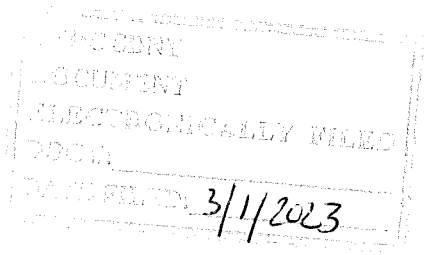


UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK



MARTIN J. WALSH, Secretary of Labor, United States :
Department of Labor, :

Plaintiff, :

v. :

Case No. 23-cv-1573

SUNRISE HOME CARE INC and ELSA SILVA, :

Defendants. :

**ORDER TO SHOW CAUSE FOR PRELIMINARY INJUNCTION AND
TEMPORARY RESTRAINING ORDER**

Upon the declarations of [REDACTED] and Allison L. Bowles, and the Secretary of Labor's Memorandum of Law in Support of a Temporary Restraining Order and Order to Show Cause, it is:

WB

ORDERED, that the above named Defendants show cause before a motion term of this Court, at Room 620, Federal Building and United States Courthouse, 300 Quarropas Street, White Plains, New York on March 28, 2023, at 2:30 o'clock .m., or as soon thereafter as counsel may be heard, why an order should not be issued pursuant to Rule 65 of the Federal Rules of Civil Procedure enjoining Defendants, their officers, employees, agents, successors, and all persons acting or claiming to act in their behalf and interest during the pendency of this action from:

1. Violating the provisions of section 15(a)(3) of the Fair Labor Standards Act ("FLSA");
2. Terminating or threatening to terminate employment, blacklisting or threatening future employment, contacting immigration authorities or other law enforcement or threatening to contact law enforcement, withholding wages or threatening to withhold wages, reducing hours or threatening to reduce hours, intimidating, coercing, threatening, or retaliating or discriminating against the home health aides

that perform work for Sunrise (“Sunrise HHAs” or “HHAs”) in any other way, to prevent or otherwise dissuade any HHA from speaking with or participating in the Department’s investigation or engaged in any other protected activity under the Act;

3. Terminating or threatening to terminate employment, blacklisting or threatening future employment, contacting immigration authorities or other law enforcement or threatening to contact law enforcement, withholding wages or threatening to withhold wages, reducing hours or threatening to reduce hours, intimidating, coercing, threatening, or retaliating or discriminating against Sunrise HHAs in any other way, based on Defendants’ belief that any such HHA has participated in the Department’s investigation or engaged in any other protected activity under the Act;
4. Obstructing and interfering with the Secretary’s investigation of Defendants in any way;
5. Telling any Sunrise HHAs not to cooperate with the Secretary’s representatives; instructing any HHAs to provide incomplete or false information to the Secretary’s representatives; or questioning HHAs about their cooperation or communications with the Secretary’s representatives;
6. Advising any current and former Sunrise HHAs that they must agree to return, or “kick back,” to Defendants any back wages the Department may determine Defendants owe as a result of the investigation;
7. Communicating with any Sunrise HHA regarding the Secretary’s investigation without first informing the HHA, in writing and in the HHA’s primary language, that HHAs may communicate with the Secretary and his representatives voluntarily and free from coercion, and that HHAs cannot be discriminated against or retaliated against for communicating with the Secretary’s representatives;
8. Terminating any HHA without providing at least seven days’ notice to the Wage and Hour Division of the U.S. Department of Labor prior to any termination; **and**

IT IS FURTHER ORDERED that, sufficient reason having been shown therefor, pending the hearing of Plaintiff’s application for a preliminary injunction, pursuant to Rule 65 of the Federal Rules of Civil Procedure, that Defendants, their officers, employees, agents, successors, and all persons acting or claiming to act in their behalf and interest shall be enjoined from:

1. Violating the provisions of section 15(a)(3) of the FLSA;
2. Terminating or threatening to terminate employment, blacklisting or threatening future employment, contacting immigration authorities or other law enforcement or

threatening to contact law enforcement, withholding wages or threatening to withhold wages, reducing hours or threatening to reduce hours, intimidating, coercing, threatening, or retaliating or discriminating against HHAs in any other way, to prevent or otherwise dissuade any HHA from speaking with or participating in the Department's investigation or engaged in any other protected activity under the Act;

3. Terminating or threatening to terminate employment, blacklisting or threatening future employment, contacting immigration authorities or other law enforcement or threatening to contact law enforcement, withholding wages or threatening to withhold wages, reducing hours or threatening to reduce hours, intimidating, coercing, threatening, or retaliating or discriminating against Sunrise HHAs in any other way, based on Defendants' belief that any such HHA has participated in the Department's investigation or engaged in any other protected activity under the Act;
4. Obstructing and interfering with the Secretary's investigation of Defendants in any way;
5. Telling any Sunrise HHAs not to cooperate with the Secretary's representatives; instructing any HHAs to provide incomplete or false information to the Secretary's representatives; or questioning HHAs about their cooperation or communications with the Secretary's representatives;
6. Advising any current and former Sunrise HHAs that they must agree to return or "kick back," to Defendants any back wages the Department may determine Defendants owe as a result of the investigation;
7. Communicating with any Sunrise HHA regarding the Secretary's investigation without first informing the HHA, in writing and in the HHA's primary language, that HHAs may communicate with the Secretary and his representatives voluntarily and free from coercion, and that HHAs cannot be discriminated against or retaliated against for communicating with the Secretary's representatives;
8. Terminating any HHA without providing at least seven days' notice to the Wage and Hour Division of the U.S. Department of Labor prior to any termination; **and**

IT IS FURTHER ORDERED that, sufficient reason having been shown therefor, pending the hearing of Plaintiff's application for a preliminary injunction, pursuant to Rule 65 of the Federal Rules of Civil Procedure, that Defendants, their officers, employees, agents, successors, and all persons acting or claiming to act in their behalf and interest shall be required to:

1. Within seven days of this Order, Defendants shall allow representatives of the Secretary to

read aloud in English, Spanish, Portuguese, and any other language as necessary to be understood by Sunrise HHAs, during HHAs' paid working hours, the following statement to all HHAs who perform work for Sunrise, and in the presence of Defendant Silva:

You are protected by the Fair Labor Standards Act and have the right to participate freely in the U.S. Department of Labor's investigation into Sunrise Home Care, Inc. and Elsa Silva practices. You have the right to speak freely with investigators, attorneys, or other officials from the Department of Labor. Sunrise Home Care, Elsa Silva, and any person acting on behalf of the company or Ms. Silva, are prohibited from retaliating against you in any way, including by threatening harm to you or your families, terminating you, reporting you to immigration, or threatening to do any of these things because you spoke with the Department of Labor.

In the event the Department of Labor's investigation results in a determination that an employer owes back wages to employees, those employees have a right to receive and keep the full amount of any back wages (after taxes) due to them. It is against the law for an Employer or any person acting on their behalf to ask for this money back or ask employees to give up their current or future wages to get money from the investigation. Employers may not require any worker who receives back wages from the Department to return or "kick back" those monies to the employer.

The U.S. District Court for the Southern District of New York has ordered Defendants Sunrise Home Care Inc. and Elsa Silva and anyone acting on their behalf to cease coercing, retaliating against, threatening to retaliate against, intimidating, or attempting to influence or in any way threatening current and former home health aides for providing information to the Department of Labor.

(Former employees" are HHAs who have worked for defendants in the past three years.)

Within seven days, Defendants shall mail a hard copy of the above statement, in English, Spanish, Portuguese and other language as necessary to be understood by Sunrise HHAs (to be provided by the Secretary's representatives), to all current and former employees at their last known addresses, along with contact information for representatives of the Secretary; and

JB

IT IS FURTHER ORDERED that personal service of a copy of this order, the annexed

declarations and memorandum of law upon the Defendants or their counsel on or before 5:00

JB


o'clock in the p.m. March 2, 2023, shall be deemed good and sufficient

service thereof.

JB

Any opposition to the motion for a preliminary injunction is due March 15, 2023. Any reply ~~to~~ must be filed by ⁴ March 22, 2023.

DATED: March, 2023
White Plains, New York


HONORABLE Vincent L. Briccetti
UNITED STATES DISTRICT JUDGE
~~Vincent L. Briccetti~~