

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

**EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,**

**Plaintiff,**

**v.**

**FOUNDERS PAVILION, INC.,**

**Defendant.**

**13-CV-6250 (CJS)**

**CONSENT DECREE**

**PART I GENERAL PROVISIONS**

**Section 101 Introduction**

Plaintiff Equal Employment Opportunity Commission ("EEOC") and Defendant Founders Pavilion, Inc. ("Founders") have agreed to resolve this action by the terms of this Consent Decree ("Decree") as set forth below.

On May 16, 2013, EEOC brought this action under the Genetic Information Nondiscrimination Act of 2008 ("GINA"), the Americans with Disabilities Act of 1990, as amended, ("ADA"), and Title VII of the Civil Rights Act of 1964, as amended, ("Title VII") to correct unlawful employment practices on the basis of genetic information, disability, and pregnancy and to provide appropriate relief to applicants and employees who were affected by such unlawful practices. As alleged in EEOC's Complaint, Founders (1) required a class of applicants and employees to provide genetic information in response to questions about family medical history, (2) terminated two individuals it regarded as disabled and terminated one individual after it failed to provide her a reasonable accommodation during her probationary period, (3) refused to hire one woman, withdrew an offer of employment to a second woman,

and terminated a third woman because they were pregnant, and (4) failed to post notices describing the Federal laws prohibiting job discrimination based on race, color, sex, national origin, religion, age, equal pay, disability and genetic information and failed to file EEO-1 forms as required by law and EEOC regulations. Founders denies these allegations and neither this Decree nor the furnishing of payments under this Decree shall be deemed or construed as an admission by Founders of any liability or unlawful conduct.

#### **Section 102 Purpose of this Decree**

A. The parties, defined as EEOC and Founders, desire to settle this action, and therefore do hereby stipulate and consent to the entry of this Decree as final and binding between the parties.

B. The Decree resolves all issues relating to the allegations in EEOC's Complaint and Vicki (Randall) Hall's EEOC Charge of Discrimination number 525-2009-00492, which served as the jurisdictional prerequisite in this case. The Decree does not resolve any charge of discrimination currently pending before EEOC, or any charge that may be filed in the future, other than the charge listed above. EEOC reserves all rights to proceed regarding matters not covered in this Decree.

C. The terms of this Decree represent the full and complete agreement of the parties. The parties agree that this Decree may be entered into without Findings of Fact and Conclusions of Law being made and entered by the Court.

#### **Section 103 Prohibited Conduct and Injunctions**

A. On July 2, 2013 Founders completed the sale of its nursing facility located at 205 East First Street, Corning, New York 14830 to Pavilion Operations, LLC d/b/a Corning Center

for Rehabilitation and Healthcare ("Pavilion Operations") and has since ceased operating any business.

B. Pavilion Operations, as a non-party signatory to this Decree, has agreed to revise its anti-discrimination policies and conduct anti-discrimination training pursuant to the provisions in Sections 202(C) and 203(G) below. The Court has jurisdiction over Pavilion Operations for the purpose of enforcing the provisions in Sections 202(C) and 203(G) of this Decree or resolving any dispute thereunder.

C. If at any point after this Decree is executed by the parties, Founders again owns or operates any healthcare facility or other business (referred to herein as "resumes conducting business"), Founders, its successors, assigns, purchasers, and managers, officers and agents acting on behalf of Founders, including any physician or medical facility that conducts any medical examination for Founders, are hereby enjoined from requesting genetic information, including family medical history, from any applicant or employee.

D. If Founders resumes conducting business, Founders, its successors, assigns, purchasers, and managers, officers and agents acting on behalf of Founders are hereby enjoined from failing to provide reasonable accommodation to applicants or employees with disabilities.

E. If Founders resumes conducting business, Founders, its successors, assigns, purchasers, and managers, officers and agents acting on behalf of Founders are hereby enjoined from terminating any employee on the basis of that employee's disability or perceived disability.

F. If Founders resumes conducting business, Founders, its successors, assigns, purchasers, and managers, officers and agents acting on behalf of Founders are hereby enjoined from failing to hire an applicant or terminating an employee because of her pregnancy.

G. If Founders resumes conducting business, Founders, its successors, assigns, purchasers, and managers, officers and agents acting on behalf of Founders are hereby required to post EEO posters describing the Federal laws prohibiting job discrimination based on race, color, sex, national origin, religion, age, equal pay, disability and genetic information in all prominent places visually accessible to all applicants and employees.

H. If Founders resumes conducting business, Founders, its successors, assigns, purchasers, and managers, officers and agents acting on behalf of Founders are hereby required to file EEO-1 forms on annual basis pursuant to 29 C.F.R. § 1602.7.

I. Nothing in this Decree will be construed to limit or reduce Founders' obligations to comply with the statutes enforced by EEOC: Title VII of the 1964 Civil Rights Act, as amended, 42 U.S.C. §2000e, *et seq.*; Title I of the Americans with Disabilities Act, as amended, 42 U.S.C. §12101, *et seq.*; Age Discrimination in Employment Act, 29 U.S.C. §621, *et seq.*; Equal Pay Act, 29 U.S.C. §206(d); and Genetic Information Nondiscrimination Act, 42 U.S.C. §2000ff, *et seq.*

#### **Section 104 Duration of Decree and Consent to Jurisdiction**

A. The Decree will remain in effect for five (5) years from the effective date of this Decree. The effective date of this Decree will be the date it is signed by and receives approval from the Court. The Decree will not expire against any signatory while any enforcement action is pending against that signatory.

B. If EEOC has notified Founders in writing not less than fifteen (15) days in advance of the termination of this Decree that Founders is not in compliance with any sections of this Decree, Founders' obligations under this Decree will remain in effect until EEOC determines that Founders is in compliance. Founders reserves the right to contest any



determination by the EEOC that Founders is not in compliance by bringing the matter before the Court.

C. EEOC and Founders agree that this Court has jurisdiction over the subject matter of this litigation and the parties, that venue is proper, and that all administrative prerequisites have been met. No party will contest the validity of this Decree or the jurisdiction of the federal district court to enforce this Decree and its terms.

D. The Court will retain jurisdiction over this action for all purposes including, but not limited to, the entering of all orders, judgments, and decrees as necessary to implement the relief provided herein. Upon signature and approval by the Court, the matter may be administratively closed, ~~but will not be dismissed~~. Within thirty (30) days after the expiration date of the decree, the parties will submit a stipulation of dismissal to the court.

#### **Section 105 Applicability of Decree to Successors and Assigns and Upon Purchase, Merger or Consolidation**

If Founders resumes conducting business, Founders will provide notice and a copy of this Decree to any successors, assigns, subsidiaries, affiliates, any other corporation or other entity that acquires Founders, and any other corporation or other entity into which Founders may merge or with which Founders may consolidate before the acquisition, sale, merger, or consolidation. The successors, assigns, acquiring entities, and any surviving entities upon merger or consolidation will be fully liable for complying with the terms of this Decree. Founders will provide written notice to EEOC within thirty (30) days of any assignment, succession, acquisition, merger or consolidation affecting Founders.

#### **Section 106 Implementation of this Decree**

Founders agrees to take all steps that may be necessary to fully effectuate the terms of this Decree.

**Section 107 Amendments to this Decree**

By mutual consent of the parties, this Decree may be amended in the interests of justice and fairness and to facilitate execution of this Decree's provisions. No waiver, modification, or amendment of any provision of this Decree will be effective unless made in writing, approved by all parties to this Decree, and approved or ordered by the Court.

**Section 108 Severability**

If one or more provisions of this Decree are rendered unlawful or unenforceable as a result of a legislative act or a decision by a court of competent jurisdiction, the following will apply to insure that this Decree continues to effectuate the intent of the parties. The provisions of this Decree which are not rendered unlawful, unenforceable, or incapable of performance as a result of such legislative act or court decision will remain in full force and effect and the parties' responsibilities will not abate as to any and all provisions that have not been rendered unlawful or unenforceable, except to the extent that the intent of this Decree would be undermined.

**Section 109 Breach of Decree**

A breach of any term of this Decree by either party will be deemed a material and substantive breach of this Decree. Nothing in this Decree will be construed to preclude either party from bringing proceedings to enforce this Decree if either party fails to perform any of the terms contained herein. This Decree will be construed under applicable federal law.

**Section 110 Notices**

Except as otherwise provided for in this Decree, all notifications, reports, and communications to the parties required under this Decree will be made in writing and will be sufficient as emailed, hand-delivered, faxed, or sent by certified, registered, or overnight mail to the following persons (or their designated successors):

For Plaintiff EEOC: Konrad Batog, Esq.  
Equal Employment Opportunity Commission  
33 Whitehall Street, 5<sup>th</sup> Floor  
New York, New York 10004  
Fax: (212) 336-3623  
Email: konrad.batog@eeoc.gov;  
decreemonitor.nydo@eeoc.gov

For Defendant Founders: Roy R. Galewski, Esq.  
Harris Beach, PLLC  
99 Garnsey Road  
Pittsford, New York 14534  
Fax: (585) 419-8817  
Email: rgalewski@harrisbeach.com

For Pavilion Operations: Joseph Tolpa  
Administrator  
Corning Center for Rehabilitation and Healthcare  
205 East First Street  
Corning, New York 14830

Any party may change such addresses by written notice to the other parties that set forth a new address for this purpose.

## **PART II SYSTEMIC RELIEF**

### **Section 201 Posting and Distribution of Notices**

#### **A. Posting of Notice of Resolution**

If Founders resumes conducting business, within thirty (30) days of such date, Founders will conspicuously post and maintain a "Notice of Resolution" regarding this lawsuit (attached as Exhibit A) in all prominent places where employee notices are posted. Founders will certify in writing to EEOC within thirty (30) days after it has posted the Notice of Resolution pursuant to this provision.

#### **B. Provision of Notice and Memo to Employees**

1. If Founders resumes conducting business, within thirty (30) days of the date that Founders resumes conducting business, Founders will provide a copy of the Notice of



Resolution (Exhibit A) and a memo (Exhibit B) setting forth the requirements of federal anti-discrimination laws, including GINA, ADA, and Title VII, to all employees. Founders will certify in writing to EEOC within thirty (30) days after it has distributed the Notice of Resolution and memo pursuant to this provision.

2. If Founders resumes conducting business, Founders will provide the same Notice of Resolution (Exhibit A) and memo (Exhibit B) to all future employees within seven (7) days of the start of their employment. If Founders resumes conducting business, on a bi-annual basis beginning six (6) months after resuming business, Founders will certify in writing to EEOC that it has distributed the Notice of Resolution and memo pursuant to this provision.

## **Section 202 Non-Discrimination Policy and Complaint Procedures**

### **A. Required Content of Non-Discrimination Policies and Procedures**

1. If Founders resumes conducting business, Founders will adopt anti-discrimination policies and complaint procedures ("Policies and Procedures") setting forth Founders' commitment to equal opportunity in all aspects of employment and, at a minimum, set forth the following: (1) a detailed explanation of the reasonable accommodation policy and procedure and the prohibition against disability discrimination under the Americans with Disabilities Act; (2) a detailed explanation of the prohibition against pregnancy discrimination under the Pregnancy Discrimination Act; (3) a detailed explanation of the prohibition against genetic discrimination and the obtaining of genetic information under the Genetic Information Nondiscrimination Act of 2008; (4) the assurance that Founders will not retaliate against employees who make complaints of discrimination, who oppose practices they consider to be unlawfully discriminatory, and/or who participate in protected activity or who provide information related to complaints of discrimination; (5) a clearly described complaint process



that provides accessible avenues of complaint with a number of choices of individuals to whom complaints can be made, including persons outside the employee's chain of command; (6) the assurance that Founders will accept any and all complaints from employees who wish to file complaints internally; (7) the assurance that the filing of anonymous complaints is permitted and include safeguards to preserve the anonymity when requested by a complainant; (8) the assurance that Founders will keep confidential to the extent possible and not publicize unnecessarily the subject matter of the complaints or the identity of the complainants; (9) a complaint process that provides a prompt, thorough, and effective investigation, including interviewing complainant and all witnesses and obtaining and reviewing all material documents identified by the complainant or respondent to the extent necessary to reach a reasonable conclusion concerning the allegations; (10) a requirement that all aspects of an investigation be thoroughly documented in written form; (11) assurance that upon completion of an investigation into a discrimination complaint, the complainant and the respondent will promptly receive a summary of the conclusions reached as a result of the investigation; and (12) the assurance that Founders will take prompt and appropriate corrective action when it determines that discrimination has occurred.

**B. Issuance of Policies and Procedures**

1. If Founders resumes conducting business, Founders will distribute to each employee a copy of its Policies and Procedures concerning discrimination within thirty (30) days of such date. The Policies and Procedures will be issued with a letter signed by the President or Head of Human Resources for Founders affirming Founders' commitment to maintaining a work environment free of discrimination.

2. If Founders resumes conducting business, Founders will include its Policies and Procedures in its Employee Handbook and will make the Policies and Procedures available on any company website that makes other human resources information or policies available to employees.

3. If Founders resumes conducting business, Founders will provide all new employees with copies of the Policies and Procedures within five (5) days of the commencement of their employment.

**C. Pavilion Operations' Non-Discrimination Policies and Procedures**

Pavilion Operations will revise its non-discrimination policies within thirty (30) days of entry of this Decree to include specific reference to the requirements of GINA, the ADA, and the Pregnancy Discrimination Act of 1968 ("PDA"), and include a complaint and investigation procedure for employee complaints of discrimination. Within ten (10) days of making the revisions, Pavilion Operations will provide EEOC with a copy of the revised non-discrimination policies and procedures.

**Section 203 Training**

**A. Initial Training**

**1. Content and Duration of the Initial Training**

If Founders resumes conducting business, Founders will provide training programs for all of its (a) non-supervisory employees, (b) supervisory and management employees, and (c) human resource employees. Each training program will include the following: (a) a detailed agenda with proposed training materials, (b) curricula vitae(s) for the individual(s) who will conduct the training, and (c) a plan to ensure that all employees receive the required training. The training programs will be conducted by a third-party professional. The initial training will

review the rights and responsibilities of employees under federal anti-discrimination laws and how such laws define unlawful discrimination with a focus on pregnancy discrimination, disability discrimination, reasonable accommodation for disabilities, and genetic information discrimination, including the prohibition against obtaining genetic information. The training will include examples of unlawful conduct. The training also will cover Founders' anti-discrimination policies and procedures with particular emphasis on the internal complaint, investigation, and remediation process and an employee's right to file with EEOC and state or local agencies. The training will be at least four (4) hours in duration.

## **2. Scheduling and Confirmation of Training**

If Founders resumes conducting business, within thirty (30) days of the date that Founders resumes conducting business, Founders will initiate the initial training programs and all such initial training programs will be completed within thirty (30) days of the date that Founders resumes conducting business. All non-supervisory employees, supervisory and management employees, and human resource employees will attend the appropriate initial training session. Within thirty (30) days of the completion of any training session, Founders will provide EEOC with an attendance sheet that includes the date, the names of those in attendance, and the signatures of those in attendance along with a then-current list of employees.

## **B. Annual Training**

### **1. Annual Training for Non-supervisory Employees**

If Founders resumes conducting business, on an annual basis, Founders will provide all non-supervisory employees in with at least two (2) hours of EEO training as described below in sub-paragraph 4.



**2. Annual Training for Management and Supervisory Employees**

If Founders resumes conducting business, on an annual basis, Founders will provide all supervisory and management employees with at least four (4) hours of EEO training as described below in sub-paragraph 4.

**3. Annual Training for Human Resources Employees**

If Founders resumes conducting business, on an annual basis, Founders will provide all human resource employees with at least six (6) hours of EEO training as described below in sub-paragraph 4.

**4. Required Subjects of Annual Training**

The annual training programs will include:

a. For non-supervisory, supervisory and management, and human resources employees, instruction on the requirements of all applicable equal employment opportunity laws including, but not limited to, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Equal Pay Act, and the Genetic Information Nondiscrimination Act, and a review of Founders' non-discrimination policies and procedures with particular emphasis on the complaint procedure.

b. For supervisory, management and human resources employees, instruction on any policies and requirements related to this Decree and the proper procedures for responding to complaints of discrimination or harassment. Counsel of record for Founders will provide the training on policies and requirements related to this Decree.

**C. Training for New Employees**

If Founders resumes conducting business, Founders will provide two (2) hours of training for all new non-supervisory employees, four (4) hours of training for all new

management/supervisory employees, and six (6) hours of training for all new human resource employees within thirty (30) days of the commencement of their employment. The training will review the rights and responsibilities of employees under federal anti-discrimination laws and how such laws define unlawful discrimination. The training will include examples of unlawful conduct. The training also will cover Founders' anti-discrimination policies and procedures with particular emphasis on the internal complaint, investigation, and remediation process and an employee's right to file with EEOC and state or local agencies. The training also will cover the requirements of this Decree.

**E. Reporting Requirements for Training**

All employees attending any training session described in the above paragraphs will print and sign their full names on an attendance sheet. Within thirty (30) days of the completion any training described in the preceding paragraphs, Founders will provide EEOC with copies of all attendance sheets and a then-current employee list. If Founders resumes conducting business, on a bi-annual basis beginning six (6) months after the date that Founders resumes conducting business, Founders will provide EEOC with attendance sheets pertaining to training given to new employees and a list of the employees, if any, who did not attend training as required.

**F. Pre-Training Notification Requirement**

At least thirty (30) days prior to any Initial and Annual trainings required under this Section, Founders will provide EEOC notice of the date, time, and location of the scheduled training. EEOC, at its discretion, may attend and observe one or more of the training sessions and may provide changes to be implemented by the trainer.

**G. Training for Pavilion Operations**

Pavilion Operations will provide training programs for all of its non-supervisory and supervisory employees within sixty (60) days of entry of this Decree. The training programs will

be conducted by Harris Beach, PLLC and paid for by Founders. The training will review the rights and responsibilities of employees under federal anti-discrimination laws and how such laws define unlawful discrimination with a focus on pregnancy discrimination, disability discrimination, reasonable accommodation for disabilities, and genetic information discrimination, including the prohibition against obtaining genetic information. The training will include examples of unlawful conduct. The training also will cover Pavilion Operations' anti-discrimination policies and procedures with particular emphasis on the internal complaint, investigation, and remediation process and an employee's right to file with EEOC and state or local agencies. The training will be at least three (3) hours in duration. Within ten (10) days of the completion of the training, Pavilion Operations will provide EEOC with confirmation that the training was completed.

#### **Section 204 Monitoring and Reporting**

##### **A. Monitoring by EEOC**

If Founders resumes conducting business, EEOC may monitor Founders' compliance with this Decree through the inspection of Founders' premises and records, and interviews with Founders' officers, agents, employees, and contractors at reasonable times. Founders will make available for inspection and copying any records reasonably related to this Decree upon reasonable notice by EEOC.

##### **B. Reporting Requirements for Discrimination Complaints**

If Founders resumes conducting business, on a bi-annual basis beginning six (6) months after the date that Founders resumes conducting business, Founders will provide a written report to EEOC with information regarding any verbal or written complaints of discrimination from employees or applicants, which were received during the preceding six (6) months. The report



will include the name of the complainant, the name of the alleged harasser or discriminator, a list of each step taken by Founders during the investigation, a summary of the complaint, the location, the results of any investigation of the complaint, and any remedial action taken by Founders. The report will include all open complaints and all complaints closed or resolved within the prior six (6) months.

#### **Section 205 Compliance with Record-keeping Requirements**

Founders agrees to maintain such records as are necessary to demonstrate its compliance with this Decree and 29 C.F.R. §1602 *et seq.* and to verify that the reports submitted pursuant to this Decree are accurate.

### **PART III MONETARY RELIEF**

#### **Section 301 Monetary Payment to Claimants**

A. Within thirty (30) days of entry of this Decree, Founders will pay the total gross sum of two hundred fifty nine thousand six hundred dollars (\$259,600) to the below five (5) claimants on the terms provided for below upon each claimant executing a Limited Release. No claimant shall receive payment without first signing the Limited Release in the presence of a Notary Public.

B. Founders will pay Vicki (Randall) Hall the total sum of one hundred thousand dollars (\$100,000) as non-pecuniary compensatory damages and provide Vicki (Randall) Hall an IRS FORM 1099 within thirty (30) days of entry of this Decree or as soon thereafter as Founders receives an executed and notarized Limited Release in the form attached as Exhibit D-1 from Vicki (Randall) Hall. Founders will send the check and IRS FORM 1099 via certified mail, return receipt requested, to Vicki (Randall) Hall. A copy of the check will be forwarded to EEOC immediately upon issuance of the check.

C. Founders will pay Vicki (Randall) Hall the total sum of sixty five thousand dollars (\$65,000), less lawful deductions, as back wages and provide Vicki (Randall) Hall an IRS FORM W-2 within thirty (30) days of entry of this Decree or as soon thereafter as Founders receives an executed and notarized Limited Release in the form attached as Exhibit D-1 from Vicki (Randall) Hall. Founders will send the check and IRS FORM W-2 via certified mail, return receipt requested, to Vicki (Randall) Hall. A copy of the check will be forwarded to EEOC immediately upon issuance of the check.

D. Founders will pay Chelsea (Cussins) Hojnoski the total sum of twenty five thousand dollars (\$25,000) as non-pecuniary compensatory damages and provide Chelsea (Cussins) Hojnoski an IRS FORM 1099 within thirty (30) days of entry of this Decree or as soon thereafter as Founders receives an executed and notarized Limited Release in the form attached as Exhibit D-2 from Chelsea (Cussins) Hojnoski. Founders will send the check and IRS FORM 1099 via certified mail, return receipt requested, to Chelsea (Cussins) Hojnoski. A copy of the check will be forwarded to EEOC immediately upon issuance of the check.

E. Founders will pay Chelsea (Cussins) Hojnoski the total sum of nine thousand nine hundred seventeen dollars (\$9,917), less lawful deductions, as back wages and provide Chelsea Cussins an IRS FORM W-2 within thirty (30) days of entry of this Decree or as soon thereafter as Founders receives an executed and notarized Limited Release in the form attached as Exhibit D-2 from Chelsea (Cussins) Hojnoski. Founders will send the check and IRS FORM W-2 via certified mail, return receipt requested, to Chelsea (Cussins) Hojnoski. A copy of the check will be forwarded to EEOC immediately upon issuance of the check.

F. Founders will pay Gale (Fontenot) O'Dell the total sum of twenty five thousand dollars (\$25,000) as non-pecuniary compensatory damages and provide Gale (Fontenot) O'Dell

an IRS FORM 1099 within thirty (30) days of entry of this Decree or as soon thereafter as Founders receives an executed and notarized Limited Release in the form attached as Exhibit D-3 from Gale (Fontenot) O'Dell. Founders will send the check and IRS FORM 1099 via certified mail, return receipt requested, to Gale (Fontenot) O'Dell. A copy of the check will be forwarded to EEOC immediately upon issuance of the check.

G. Founders will pay Gale (Fontenot) O'Dell the total sum of four thousand nine hundred fifty one dollars (\$4,951), less lawful deductions, as back wages and provide Gale (Fontenot) O'Dell an IRS FORM W-2 within thirty (30) days of entry of this Decree or as soon thereafter as Founders receives an executed and notarized Limited Release in the form attached as Exhibit D-3 from Gale (Fontenot) O'Dell. Founders will send the check and IRS FORM W-2 via certified mail, return receipt requested, to Gale (Fontenot) O'Dell. A copy of the check will be forwarded to EEOC immediately upon issuance of the check.

H. Founders will pay Rebeca Stuart the total sum of seven thousand dollars (\$7,000) as non-pecuniary compensatory damages and provide Rebeca Stuart an IRS FORM 1099 within thirty (30) days of entry of this Decree or as soon thereafter as Founders receives an executed and notarized Limited Release in the form attached as Exhibit D-4 from Rebeca Stuart. Founders will send the check and IRS FORM 1099 via certified mail, return receipt requested, to Rebeca Stuart. A copy of the check will be forwarded to EEOC immediately upon issuance of the check.

I. Founders will pay Rebeca Stuart the total sum of six thousand nine hundred thirty nine dollars (\$6,939), less lawful deductions, as back wages and provide Rebeca Stuart an IRS FORM W-2 within thirty (30) days of entry of this Decree or as soon thereafter as Founders receives an executed and notarized Limited Release in the form attached as Exhibit D-4 from



Rebeca Stuart. Founders will send the check and IRS FORM W-2 via certified mail, return receipt requested, to Rebeca Stuart. A copy of the check will be forwarded to EEOC immediately upon issuance of the check.

J. Founders will pay Caitlin Doolittle the total sum of fourteen thousand dollars (\$14,000) as non-pecuniary compensatory damages and provide Caitlin Doolittle an IRS FORM 1099 within thirty (30) days of entry of this Decree or as soon thereafter as Founders receives an executed and notarized Limited Release in the form attached as Exhibit D-5 from Caitlin Doolittle. Founders will send the check and IRS FORM 1099 via certified mail, return receipt requested, to Caitlin Doolittle. A copy of the check will be forwarded to EEOC immediately upon issuance of the check.

K. Founders will pay Caitlin Doolittle the total sum of one thousand seven hundred ninety three dollars (\$1,793), less lawful deductions, as back wages and provide Caitlin Doolittle an IRS FORM W-2 within thirty (30) days of entry of this Decree or as soon thereafter as Founders receives an executed and notarized Limited Release in the form attached as Exhibit D-5 from Caitlin Doolittle. Founders will send the check and IRS FORM W-2 via certified mail, return receipt requested, to Caitlin Doolittle. A copy of the check will be forwarded to EEOC immediately upon issuance of the check.

#### **Section 302 Monetary Payment to GINA Class Members**

A. Founders will pay a total class award of one hundred ten thousand four hundred dollars (\$110,400). From this amount, each Class Member is eligible to receive as non-pecuniary compensatory damages eight hundred dollars (\$800) of the class award pursuant to Section 302, paragraphs B-H of this Decree.

B. "Class Member" shall refer to those one hundred thirty eight (138) individuals that were, based upon review of Founders' records, hired by Founders during the time that the "Occupation & Environmental Health Services Patient History Form" that included a "Family History" section was utilized by Founders from November 21, 2009 (the effective date of GINA) through September 30, 2011 (the date on or about when Founders stopped utilizing the "Occupation & Environmental Health Services Patient History Form" that included a "Family History" section).

C. Within thirty (30) days of entry of this Decree, Founders will submit to EEOC a list containing the name of each Class Member. This list must also contain each Class Member's social security number and last known home address and home telephone number unless, after making all reasonable efforts to identify a Class Member's social security number, last known home address, and last known home telephone number, including, but not limited to, interviews with relevant individuals and searches of relevant documents, Founders is unable to locate that Class Member's social security number, last known home address, or last known home telephone number.

D. Within thirty (30) days of submitting the list of Class Members, Founders will mail, via certified mail, return receipt requested, to each Class Members a letter in the form of Exhibit C, along with a Limited Release in the form attached as Exhibit D-6. No Class Member shall receive payment without first signing the Limited Release in the presence of a Notary Public, and returning the Limited Release to Founders within thirty (30) days of the mailing of the letter (Exhibit C). If a Class Member does not return an executed Limited Release within thirty (30) days from the date the letter was sent to that Class Member and the letter has not been

returned as undeliverable, that Class Member shall be deemed to be ineligible for payment of any portion of the class award under this Consent Decree.

E. Upon receipt of an executed Limited Release, Founders will, within fifteen (15) days after receipt of the Limited Release, mail a check for eight hundred dollars (\$800), and an IRS FORM 1099, to each individual who returns the executed and notarized Limited Release.

F. If any letter and/or check is returned to Founders as undeliverable, Founders will notify EEOC within thirty (30) days of its receipt. If EEOC provides Founders with a new address for a Class Member, then within thirty (30) days of receipt of the new address, Founders will mail another letter and/or check (as applicable) to the Class Member's current address. At the same time, Founders will provide written notice to EEOC that the letters and/or checks were issued and the dates upon which they were issued. EEOC will be allowed no more than one hundred eighty (180) days from the entry of this Decree to locate Class Members whose letters and/or checks have been returned to Founders as undeliverable, unless it demonstrates good cause for additional time.

G. After the procedure and schedule specified in Section 302, paragraphs C-F has been fulfilled, but no later than two hundred ten (210) days after entry of this Decree, any amounts of the class award which remain will be distributed by Founders via a check to a not-for-profit organization agreed to by the parties. None of the class award shall revert to Founders.

H. Founders will have responsibility for processing and mailing the letters and checks to Class Members and is responsible for all costs associated with the distribution of funds



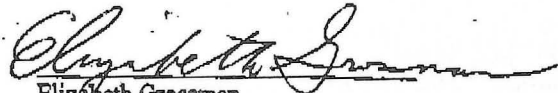
to Class Members.

**PART IV SIGNATURES**

Each signatory to this Decree represents that each is fully authorized to execute this Decree and to bind the parties or company on whose behalf each signs.

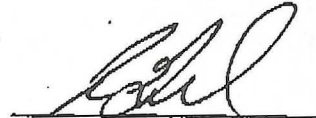
APPROVED IN FORM AND CONTENT:

For Plaintiff EEOC:



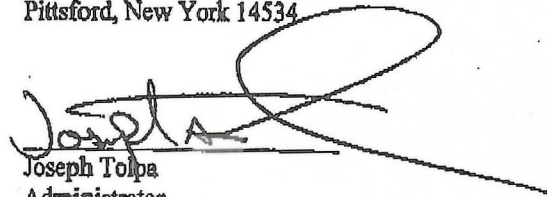
Elizabeth Grossman  
Regional Attorney  
EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
New York District Office  
33 Whitehall Street, 5th Floor  
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SO ORDERED this 9 day of JAN. <sup>2014</sup> 2014.

  
United States District Judge