiction over this Settlement Agreement and over all Parties and Settlement Collective Members to interpret, effectuate, enforce, and implement this Settlement Agreement. The Court will have exclusive jurisdiction to resolve any disputes involving this Settlement Agreement.

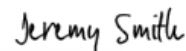
In witness hereof, the Parties and their duly authorized representatives have executed this Agreement below.

Dated: 1/16, 2024



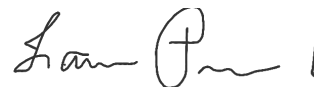
Jason S. Rathod
Counsel for Named Plaintiff and the Settlement

Dated: 1/16, 2024



Jeremy Smith
Counsel for Defendants

Dated: 1/9, 2024




Lavinia Prince
Plaintiff

January 11th
Dated: __, 2024



Brickyard Healthcare, Inc.

January 11th
Dated: __, 2024



Brickyard LP

January 11th
Dated: __, 2024



Merrillville Operating, LLC
