

Memorandum of Understanding

On April 30, 2021, the parties to the case entitled *Shamim Sheikh v. Ball Automotive Group*, Case No. 37-2010-00018710 (San Diego Sup. Ct.) (the "Action"), brought by Shamim Sheikh and Angel Kyriakides (collectively, "Plaintiffs") reached the following resolution of PAGA claims which, subject to Court approval, is intended to be a full and final resolution of the Action:

1. The Gross Settlement Amount shall be One Hundred Seventy Thousand U.S. Dollars and no cents (\$170,000).
2. The Gross Settlement Amount shall be used to pay Plaintiffs' 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 all non-exempt employees who worked in California during the PAGA Period.
 - b. PAGA Period means the time period from March 31, 2019, through the earlier of (i) the Date of Settlement Approval or (ii) June 1, 2021.
4. Plaintiffs' counsel will petition the Court for their attorney's fees and costs out of the Gross Settlement Amount. 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. Other than the obligation to pay the Gross Settlement Amount, Defendant shall have no additional obligation to pay attorney fees or costs related to this Action or its settlement.
5. The parties will select a mutually agreeable Settlement Administrator.
6. 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, including but not limited to those 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.

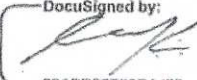
7. Neither party nor their/its counsel will issue a press release concerning the settlement.
8. Plaintiffs' counsel will prepare and file an *ex parte* application for approval of the settlement agreement. Plaintiffs' counsel will notify the State of the settlement terms prior to applying to the Court for approval. Defendant's counsel will prepare a long form of settlement agreement consistent with this MOU within two weeks of the execution of the MOU. Defendant will respond to any proposed changes to the long form by Plaintiff within 3 business days of receipt.
9. The Effective Date of the release of the Released Claims shall be the date the Court approves this Settlement.
10. Defendants will fund the settlement within fifteen (15) days of the Effective Date. The "Effective Date" is once the Court has (1) approved the settlement terms, and (2) issues a Judgment in the action.
11. 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 terms. 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.
12. Defendant represented at mediation that the number of employees at issue are approximately 100. If this representation turns out to be incorrect, as of the date of mediation, by more than twenty percent Defendant shall increase the Gross Settlement Amount proportionally. e.g , for an increase of twenty-one percent in employees, Defendant shall add an extra 1% to the Gross Settlement Amount or for a thirty percent increase in employees Defendant shall add an extra 10% to the Gross Settlement Amount).
13. 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: 5/3/2021

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Shamim Sheikh
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Plaintiff Shamim Sheikh

Dated: 5/3/2021

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Plaintiff Angel Kyriakides

Dated: _____

Defendant

Approved as to form:

Dated: 5/3/21



Eric Yaeckel
Counsel for Plaintiffs

Dated: _____

Counsel for Defendant

Dated: _____

Plaintiff

Dated: 4/30/21

John D. Balta
Defendant
on behalf of Ball Automotive Group

Approved as to form:

Dated: _____

Eric Yaeckel
Counsel for Plaintiffs

Dated: 4/30/21

Tony R. Smith
Counsel for Defendant