

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MARTIN J. WALSH,

Plaintiff,

v.

SERENITYCARE LLC, KELLEY OLIVER-HOLLIS,

Defendants.

2:22-CV-01028-CCW

CONSENT JUDGMENT

Plaintiff Martin J. Walsh, Secretary of Labor, United States Department of Labor, hereinafter referred to as "Plaintiff" or "the Secretary," has filed his Complaint alleging violations of the Fair Labor Standards Act of 1938, 29 U.S.C. § 201, *et seq.* (hereinafter "the Act"). Defendant Kelley Oliver-Hollis named above, hereinafter referred to as "Defendant" or "Employer," waives any defense which she may have in this Civil Action, and hereby agrees 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 Defendant, her officers, agents, servants, and all persons acting or claiming to act on her behalf and interest be, and they hereby are, permanently enjoined and restrained from violating the provisions of Sections 6, 7, 11(a), 11(c), 15(a)(2), 15(a)(3), 15(a)(5) of the Act, in any manner, specifically:

1. Defendant shall not, contrary to Section 6 of the Act, pay to any of her employees who in any workweek are engaged in commerce or in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for

commerce, within the meaning of the Act, wages at rates less than those which are now, or which in the future may become, applicable under Sections 6 and 15(a)(2) of the Act.

2. Defendant shall not, contrary to Section 7 of the Act, employ any of her employees including, but not limited to, any of her employees working at SerenityCare LLC located at 8620 Frankstown Road, Pittsburgh, PA 15235, or at any business location owned, operated, and/or controlled by Defendant, 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.

3. Defendant shall not fail to make, keep, and preserve adequate records of her 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 the current business address for SerenityCare LLC located at 8620 Frankstown Road, Pittsburgh, PA 15235, or at any business location owned, operated, and/or controlled by Defendant, and at any other business location at which her 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.

4. Defendant shall not violate the provisions of Section 11(a) of the FLSA, 29 U.S.C. § 211 (a), by interfering or attempting to interfere with the Secretary's investigation and gathering of data regarding Defendant's wages, hours, and other conditions and practices of employment.

5. Defendant shall not discharge or take any retaliatory action against any of her employees, whether or not directly employed by Defendant, because the employee engages in any of the following activities pursuant to Section 15(a)(3) of the Act:

- i. Discloses, or threatens to disclose, to a supervisor or to a public agency, any activity, policy, or practice of the Employer 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;
- ii. 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 Employer or another employer with whom there is a business relationship;
- iii. 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:

6. Defendant is enjoined from interrogating, inquiring about or discussing with any employees or former employees about employees' potential or actual communications with the Secretary or other agents of the Department of Labor.

7. Defendant is enjoined and restrained from withholding gross back wages in the total amount \$525,619.98 and is liable for the payment of \$525,619.98 in liquidated damages, due certain employees and former employees of Defendant as set forth and identified in Schedule A, which is attached as Exhibit A hereto and made a part hereof.

8. Defendant is also enjoined from (1) requesting or causing any current employee due back wages to return such back wages or other damages; or (2) deducting any back wages or other damages due to employees from those employees' current wages for hours worked;

9. By the date of this Consent Judgment, Defendant has paid a sum of \$1,051,239.96 to the Department. This sum reflects the back wages and liquidated damages due as a result of violations of the minimum wage and overtime provisions of the Act between November 23, 2018 and December 4, 2021 ("relevant period"). This amount represents the full extent of back wages and liquidated damages owed by Defendant for the relevant period to the employees set forth and identified on the attached Exhibit A. It is further agreed that the minimum wage, overtime compensation, and liquidated damage payments by the Defendant in the amounts as specified above are in the nature of back wages and liquidated damages pursuant to the provisions of the Act. Defendant shall remain responsible for all tax payments considered to be the "employer's share," including, but not limited to, FICA.

i. The Secretary, through the Wage and Hour Division, shall distribute the back wages (less any 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 applicable legal deductions), and liquidated damages. Any sums not distributed to the employees or former employees on Schedule 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

pursuant to 29 U.S.C § 216(c).

ii. Defendant has provided to Plaintiff the social security number and last known address of each employee or former employee due money under this Consent Judgment within thirty (30) days of the entry of this Judgment by the Court.

iii. The provisions of this Consent Judgment shall not in any way affect any legal right of any individual not named in Schedule A, nor shall the provisions in any way affect any legal right of any individual named in Schedule A to file any action against Defendant for any violations alleged to have occurred outside the relevant period.

10. Neither Defendant 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 either online by ACH transfer, credit card, or debit card by going to <https://www.pay.gov/public/form/start/77689032> or www.pay.gov or by a certified check, bank check, or money order made payable to the order of “**Wage and Hour Division - Labor**,” and mailed to:

U.S. Department of Labor, Wage & Hour Division
1835 Market Street, 19th Floor,
Mailstop WHD/19
Philadelphia, PA 19103-2968

The check or money order shall bear the following reference: Case ID# 1953872. Defendant 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.

11. Further, the parties agree that the instant action is deemed to solely cover

Defendant's business and operations for the relevant period 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 Schedule A or the Secretary for any period after December 4, 2021, or any persons, be they current or former employees, not specifically named on Schedule A, insofar as such rights are conferred and reserved to said employees by reason of Section 16(b) of the Act.

12. Defendant agrees that she is an employer within the meaning of Section 3(d) of the Fair Labor Standards Act, 29 U.S.C. § 203(d).

13. By entering into this Consent Judgment, Plaintiff does not waive his right to conduct future investigations of Defendant 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.

14. 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.

SO ORDERED, this 20th day of September, 2022.

/s/ Christy Criswell Wiegand

CHRISTY CRISWELL WIEGAND
United States District Judge

For the Secretary:
Seema Nanda
Solicitor of Labor

Oscar H. Hampton,
Deputy Solicitor

Adam Welsh
Wage and Hour Counsel

/s/ Maria del Pilar Castillo
Maria del Pilar Castillo
Trial Attorney
PA Bar No. 311251
castillo.m.pilar@dol.gov

/s/ Aditi Kumar
Aditi Kumar
Trial Attorney
NY Bar No. 5771928
kumar.aditi@dol.gov

Post Office Address:
U.S. Department of Labor
Office of the Regional Solicitor
U.S. Department of Labor
201 12th Street South, Suite 401
Arlington, VA 22202
(202) 693-9357 (voice)
(202) 693-9392 (fax)

Date: September 19, 2022

For Defendant Kelley Oliver-Hollis:



Kelley Oliver-Hollis
8620 Frankstown Rd.
Pittsburgh, PA 15235
Serenitycare2016@gmail.com
(412) 923-6503 (voice)