

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JULIE SU, ACTING SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR, ¹)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. <u>2:22-cv-04569-WB</u>
)	
ALMA CONWAY HOME CARE LLC, and SARA TUCKER,)	
)	
)	JURY TRIAL DEMANDED
)	
Defendants.)	
)	

CONSENT JUDGMENT

Plaintiff, Julie Sue, Acting Secretary of Labor, United States Department of Labor (“Plaintiff”), has filed her Complaint alleging violations of the Fair Labor Standards Act of 1938, 29 U.S.C. § 201, *et seq.* (hereinafter “the Act”). Defendants Alma Conway Home Care LLC and Sara Tucker (together, “Defendants” or “Employers”) waive formal service of process of the Summons and Complaint, waive their Answer and any defense which they may have and hereby agree to the entry of this Consent Judgment without contest. It is, therefore, upon motion of the attorneys for Plaintiff and for cause shown:

ORDERED, ADJUDGED, AND DECREED that Defendants Alma Conway Home Care LLC, and Sara Tucker, their officers, agents, servants, and all persons acting or claiming to act

¹ This action was commenced in the name of Martin J. Walsh, Secretary of the Department of Labor. Mr. Walsh is now the former Secretary of Labor and Julie Su is now the Acting Secretary. Therefore, Ms. Su is being automatically substituted for Mr. Walsh as the Plaintiff, pursuant to Fed. R. Civ. P. 25(d), and the caption of this action is amended accordingly.

on their behalf and interest be, and they hereby are, permanently enjoined and restrained from violating the provisions of Sections 7, 11(c), and 15 of the Act, in any manner, specifically:

1. Defendants Alma Conway Home Care LLC and Sara Tucker shall not, contrary to Section 7 of the Act, employ any of their employees including, but not limited to, any of their employees working at 2519 Germantown Avenue, Philadelphia, Pennsylvania, 19133, or at any business location owned, operated, and/or controlled by Defendants, and at any other business location at which their employees perform work, in any workweek when they are engaged in commerce or employed in an enterprise engaged in commerce, within the meaning of the Act, for workweeks longer than the hours now, or which in the future become, applicable under Sections 7 and 15(a)(2) of the Act, unless the said employees receive compensation for their employment in excess of the prescribed hours at a rate equivalent to one and one-half times the regular rates applicable to them.

2. Defendants Alma Conway Home Care LLC and Sara Tucker shall not fail to make, keep, and preserve adequate records of their employees and of the wages, hours, and other conditions and practices of employment maintained by them including, but not limited to, any of their employees working at 2519 Germantown Avenue, Philadelphia, Pennsylvania, 19133, or at any business location owned, operated, and/or controlled by Defendants, and at any other business location at which their employees perform work, as prescribed by the Regulations issued pursuant to Section 11(c) and 15(a)(5) of the Act and found at 29 C.F.R. Part 516.

3. Defendants Alma Conway Home Care LLC and Sara Tucker shall not discharge or take any retaliatory action against any of their employees, whether or not directly employed by Defendants, because the employee engages in any of the following activities pursuant to Section 15(a)(3) of the Act:

- a. Discloses, or threatens to disclose, to a supervisor or to a public agency, any activity, policy, or practice of the Employers or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of the Act, or a rule or regulation promulgated pursuant to the Act;
- b. Provides information to, or testifies before, any public agency or entity conducting an investigation, hearing, or inquiry into any alleged violation of the Act, or a rule or regulation promulgated pursuant to the Act, by the Employers or another employer with whom there is a business relationship;
- c. Objects to, or refuses to participate in any activity, policy, or practice which the employee reasonably believes is in violation of the Act, or a rule or regulation promulgated pursuant to the Act.

It is further ORDERED, ADJUDGED and DECREED by the Court that:

4. Defendants Alma Conway Home Care LLC and Sara Tucker are enjoined and restrained from withholding gross back wages in the sum total amount \$205,434.06 and are liable for the payment of \$205,434.06 in liquidated damages for the period from May 5, 2019 to October 2, 2021 (the “relevant period”), due certain employees and former employees of Defendant Alma Conway Home Care LLC as set forth and identified in Exhibit A, which is attached hereto and made a part hereof. This amount shall represent the full extent of back wages and liquidated damages owed by Defendants for the relevant period to the employees set forth and identified on the attached Schedule A for all claims raised in the Complaint as a result of the Secretary’s investigation. It is further agreed that the overtime compensation and liquidated damage payments by the Defendants in the amounts as specified above are in the nature of back wages and liquidated damages pursuant to the provisions of the Act.

5. Regarding the matter of the civil money penalty, Defendants have agreed that the amount currently due and payable is \$25,747.57, that they are jointly and severally liable for this amount, that such assessment has become the final order of the Secretary of the Department of Labor, and that they waive any and all rights to appeal or contest such assessment.

6. Defendants shall pay the above referenced amount of back wages, less normal and customary tax and other legally required withholdings, as well as gross liquidated damages with no withholdings, in accordance with the gross amounts reflected in the installment agreement, including interest, detailed on Exhibit B, which is attached hereto and incorporated herein.

Payments made in accordance with the installment agreement shall be made as follows:

a. For payments related to the back wages and liquidated damages, payment may be made online by ACH transfer, credit card, or debit card by going to <https://www.pay.gov/public/form/start/77689032> or www.pay.gov. Alternatively, payment may be made by certified check, bank check, or money order, payable to:

United States Department of Labor
Wage and Hour Division
Northeast Regional Office
1835 Market Street
19th Floor, Mailstop WHD/19,
Philadelphia, PA 19103-2968

The check or money order shall bear the following reference: Case ID No. 1945214.

A listing of the employees by installment for those installment payments that represent back wages is attached as Exhibit C. Each installment payment shall be a single payment that represents the total of all net payments due to those employees for that payment. Please provide a breakdown of the gross and net amounts along with the deductions. Please forward this information and each payment to:

United States Department of Labor
Wage and Hour Division
Philadelphia PA District Office
1617 John F Kennedy Boulevard

Suite 1780
Philadelphia, PA 19103

b. For the payment related to the civil money penalty, payments may be made online by ACH transfer, credit card, or debit card, by going to <https://www.pay.gov/public/form/start/77734139> or www.pay.gov. Alternatively, payment may be made by certified check, bank check, or money order, payable to:

United States Department of Labor
Wage and Hour Division
Northeast Regional Office
1835 Market Street
19th Floor, Mailstop WHD/19,
Philadelphia, PA 19103-2968

The check or money order shall bear the following reference: Case ID No. 1945214.

c. The Secretary, through the Wage and Hour Division, shall distribute the back wages (less amounts withheld by employer for applicable federal taxes, withholdings, and deductions) and liquidated damages payments to the employees and former employees, or to their estates, as set forth in Exhibit A. Exhibit A will show for each individual the gross back pay due (subject to legal deductions), and liquidated damages. Any sums not distributed to the employees or former employees on Exhibit A, or to their estates, because of inability to locate the proper persons or because of such persons' refusal to accept such sums, shall be deposited with the Treasurer of the United States of America pursuant to 29 U.S.C § 216(c). Defendants shall remain responsible for all tax payments considered to be the "employer's share," including, but not limited to, FICA.

d. A fifteen (15) calendar-day grace period shall be allowed for receipt of each payment that is required by this section and Exhibit B of this Consent Judgment. If

Defendants fail to make any payment set forth in Exhibit B of this Consent Judgment within that fifteen (15) calendar-day grace period, all remaining installment payments shall become due immediately.

e. The provisions of this Consent Judgment shall not in any way affect any legal right of any individual not named in Exhibit A, nor shall the provisions in any way affect any legal right of any individual named in Exhibit A to file any action against Defendant Alma Conway Home Care LLC and Defendant Sara Tucker for any violations alleged to have occurred outside the relevant period.

7. It is FURTHER ORDERED, ADJUDGED, AND DECREED that if Defendants fail to make the payments as set forth in Paragraph 6 above, upon notice to the Defendants, the Court shall appoint a Receiver to effectuate all of the terms of this Consent Judgment. In the event a Receiver is appointed:

a. Defendants shall cooperate with the Receiver in all respects and shall provide to the Receiver any and all information which the Receiver may require to carry out its appointment and in accordance with the authority given to the Receiver pursuant to applicable law at the time of appointment.

b. All the expenses of the accountant or Receiver shall be borne solely by the Defendants.

c. If the Court appoints a Receiver, the Receiver shall serve until the payment of the monetary terms of this Judgment are satisfied.

d. The Receiver shall have full authority to: collect the Defendants' assets and report his/her findings to the Court and the parties; to redeem and/or liquidate the Defendants' assets and turn over the proceeds to the Secretary; if the asset is a debt that is

due, collect it and turn over the proceeds to the Secretary; to analyze all indebtedness and where deemed appropriate seek restructuring; to analyze all transfers of the Defendants' assets; to prevent waste or fraud; and to do all acts and take all measures necessary or proper for the efficient performance of the duties under this Judgment.

8. Within thirty days of the entry of an order approving this Order, Defendants will to the best of their ability and with information currently available to them provide the Wage and Hour Division with the current or last known address, telephone number, and social security number (or individual taxpayer identification number (if either are known)) of each individual identified on the attached Exhibit A.

9. Neither Defendants, nor anyone on their behalf, shall directly or indirectly solicit or accept the return or refusal of any sums paid under this Consent Judgment. Any such amount shall be immediately paid to the Secretary for deposit as above, and Defendants Alma Conway Home Care LLC and Sara Tucker shall have no further obligations with respect to such returned monies. If recovered wages have not been claimed by the employee or the employee's estate within three years of the entry of this Consent Judgment, the Secretary shall deposit such money with the Treasury in accordance with Section 16(c) of the Act.

10. The parties agree that the instant action is deemed to solely cover Defendants Alma Conway Home Care LLC and Sara Tucker's business and operations for the relevant period from May 5, 2019 to October 2, 2021 for all claims raised in the Complaint as a result of the Secretary's investigation. The parties agree that the filing of this action and the provisions of this Judgment shall not, in any way, affect, determine, or prejudice any and all rights of any person specifically named on Exhibit A or the Secretary for any period after October 2, 2021, or any persons, be they current or former employees, not specifically named on Exhibit A, insofar

as such rights are conferred and reserved to said employees by reason of Section 16(b) of the Act.

11. Defendant Alma Conway Home Care LLC and Defendant Sara Tucker agree that they are employers within the meaning of Section 3(d) of the Fair Labor Standards Act, 29 U.S.C. § 203(d).

12. By entering into this Consent Judgment, Plaintiff does not waive his right to conduct future investigations of Defendant Alma Conway Home Care LLC and Defendant Sara Tucker under the provisions of the FLSA and to take appropriate enforcement action, including assessment of civil money penalties pursuant to Section 16(e) of the FLSA, with respect to any violations disclosed by such investigations.

13. It is FURTHER, ORDERED, ADJUDGED, AND DECREED that each party will bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding including, but not limited to, attorney fees which may be available under the Equal Access to Justice Act, as amended.

/S/WENDY BEETLESTONE, J.
UNITED STATES DISTRICT JUDGE

Dated: 3/29/23, 2023

Defendants have appeared by counsel and hereby consent to the entry of this Judgment.

For the Defendants Alma Conway Home Care LLC and Sara Tucker

/s/ Sara Tucker

Sara Tucker
Individually, and as owner of Alma Conway Home Care LLC

/s/ Joshua Vaughn

Joshua Vaughn

Attorneys for Defendants Alma Conway Home Care LLC and Sara Tucker

Dated: March 15, 2023

For the Secretary:

Seema Nanda
Solicitor of Labor

Oscar L. Hampton III
Regional Solicitor

/s/ Erik S. Unger

Erik S. Unger
Trial Attorney
PA ID #323903

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Attorneys for Plaintiff
U.S. Department of Labor

Dated: March 15, 2023