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Division of Law
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Attorney for New Jersey Division on Civil Rights

By: Beverley A. Lapsley
Deputy Attorney General
(973) 693-5055

STATE OF NEW JERSEY
OFFICE OF ADMINISTRATIVE LAW
DCR DOCKET NO: EB61FB – 64619

ALLISON BLAIR,	:	<u>ADMINISTRATIVE ACTION</u>
	:	
Complainant,	:	
	:	
v.	:	CONSENT ORDER AND DECREE
	:	
TENAFLY PEDIATRICS, P.A.,	:	
	:	
Respondent.	:	

WHEREAS, this matter was commenced on May 7, 2014, when Complainant, Allison Blair (“Complainant” or “Blair”) filed a verified complaint (“Verified Complaint”) with the New Jersey Division on Civil Rights (“DCR”) against Tenafly Pediatrics, P.A., (“Respondent”), alleging that Respondent violated the New Jersey Family Leave Act, N.J.S.A. 34:11B-1 et seq. (the “NJFLA”), when it terminated her employment for exercising her rights under the statute; and

WHEREAS, DCR conducted an investigation into the allegations in the Verified Complaint and issued a Finding of Probable Cause on the Verified Complaint on October 29, 2014; and

WHEREAS, a conciliation conference took place on September 3, 2015, and the parties reached agreement on terms of settlement that have been set forth in this Consent Order and Decree (“Consent Order”); and

WHEREAS, as condition of settlement Complainant and Respondent have entered into a separate settlement agreement (“Settlement Agreement”) to which DCR is not a party and the terms of the Settlement Agreement do not apply to DCR and shall not be enforced by the agency;

WHEREAS, it is now the intention of the parties to amicably settle, compromise and resolve in good faith, the differences and disputes that exist or may exist between them, and the parties desire to avoid the time and expense of a public hearing;

NOW, THEREFORE, it is on this 11th day of FEBS, 2016, ORDERED and AGREED as follows:

1. It is expressly understood that neither the execution of this Consent Order, nor any other action taken by Respondent in conjunction with Complainant’s alleged claims or this settlement, constitute an admission by the Respondent of any violation of any law, duty, or obligation. The Parties agree that they have entered into this Consent Order to avoid the time and cost of further legal action.

2. Respondent agrees that it shall comply completely with the NJFLA, N.J.S.A. 34:11B-1 et seq., and shall not engage in any retaliatory conduct against Complainant, Complainant's family, or against any witness or participant in these proceedings, or allow any of its employees or agents to engage in any such conduct.

MONETARY RELIEF

3. Respondent shall pay the total sum of Forty-Five Thousand dollars (\$45,000) to Complainant Allison Blair (Complainant) in settlement of all claims and damages arising from the allegations set forth in the Verified Complaint and Finding of Probable Cause. The monetary relief shall be paid in two checks as follows:

a. Respondent agrees to pay Complainant Twenty-Two Thousand Five Hundred Dollars (\$22,500) as compensation for six months of the 18 months of lost wages alleged by Complainant; and

b. Respondent agrees to pay Complainant Twenty-Two Thousand Five Hundred Dollars (\$22,500) for alleged pain and suffering.

4. The settlement checks shall be paid within twenty (20) days of the complete execution of this Consent Order. Respondent shall make the settlement checks payable to Allison Blair. The checks shall be mailed to Carlos Bellido, Chief of Staff, Division on Civil Rights, 31 Clinton Street, 3rd floor, P.O. Box 46001, Newark, New Jersey 07102, for delivery to Complainant.

5. Respondent shall withhold applicable state and federal taxes from the lost wages award. Respondent shall provide Complainant with appropriate tax documentation for both the lost wages and the pain and suffering damages.

6. Complainant represents that she has no outstanding liens on the settlement amount, but agrees that she is solely responsible for the payment of any such liens that may exist.

EQUITABLE RELIEF

7. Respondent agrees to provide Complainant with a letter of reference. This letter of reference shall include, at a minimum, the dates Respondent employed Complainant, a brief description of her duties and responsibilities, and a statement that Complainant left Respondent's employ in order to care for her terminally ill father.

8. By execution of this Consent Order, the parties acknowledge that the letter referenced in paragraph 7 has been provided to DCR and Complainant, and the parties are satisfied with the content of the letter.

POLICIES AND TRAINING

9. Respondent shall display conspicuous notice of an employee's rights and obligations pursuant to the NJFLA, N.J.S.A.34:11B-6. Respondent agrees to comply with all posting and notice requirements for employers and owners of places of public accommodations pursuant to N.J.A.C. 13:8-1.2, N.J.A.C. 13:8-1.4 and N.J.A.C. 13:8-2.2.

10. No later than sixty (60) days from the execution of this Consent Order, Respondent shall review and modify, as appropriate, its NJFLA policy (the "NJFLA Policy"). The NJFLA Policy shall be consistent with the express Legislative purpose of the NJFLA, which is that eligible employees should be entitled to take a period of leave upon the birth or placement for adoption of a child or the serious health condition of a family member, without risk of termination of employment or retaliation by employers. The NJFLA Policy shall include a provision stating that is violation of the NJFLA to retaliate and/or otherwise discriminate against an individual for exercising his/her rights under the NJFLA.

11. Respondent shall forward a copy of the NJFLA Policy to DCR Manager Lorraine LeSter ("Manager LeSter") at the Division on Civil Rights, 31 Clinton Street, 3rd floor, P.O. Box 46001, Newark, New Jersey 07102, at least twenty (20) days prior to its implementation by Respondent.

12. The Policies established in paragraph 10 shall be disseminated to Respondent's agents and/or employees within ninety (90) days of the execution of this Consent Order. Additionally, the NJFLA Policy adopted, and as may be modified, shall be included with all compilations of Respondent's employee policies. Respondent shall maintain a copy of the NJFLA Policy in a readily accessible location in each of its offices.

13. Respondent agrees to train its Supervisors, Managers and Human Resources personnel on the NJFLA and Federal Family and Medical Leave Act (FMLA). Such training shall include, but not be limited to:

a. An understanding of the NJFLA and FMLA, including the interaction and differences between the NJFLA and FMLA;

b. An understanding of the distinction between the NJFLA and the Paid Family Leave Act (PFLA), N.J.S.A. 43:21-25 et seq., and Family Leave Insurance Benefits Regulations (FLIB), N.J.A.C. 12:15-1.1 et seq., including an understanding that DCR regulates compliance with the NJFLA while the NJ Department of Labor administers the PFLA;

c. An understanding that an employee is not required to complete the PFLA forms prior to taking or being eligible for NJFLA, particularly in an emergent situations; and

d. An understanding of Respondent's NJFLA policy and protocols for handling requests for leave under the NJFLA and FMLA.

14. All training required by paragraph 13 shall be completed within six months of the execution of this Consent Order . Each individual who participates in training and receives instruction will sign a statement acknowledging that he or she has participated in, understands, and has completed the NJFLA training. If Respondent's training is conducted by a private firm, Respondent shall submit an outline of the subject matter being covered and provide a copy of any materials used in these sessions, including but not limited to handouts and any Power Point slides, to Manager LeSter, Division on Civil Rights, 31 Clinton Street, 3rd Floor, P.O. Box 46001, Newark, New Jersey 07102 for review prior to training. Respondent will provide DCR with at least ten days' notice of when the training is to occur and shall permit one or more representatives

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WHEREAS, this matter was commenced on May 7, 2014, when Complainant, Allison Blair (“Complainant” or “Blair”) filed a verified complaint (“Verified Complaint”) with the New Jersey Division on Civil Rights (“DCR”) against Tenafly Pediatrics, P.A., (“Respondent”), alleging that Respondent violated the New Jersey Family Leave Act, N.J.S.A. 34:11B-1 et seq. (the “NJFLA”), when it terminated her employment for exercising her rights under the statute; and

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of DCR to attend any or all sessions. Alternatively, Respondent may arrange for DCR to conduct the required training as it applies to the NJFLA.

COMPLIANCE AND RELEASES

15. Where a dispute arises regarding the Respondent's compliance with this Consent Order, DCR and Respondent shall first attempt in good faith to resolve the dispute before seeking the Court's intervention. DCR shall provide Respondent with the specific details of the alleged noncompliance and provide Respondent at least a fifteen (15) day period within which to cure any noncompliance.

16. In the event that Respondent defaults with respect to any provision herein following an opportunity to cure the default, Respondent hereby consents to the entry of this Consent Order and Decree in the Chancery Division of the Superior Court of New Jersey, thereby making this Consent Order and Decree an order of the Court for purposes of enforcement therein. In the event of default, Respondent shall be responsible for all costs associated with the enforcement of this Consent Order.

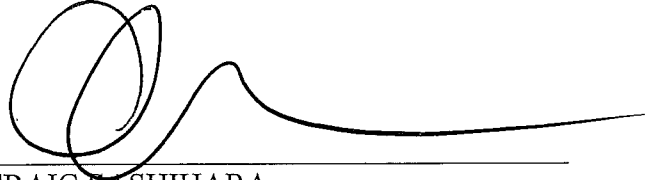
17. This Consent Order shall be binding upon the parties to this Consent Order and their successors. In no event shall assignment of any right, power or authority avoid compliance with the terms of this Consent Order.

18. Each party represents and acknowledges that, prior to executing this Consent Order and the Settlement Agreement, they have had ample time to consult with legal counsel prior to making the decision to execute this Consent Order and the Settlement Agreement, and that no party has relied upon any representation or statement not set forth

in this Consent Order or the Settlement Agreement, made by any other party hereto, or their counsel or representatives, with regard to the subject matter of the Consent Order and Settlement Agreement. Complainant Allison Blair expressly recognizes and understands that the Deputy Attorney General Beverley A. Lapsley represents the Director of the Division on Civil Rights in this matter and does not represent her. Complainant acknowledges that she had the opportunity to retain counsel to represent her in this matter, and with respect to the Settlement Agreement and Consent Order, and has elected not to do so.

19. In consideration for the execution of this Consent Order and payment as set forth in paragraph 3, Complainant Allison Blair, individually, expressly waives releases and gives up any claims that have been asserted or could have been asserted in the DCR Action, DCR Docket No. EB61FB-64619. This Consent Order shall operate as a complete and final disposition of the aforesaid Verified Complaint, subject only to the fulfillment of all the foregoing provisions. Accordingly, upon complete execution of this Consent Order the complaint filed with the Division on Civil Rights Complainant bearing DCR Docket No. EB61FB-64619, will be dismissed with prejudice.

20. Any signature for the entry of this Consent Order may be executed in counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same Consent Order.



CRAIG SASHIHARA
DIRECTOR, NEW JERSEY DIVISION ON
CIVIL RIGHTS

Jointly Approved and Submitted for Entry:

For Complainants:

By: Allison Blair
Allison Blair

DATED: 2/11/16

For Respondent:
Respondent Tenafly Pediatrics, P.A.

By: Thomas Zeug
Thomas Zeug
Title: Chief Operating Officer

DATED: 2/13/2016