

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ROCHE DIAGNOSTICS CORPORATION
and ROCHE DIABETES CARE, INC.,

Plaintiffs,

v.

PRIORITY HEALTHCARE
CORPORATION D/B/A PRIORITY CARE,
et al.;

Defendants.

Case No. 2:18-cv-01479-KOB-HJN

UNOPPOSED

**MOTION FOR ENTRY OF CONSENT JUDGMENT
AND PERMANENT INJUNCTION**

Plaintiffs Roche Diagnostics Corporation and Roche Diabetes Care, Inc. (collectively, “Roche”) hereby move for the entry of the **agreed** Consent Judgment and Permanent Injunction attached to this motion as **Exhibit A** to facilitate and carry out a settlement agreement Roche has reached with the following parties: Defendants Phillip Minga and Konie Minga (the “Mingas”); Wesley Minga, Kristen Knotts, Daniel Baker, and Heather Baker (the “Minga Children”); Priority Healthcare Corporation (“PHC” and, together with the entities listed in the marginal note below,¹ the “Corporate Defendants”); and Capital Asset Management, LLC,

¹ The remaining Corporate Defendants are: Priority Care Pharmacy Solutions, LLC; Amory Discount Pharmacy, LLC; Priority Care Pharmacy 2, LLC; Vickers Priority Care Pharmacy, LLC;

KJM Holdings, LLC, and Minga Investments, LLC (such entities collectively, the “Asset-Holder Defendants,” and, together with the Mingas, the Minga Children, and the Corporate Defendants, the “Defendants”).² In support of this motion, Roche states as follows:

1. Roche and the Defendants listed above (together with Roche, the “Parties”) have reached a full and complete settlement of all claims and issues raised among them in this litigation. The terms of the settlement include a permanent injunction against Defendants and their principals, agents, employees, directors, officers, etc., generally prohibiting them from adjudicating, purchasing, selling, distributing or dispensing Roche’s Accu-Check test strips.

2. The terms of the settlement also include full payment of the \$43,331,950.55 (plus all interest having accrued) now being held by the Court in its

Main Street Drugs, LLC; Priority Care Professional Staffing LLC; Medpoint, Inc.; Medpoint, LLC; Medpoint Advantage, LLC; Medpoint Pharmacy Benefit Managers, LLC d/b/a Medpoint Pharmacy; Professional Healthcare Staffing, LLC; Vincent Priority Care Pharmacy, LLC d/b/a The Medicine Chest; and Burns Discount Drug Store LLC.

² Roche’s claims against Defendants William Austin and Daniel Knotts remain pending. In addition, a number of corporate defendants filed for Chapter 7 bankruptcy and are not parties to the agreement: Amory Priority Care Pharmacy, LLC; B&K Express Care Pharmacy, LLC; B&K Priority Care Pharmacy, LLC; Bowie’s Express Care Pharmacy, LLC; Bowie’s Priority Care Pharmacy, LLC; Burns Discount Drug Store, LLC (AR); Carbon Hill Express Care Pharmacy, LLC; Jasper Express Care Pharmacy, LLC; Medical Park Discount Pharmacy, LLC; Monroe Pharmacy Corporation; Ozark Family Pharmacy, LLC (AR); Ozark Family Pharmacy, LLC (DE); Priority Care Pharmacy, LLC; Priority Care Pharmacy Cotton Gin Point, LLC; Priority Care Pharmacy Services, LLC; Priority Express Care Pharmacy, LLC; Razorback Pharmacy Services, Inc.; Tombigbee Pharmacy, LLC; Vincent Express Care Pharmacy, LLC; Yellowhammer Pharmacy Services Corporation. Roche intends to seek dismissal of the claims against these corporate defendants in a separate filing.

Registry Fund, to be paid to Patterson Belknap Webb & Tyler and to be distributed in the manner set out in the proposed Consent Judgment and Permanent Injunction attached as **Exhibit A**.³

3. The Parties have agreed as part of their settlement to enter into the proposed Consent Judgment and Permanent Injunction attached as **Exhibit A**, which was necessary to ensure that the proposed relief is fully enforceable. The proposed Consent Judgment and Permanent Injunction has been fully executed by all relevant parties. Pursuant to the terms of the Consent Judgment and Permanent Injunction, it is the unanimous request of the Parties that this Court sign and thus issue the Consent Judgment and Permanent Injunction to effectuate the settlement agreement of the Parties.

WHEREFORE, Roche moves the Court to issue the proposed Consent Judgment and Permanent Injunction attached hereto as **Exhibit A**, and direct the Clerk of Court to release the funds deposited in the Court's Registry in accordance with the Consent Judgment and Permanent Injunction.

DATED: February 23, 2021

Respectfully submitted,

/s/ David J. Canupp

Lanier Ford Shaver & Payne, P.C.

³ As noted in the proposed Consent Judgment and Permanent Injunction, Roche has entered a separate agreement with the United States of America and the State of Mississippi which will partially govern the distribution of funds deposited with Patterson Belknap Webb & Tyler.

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CERTIFICATE OF SERVICE

The foregoing was filed electronically this 23rd day of February, 2021. Notice of this filing will be sent to all attorneys of record by the Court's CM/ECF system. The Declaration and Exhibits in support of this Memorandum will be filed with the Court by hand and served by electronic mail.

/s/ David J. Canupp
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