

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,

Plaintiff,

v.

SILVERADO MENOMONEE FALLS  
LLC, *d/b/a* SILVERADO OAK  
VILLAGE, and SILVERADO SENIOR  
LIVING INC.,

Defendants.

Case No. 17-CV-1147-JPS

**CONSENT DECREE**

**INTRODUCTION**

Plaintiff Equal Employment Opportunity Commission (“EEOC”) filed suit against Defendants Silverado Menomonee Falls, LLC d/b/a Silverado Oak Village and Silverado Senior Living, Inc. (“Defendants”) in *EEOC v. Silverado Menomonee Falls, LLC d/b/a Silverado Oak Village and Silverado Senior Living, Inc.*, Civil Action No. 2:17-cv-01147-JPS, alleging they discriminated against Shaquena Burton by failing to accommodate her pregnancy-related medical restrictions, which resulted in her firing, in violation of Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act (“PDA”), 42 U.S.C. §§ 2000e(k) and 2000e-2(a)(1). Silverado filed an answer to the suit in which it denied that it discriminated against Burton or acted illegally in any manner.

THEREFORE, upon the parties’ consent, and upon the Court’s review of these terms, it is ORDERED, ADJUDGED, and DECREED that the following terms are approved:

## **I. JURISDICTION**

This Court has jurisdiction over the parties and the subject matter of this action and shall retain jurisdiction for the duration of this Decree for entering all orders, judgments, and decrees that may be necessary to implement the relief, and to enforce compliance with the terms, provided herein.

## **II. FINDINGS**

Entering this Decree will further the purposes of Title VII and the public interest. This Decree constitutes a fair and equitable settlement of this action.

## **III. DEFINITIONS**

**A.** Defendant Silverado Senior Living Holdings, Inc. (“Silverado Senior Living”), with an office in Irvine California, is the Silverado home office (“Home Office”) that provides human resources services to Silverado entities, including assisted living facilities and offices which provide in home personal attendant services and hospice services.

**B.** Defendant Silverado Menomonee Falls, LLC d/b/a Silverado Oak Village (“Silverado Oak Village”) is an assisted living facility located in Menomonee Falls, Wisconsin, which receives human resources services from Silverado Senior Living.

**C.** “Silverado Covered Entities” are the other Silverado facilities which, at any time during the term of this Decree, receive human resources services from the Home Office. The Home Office shall ensure that the Silverado Covered Entities comply with those sections of this Decree applicable to the Covered Entities.

D. "Job Modifications" are changes to job duties, work schedules and/or terms and conditions of employment needed by an employee because of pregnancy, disability, medical condition, or injury.

#### IV. TERM

All provisions of this Decree shall be in effect and the Court will retain jurisdiction of this matter to enforce this Decree for a period of two (2) years immediately following entry of the Decree, provided, however, that if, at the end of the two (2) year period, any disputes under Section XII remain unresolved, the term of this Decree shall be extended automatically (and the Court will retain jurisdiction of this matter to enforce the Decree) until such time as all such disputes have been resolved.

#### V. INJUNCTION

A. Defendants and their officers, agents, management (including supervisory employees), successors, assigns, and all persons acting in concert with them are enjoined from engaging in any form of discrimination made unlawful under the PDA, including, but not limited to, failing to provide Job Modifications to pregnant employees on the same basis as such Job Modifications are provided to other persons not so affected, but similar in their ability or inability to work, or firing employees because of their pregnancy.

B. Defendants and their officers, agents, management (including supervisory employees), successors, assigns, and all persons acting in concert with them shall not engage in any form of retaliation against any person because such person has:

1. opposed any practice that person believes has been made unlawful under the PDA;

2. testified or participated in any manner in any investigation, proceeding, or hearing under the PDA; or
3. asserted any rights under the PDA or under this Decree.

## **VI. EMPLOYMENT REFERENCE**

Defendants shall provide to potential employers who inquire about Burton's employment a neutral reference for Burton, which shall include employment dates, positions held, and, where applicable, confirmation of salary earned.

## **VII. POLICIES AND TRAINING**

**A.** Within 30 calendar days after the Effective Date, Defendants shall review their workplace policies prohibiting discrimination to ensure that, at a minimum, they provide:

1. an explanation, consistent with Title VII, the PDA, and this Consent Decree, of prohibited conduct and a clear definition of pregnancy discrimination;
2. procedures detailing how pregnant employees should request any pregnancy-related Job Modifications, including, but not limited to, light duty assignments, with contact information for a human resources employee at the local Silverado entity and the home office who can receive accommodation requests and names of personnel to whom any appeal should be made;
3. procedures for reporting requests for Job Modifications by Silverado Oak Village and the Silverado Covered Entities to the Home Office – noting that a business manager must contact the Home Office before a final decision to deny a pregnancy-related Job Modification request is made;

4. procedures detailing how employees can seek review of any adverse decisions relating to requested Job Modifications, and make verbal or written internal complaints of discrimination or retaliation; and a statement prohibiting retaliation against pregnant employees who request Job Modifications because of pregnancy including, but not limited to, light duty assignments; the name, telephone number and email address of at least one internal employee at Silverado's Home Office whom employees may call or email to complain of discrimination or retaliation; and
5. a requirement that all Job Modification requests are to be reported to the Home Office, which will track all such requests.

**B.** Within 60 calendar days after the Effective Date, Defendants shall submit to EEOC, as set forth in Section IX(A) their updated policies prohibiting discrimination and governing the process for providing Job Modifications to pregnant employees.

**C.** Within 30 calendar days of the date the policies are revised, Defendants shall distribute the revised policies through the Company's e-learning platform to all employees at the Home Office, to all employees at Silverado Oak Village; and to all employees of the Silverado Covered Entities. Defendants shall certify to EEOC within 45 calendar days of the distribution of the revised policies that they have met the requirements of this paragraph.

**D.** Within 90 days of the execution of this Decree, and then annually for the term of this Decree, Defendants shall train all their Home Office human resources personnel and management personnel at Silverado Oak Village on pregnancy discrimination, including but not limited to the PDA's requirements that pregnant

employees be treated the same as other employees not so affected, but similar in their ability to work. A training agenda, training materials, and any trainers' resumes shall be provided to EEOC at least 30 calendar days before each training.

**E.** Within 90 days of the Effective Date of this Decree, Defendants shall add to their new-employee orientation, in addition to information they already provide about their non-discrimination policies and their employees' rights, specific, detailed information about the policy modifications made pursuant to Section VII.A, above. Such information shall include Defendants' policies for providing Job Modifications to pregnant employees, with specific, detailed directions on how to request such Modifications and the name and contact information for the person(s) tasked with receiving such requests. It shall also include specific, detailed directions on how to appeal the denial of a Job Modification and the name and contact information for the person(s) tasked with receiving such appeals. Finally, the orientation materials shall include Silverado's equal employment opportunity policies and the process for complaining about discrimination internally and shall advise employees of their right to file discrimination charges with EEOC.

**F.** Defendants shall also provide EEOC with copies of all pamphlets, brochures, outlines or other written materials provided to training session participants and the orientation materials described in Section VII.E, above.

## VIII. POSTING TO EMPLOYEES

**A.** Defendants shall post, and cause to remain posted, in all their facilities the posters required to be displayed in the workplace by EEOC regulation 29 C.F.R. § 1601.30.

**B.** Defendants shall post the Notice attached as **Exhibit A** at Defendants' facilities as well as Silverado Covered Entities. **Exhibit A** shall be posted in locations where notices for employees are generally posted, and shall remain in place for the term of this Decree. Defendants shall ensure that the posted Notice remains unobscured and, during the term of this Decree, will replace any damaged or defaced Notices.

## IX. RECORDKEEPING AND REPORTING

**A.** Defendants shall comply with all recordkeeping obligations under the laws prohibiting discrimination as outlined in 29 C.F.R. § 1602. Defendants shall review and, as necessary, revise any document retention policies, human resources policies, or employee materials to comply with the record-keeping requirements under federal equal employment opportunity laws.

**B.** Annually during the term of this Decree, Defendants shall submit to EEOC a certification of compliance with this Decree, including that they have reviewed their workplace policies, trained their personnel, and revised their orientation materials as required by this Decree.

**C.** Semi-annually—during the term of the Decree, Defendants shall provide EEOC with a searchable list (preferably in Excel format) of all requests for Job Modifications reported to the Home

Office, including but not limited to, requests for light duty assignments, made in writing by employees. Reports shall include:

1. the requesting party's
  - a. name,
  - b. address,
  - c. telephone number,
  - d. associate number,
  - e. position,
  - f. hiring date, and
  - g. location;
2. the date of the request;
3. the type of Job Modification requested;
4. the reason for the request;
5. whether medical documentation was provided;
6. whether the Job Modification was granted or denied;
7. the reasons for any Job Modification denials;
8. the Job Modification start date;
9. the Job Modification end date; and
10. the names and job titles of all individuals responsible for granting or denying the request.

**D.** If EEOC requests the underlying documents identified in section IX.C above, Defendants shall make the underlying documents or records available to EEOC within twenty calendar days of EEOC's request. In addition, Defendants shall require its personnel within its employ or under its authority or control, and whom EEOC requests to verify compliance with this Decree, to cooperate with EEOC, and to be interviewed upon EEOC's request



after 10 days' notice provided through Silverado's Home Office and Silverado's counsel.

**E.** Nothing in this Decree shall limit any obligation Defendants may otherwise have, under Title VII or any other law or regulation, to maintain records.

**F.** Reports, certifications and other submissions by Defendants shall be mailed to

Laura Feldman  
César del Peral  
U.S. Equal Employment Opportunity Commission  
Milwaukee Area Office  
310 West Wisconsin Ave. – Suite 500  
Milwaukee, WI 53203-2276

and emailed to Laura Feldman at [Laura.Feldman@eoc.gov](mailto:Laura.Feldman@eoc.gov) and César J. del Peral at [Cesar.delPeral@eoc.gov](mailto:Cesar.delPeral@eoc.gov). Notices and requests by EEOC pursuant to this Decree shall be directed to

Frank Russo  
Senior Vice President  
Risk and Legal Affairs  
Silverado | Home Office  
6400 Oak Canyon, Suite 200  
Irvine, CA 92618

and

Nancy Rader Whitehead  
Scott & Whitehead  
4675 MacArthur Ct., Suite 1240  
Newport Beach, CA 92660

and emailed to Frank Russo at [frusso@silverado.com](mailto:frusso@silverado.com) and Nancy Rader Whitehead at [nwhitehead@employerlaw.com](mailto:nwhitehead@employerlaw.com).

#### **X. MONETARY REMEDY**

Defendants shall pay \$80,000 to Burton via Company check within 21 calendar days after receipt of the Release, attached as Exhibit B to this Decree, executed by Burton. Defendants shall provide EEOC, as described in Section IX (F) a copy of the check within seven calendar days after remitting the check to Burton.

#### **XI. NOTIFICATION OF SUCCESSORS**

This Decree shall bind all present and future directors, officers, managers, agents, successors and assigns of Defendants. Defendants and any of their successors shall provide a copy of this Decree to any organization or person who proposes to acquire or merge with any of them, or with any successor, before any such asset sale, acquisition or merger. This paragraph shall not limit the remedies available should the Court find any party in violation of this Decree.

#### **XII. DISPUTE RESOLUTION**

EEOC shall give Defendants written notice of any alleged non-compliance with the Decree before initiating enforcement actions under this Decree. If Defendants have not satisfied EEOC that they have complied with the Decree within thirty (30) days of receipt of such notice, EEOC may apply to the Court for appropriate relief.


#### **XIV. COSTS AND ATTORNEYS FEES**

EEOC and Defendants shall each bear their own costs and attorneys' fees involved in complying with this Decree and monitoring such compliance.

**By the Court:**

**IT IS SO ORDERED.**

Dated at Milwaukee, Wisconsin this 29th day of January, 2018.

A handwritten signature in blue ink, appearing to read "J.P. Stadtmueller", written over a horizontal line.

J.P. Stadtmueller  
United States District Judge