

Memorandum of Understanding

On March 5, 2021, the parties to the case entitled *Simone Rogers v. ConAm Management Corp.*, Case No. 37-2020-00013563-CU-OE-CTL (San Diego Sup. Ct.) (the "Action"), brought by Simone Rogers and Esther Lisa Shelley (collectively, "Plaintiffs") reached the following resolution which, subject to Court approval, is intended to be a full and final resolution of the Action:

1. The Gross Settlement Amount shall be six hundred thousand U.S. Dollars and no cents (\$600,000.00).
2. The Gross Settlement Amount shall be used to pay Plaintiffs' individual settlements (including a general release and § 1542 waiver of their individuals claims), a representative PAGA settlement of all claims alleged in the Action, administration costs, plaintiffs' attorneys' fees and costs, and the PAGA Payment. The PAGA Payment is the net amount remaining after deduction of the court-approved administration costs, and plaintiff's attorneys' fees and costs, and any and all other costs associated with the settlement.
3. The LWDA shall receive 75% of the PAGA Payment. The remaining 25% shall be allocated to the PAGA Settlement Employees on a pro-rata basis based on the number of pay periods they worked during the PAGA Period.
 - a. PAGA Settlement Employees consists of onsite non-exempt employees who worked in California during the PAGA Period.
 - b. PAGA Period means the time period from January 1, 2019, through the earlier of (i) the Date of Settlement Approval or (ii) May 3, 2021.
4. Plaintiffs' counsel will petition the Court for their attorney's fees and costs. Defendant will not oppose a fee request of up to one third (1/3) of the Gross Settlement Amount plus actual costs of litigation subject to proof in a declaration. Should the Court award a lesser sum for attorneys' fees and costs, the residual will be included in the PAGA Payment.
5. From the Gross Settlement Amount, the Settlement Administrator will pay to Plaintiff Rogers an individual payment in the amount of \$37,500, and to Plaintiff Shelley an individual payment in the amount of \$17,500, in exchange for each Plaintiff executing a general release of all and any claims (known or unknown) against Defendant, including a Civil Code §1542 waiver. Plaintiffs will also be eligible for the PAGA Penalties Payment as a member of the PAGA Settlement Employees. These individual releases shall all be subject to confidentiality provisions.
6. The parties will select a mutually agreeable Settlement Administrator.

7. Plaintiffs will release, and the State of California and all PAGA Settlement Employees will be deemed to release, all PAGA claims or causes of action for civil penalties, attorneys fees, and/or costs under PAGA alleged in the Action, or that could have been alleged in the Action, that are based on the alleged meal and rest break, minimum wage, overtime compensation, wage statement, unreimbursed business expenses, and final pay violations, and any resulting claim for penalties under PAGA alleged to have been violated in the Action through the PAGA Period.
8. Neither party nor their/its counsel will issue a press release concerning the settlement.
9. Plaintiffs' counsel will prepare and file an *ex parte* application for approval of the settlement agreement. Plaintiffs' counsel will notify the State of the settlement terms prior to applying to the Court for approval. Defendant's counsel will prepare a long form of settlement agreement consistent with this MOU within one week of the execution of the MOU.
10. The effective date of the release of the Released Claims shall be the date the Court approves this Settlement.
11. Defendants will fund the settlement by wiring the Gross Settlement Amount to the Settlement Administrator within ten (10) business days of the date the Court approves the settlement terms. The "Effective Date" shall occur once (1) the Court has approved the settlement terms, (2) the Court issues a Judgment in the action, and (3) the appeal period expires. Defendant and Plaintiffs agree that PAGA Settlement Employees do not have any appeal rights, and that the Plaintiffs waive any appeal rights they may have. The Settlement Administrator shall distribute the Gross Settlement Amount pursuant to the following timeline:
 - a. Monies shall not be distributed to the PAGA Settlement Employees or the State until after the Effective Date.
 - b. The monies pertaining to Plaintiff's counsel's fees and costs award, and the Plaintiffs' enhancements, shall be distributed to Plaintiff's counsel after Judgment has been entered. Plaintiff's counsel shall hold said funds in their trust account until the Effective Date. Should an appeal be filed prior to the Effective Date, Plaintiff's counsel shall transfer said funds back to the Settlement Administrator within ten (10) business days, after which the Settlement Administrator shall hold the entire Gross Settlement Amount until further jointly instructed by the parties (or the Court).
12. Defendant represents that its business is solvent, and Defendant is able to pay the Settlement Amount within the time frame set forth herein. Specifically, Defendant has reviewed its financial status in contemplation of this Settlement Agreement and Defendant has determined it is able to comply with the Settlement Installment Payment Plan. Defendant agrees that the failure to review its financial status before entering this Settlement Agreement shall be deemed an intentional

misrepresentation. Defendant further affirms that it has not consulted or retained bankruptcy counsel or have contemplated a bankruptcy filing as of the date of this Settlement.

13. Defendant represented at mediation that the number of pay periods then at issue were approximately thirty-seven thousand two hundred (37,200). If this representation turns out to be incorrect, as of the date of mediation, by more or less than ten percent Defendant shall increase or decrease the Gross Settlement Amount proportionally (i.e., for an increase of eleven percent in pay periods, Defendant shall add an extra 1% to the Gross Settlement Amount, for a twenty percent increase in employees Defendant shall add an extra 10% to the Gross Settlement Amount).
14. In the event the parties are unable to agree on final terms in a settlement agreement, this MOU will be enforceable and admissible in Court pursuant to Code of Civil Procedure section 664.6.

Dated: _____

Plaintiff Simone Rogers

Dated: _____

Plaintiff Esther Lisa Shelley

Dated: 3/17/21



Name: Michael C. Cato, EVP & General Counsel
Defendant ConAm Management Corporation

Approved as to form:

Dated: _____

Eric Yaeckel
Counsel for Plaintiffs

Dated: 03/11/2021



Adam P. KohSweeney
Counsel for Defendant

misrepresentation. Defendant further affirms that it has not consulted or retained bankruptcy counsel or have contemplated a bankruptcy filing as of the date of this Settlement.

13. Defendant represented at mediation that the number of pay periods then at issue were approximately thirty-seven thousand two hundred (37,200). If this representation turns out to be incorrect, as of the date of mediation, by more or less than ten percent Defendant shall increase or decrease the Gross Settlement Amount proportionally (i.e., for an increase of eleven percent in pay periods, Defendant shall add an extra 1% to the Gross Settlement Amount, for a twenty percent increase in employees Defendant shall add an extra 10% to the Gross Settlement Amount).
14. In the event the parties are unable to agree on final terms in a settlement agreement, this MOU will be enforceable and admissible in Court pursuant to Code of Civil Procedure section 664.6.

Dated: _____

Plaintiff Simone Rogers

Dated: _____

Plaintiff Esther Lisa Shelley

Dated: _____

Name: _____
Defendant ConAm Management
Corporation

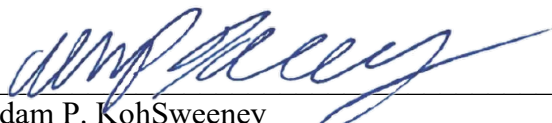
Approved as to form:

Dated: 3/15/2021



Eric Yaeckel
Counsel for Plaintiffs

Dated: 03/11/2021



Adam P. KohSweeney
Counsel for Defendant

misrepresentation. Defendant further affirms that it has not consulted or retained bankruptcy counsel or have contemplated a bankruptcy filing as of the date of this Settlement.

13. Defendant represented at mediation that the number of pay periods then at issue were approximately thirty-seven thousand two hundred (37,200). If this representation turns out to be incorrect, as of the date of mediation, by more or less than ten percent Defendant shall increase or decrease the Gross Settlement Amount proportionally (i.e., for an increase of eleven percent in pay periods, Defendant shall add an extra 1% to the Gross Settlement Amount, for a twenty percent increase in employees Defendant shall add an extra 10% to the Gross Settlement Amount).
14. In the event the parties are unable to agree on final terms in a settlement agreement, this MOU will be enforceable and admissible in Court pursuant to Code of Civil Procedure section 664.6.

Dated: 3/15/2021


Plaintiff Simone Rogers

Dated: _____

Plaintiff Esther Lisa Shelley

Dated: _____

Name: _____
Defendant Conam Management Corp.

Approved as to form:

Dated: _____

Eric Yaeckel
Counsel for Plaintiffs

Dated: _____

Adam P. KohSweeney
Counsel for Defendant

misrepresentation. Defendant further affirms that it has not consulted or retained bankruptcy counsel or have contemplated a bankruptcy filing as of the date of this Settlement.

13. Defendant represented at mediation that the number of pay periods then at issue were approximately thirty-seven thousand two hundred (37,200). If this representation turns out to be incorrect, as of the date of mediation, by more or less than ten percent Defendant shall increase or decrease the Gross Settlement Amount proportionally (i.e., for an increase of eleven percent in pay periods, Defendant shall add an extra 1% to the Gross Settlement Amount, for a twenty percent increase in employees Defendant shall add an extra 10% to the Gross Settlement Amount).
14. In the event the parties are unable to agree on final terms in a settlement agreement, this MOU will be enforceable and admissible in Court pursuant to Code of Civil Procedure section 664.6.

Dated: _____

Plaintiff Simone Rogers

Dated: 3-15-2021



Plaintiff Esther Lisa Shelley

Dated: _____

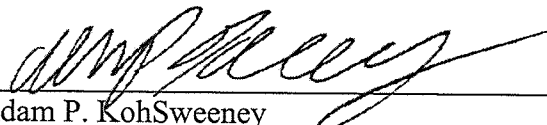
Name: _____
Defendant ConAm Management
Corporation

Approved as to form:

Dated: _____

Eric Yaeckel
Counsel for Plaintiffs

Dated: 03/11/2021



Adam P. KohSweeney
Counsel for Defendant