

In the Matter of the Investigation of:
Sanford

CONSENT ORDER

File No.: ICR-202400020

To: C T Corporation System Inc.
Sanford
1010 Dale St N
Saint Paul, MN 55117

To: Sanford
Attn: Michelle Stratton & Scott Aberson
801 Broadway N
Fargo, ND 58122

NOTICE: THE ATTACHED EXHIBIT 1 CONTAINS DATA CLASSIFIED AS PRIVATE OR CONFIDENTIAL

Pursuant to Minn. Stat. §§ 175.20 and 177.27, the Commissioner (“Commissioner”) of the Minnesota Department of Labor and Industry (“Department”) is authorized to investigate as the Commissioner deems appropriate to enforce and carry out the purposes of chapter 181, and to issue orders requiring an employer to: (1) comply with Minn. Stat. §§ 181.939 and 181.941, (2) cease and desist from practices violating Minn. Stat. §§ 181.939 and 181.941; (3) take affirmative steps that in the judgment of the Commissioner will effectuate the purposes of Minn. Stat. §§ 181.939 and 181.941; and, (4) pay back wages, liquidated damages, compensatory damages, and civil penalties.

The Commissioner and Sanford agree that the Department’s investigation of the complaint filed on February 21, 2024 may be resolved by this Consent Order as follows:

I. PARTIES

This Agreement applies to and is binding upon the following parties, collectively referred to herein as “the Parties”:

1. Nicole Blissenbach, in her official capacity as the Commissioner of the Minnesota Department of Labor and Industry, and the Minnesota Department of Labor and Industry (“Department”); and
2. Sanford (“Respondent”).

II. RECITALS

1. On February 21, 2024, the Department received a complaint alleging Respondent violated Minn. Stat. § 181.941, subd. 1 by denying the affected employee the entire 12-week parenting leave to which she was entitled, and violated Minn. Stat. § 181.941, subd. 3 by discharging the affected employee after she asserted her right to 12 weeks of parenting leave.
2. The audit period for the Department's investigation of the complaint filed on February 21, 2024, ran from February 27, 2023, to April 1, 2024 ("Audit Period").
3. On February 23, 2024, the Department mailed a Demand for the Submission of Records ("Demand"), due February 26, 2024, to Respondent at its principal place of business address and provided a copy via email.
4. Without admitting liability, Sanford is willing to enter into the Conditions set forth in this Consent Order.

III. STIPULATED FACTS

The Parties acknowledge and agree that the following STIPULATED FACTS occurred:

1. Respondent is an employer with at least one employee working in Minnesota during the Audit Period.
2. Respondent's registered office address with the Office of the Minnesota Secretary of State is 1010 Dale St N, Saint Paul, MN 55117, and its principal place of business address is 801 Broadway N, Fargo, ND 58122.
3. In a February 23, 2024 email to the Respondent, the Department requested the Respondent reinstate the affected employee into her position, pending the Department's investigation.
4. On February 26, 2024, Respondent timely provided its records responsive to the Demand.

¹ The affected employee is identified on the attached Exhibit I containing data classified as private or confidential.

5. Respondent offered the affected employee reinstatement; she did not respond to the offer.

IV. DEPARTMENT FINDINGS

1. The Department conducted a thorough review of the affected employee's employment records, including written communications between Respondent and the affected employee, and determined that Respondent violated Minn. Stat. §§ 181.939, subd. 2(c), and 181.941, subds. 1 and 3, during the Audit Period, as follows:
 - a) As of August 1, 2023, and until December 5, 2023, the affected employee was pregnant and was required to accept an accommodation, when she was involuntarily transferred from a 1.0 full-time equivalent ("FTE") position to a 0.8 FTE position, reducing her work hours by eight hours every workweek, from 40 hours to 32 hours. The forced accommodation resulted in the affected employee losing wages for 19 days of work in the amount of 152 hours. Additionally, the affected employee suffered further damages during this time period resulting in loss of 401K contributions, in the amount of \$131.26, as well as loss of 13.44 hours of PTO accruable under the Respondent's PTO policy.
 - b) On or around August 30, 2023, the affected employee requested to take six weeks of parenting leave from approximately December 18, 2023, to January 29, 2024. In response, Respondent approved the affected employee's leave from December 18, 2023, to January 26, 2024, approximately six weeks of leave. On December 8, 2023, the affected employee notified her supervisor that she was experiencing contractions and needed to start her parenting leave five days early. The affected employee's supervisor required her to provide a doctor's note indicating that she needed to begin parenting leave earlier than planned. As of December 8, 2023, the affected employee commenced her leave under Minn. Stat. § 181.941. On December 26, 2023, Respondent approved the affected employee's leave from December 8, 2023, through January 23, 2023, and required that the affected employee return to work on January 24, 2024. The affected employee made additional requests of Respondent to extend her parenting leave beyond Respondent's approved end date, but these requests remained unapproved by Respondent pending the submittal of additional documentation. On January 23, 2024, Respondent contacted the affected employee to inquire whether she intended to return to work on January 24, 2024. The affected employee replied that she intended to use additional parenting leave until at least February 12, 2024. On February 7, 2024, the affected employee contacted Respondent and indicated she intended to take her full 12 weeks of parenting leave. Affected employee requested the time through Respondent's third-party leave administration vendor, as required by Respondent. Respondent's third-party leave administration vendor issued a leave determination letter denying of the additional time sought. Respondent allowed the affected employee only six weeks and four days of leave, instead of the full 12 weeks to which she was entitled under the law.
 - c) On February 21, 2024, Respondent terminated the affected employee's employment while the affected employee was on a job-protected leave that should have allowed her

up to 12 weeks of leave ending no earlier than March 1, 2024. Respondent issued a termination letter dated February 21, 2024, to the affected employee. The letter states in part:

You have been on a leave of absence since December 8, 2023. Your coverage under the Family Medical Leave Act (FMLA) was denied, your Minn Preg and Parental Leave and Sanford Non-FMLA leaves expired January 23, 2024. No other leaves were issued due to lack of documentation supporting the request. Due to the fact that your coverage under FMLA has exhausted and you are unable to return to work for an extended period of time, your employment with Sanford Health was terminated effective today, February 21, 2024.

- d) Between March 01, 2024, and until April 1, 2024, when Respondent offered to reinstate the affected employee to employment, the affected employee suffered damages due to loss of wages for 21 workdays. The total wages lost by the affected employee amount to \$3,223.92. Additionally, the affected employee suffered further damages during this time period resulting in loss of 401K contributions in the amount of \$145.08, as well as loss of 14.86 hours of PTO accruable under the Respondent's PTO policy.
- e) In total, the affected employee suffered the loss of 320 work hours as a result of Respondent's violations of Minn. Stat. §§ 181.939 and 181.941.
- f) On May 29, 2024, the affected employee informed the Department that she secured a position with another employer and no longer desired reinstatement to her previous position with Respondent.

V. VIOLATIONS

Based upon the above STIPULATED FACTS and the DEPARTMENT'S FINDINGS, the Department finds that the following violations of the law occurred:

1. Respondent willfully violated Minn. Stat. § 181.939, subd. 2(c) when it required the affected employee to take an accommodation reducing her hourly workweek from 40 hours to 32 hours for a period spanning 19 work days from August 1, 2023 until December 5, 2023.
2. Respondent willfully violated Minn. Stat. § 181.941, subd. 1 by denying the affected employee the entire 12-week parenting leave to which she was entitled.
3. Respondent willfully violated Minn. Stat. 181.941, subd. 3 by discharging the affected employee after she asserted her right to 12 weeks of parenting leave.

VI. SCOPE OF CONSENT ORDER AND RELEASE

1. **Effective Date.** As used herein, Effective Date means the date the Consent Order is signed by the Commissioner.
2. **Release.** This Consent Order is made and entered into to resolve the Department's

investigation of Respondent for violations of the affected employee's rights under Minn. Stat. §§ 181.939 and 181.941 occurring during the Department's Audit Period from February 27, 2023, to April 1, 2024. The Parties agree that they will not subsequently litigate the STIPULATED FACTS in section III, the DEPARTMENT's FINDINGS in section IV, nor the VIOLATIONS in section V. In consideration for Respondent's obligations under this Consent Order, the Department shall release and discharge Respondent from all claims, charges, or causes of action that the Department may have against Respondent for violations of Minn. Stat. §§ 181.939 and 181.941 in relation to the affected employee during the Department's Audit Period. Provided, however, that nothing herein shall be construed to prohibit Respondent from disputing the Department's Findings in any subsequent charges, claims, or lawsuits against Respondent, except in an action brought by the Department for the purposes of enforcing this Consent Order pursuant to section IX.

3. **Claims Not Waived by Commissioner; Other Remedies Reserved.** The Parties to this Consent Order acknowledge that by signing this Consent Order, the Commissioner or designee, on behalf of herself and the Department, does not release or waive the following:
 - (a) any rights or claims occurring outside of the Audit Period, (b) any rights or claims relating to employees other than the affected employee, and (c) any right to bring an action for the purposes of enforcing this Consent Order pursuant to section IX. The Parties further acknowledge that this Consent Order shall not limit or affect the authority of the Commissioner or the Department to conduct investigations and take actions with respect to any matter involving claims not waived that are within the scope of the Commissioner's or the Department's authority. Nothing in this Consent Order shall relieve Respondent of its obligations to comply with all applicable state and federal laws and regulations.
4. **Scope of the Consent Order.** The terms of this Consent Order apply to all of Respondent's facilities, business operations, and employees working in Minnesota. The terms of this Consent Order also apply to any facilities opened or acquired by Respondent in Minnesota after the Effective Date of this Consent Order.

VII. GROUNDS FOR CONSENT ORDER CONDITIONS

Respondent agrees that the Commissioner is authorized to issue this Consent Order requiring Respondent to pay back wages, compensatory damages, liquidated damages, and civil penalties; to take affirmative steps to effectuate the purposes of the statutes violated, as specified under section VIII below; and, to comply with Minn. Stat. §§ 181.939 and 181.941, and the related administrative rules.

VIII. CONDITIONS

Based upon the above sections, Respondent agrees that the Commissioner is issuing a Consent Order in accordance with the following terms:

1. **Back Wages.** Respondent agrees to pay the affected employee listed in the attached Exhibit 1 back wages owed in the amount of **\$6,140.80**. Exhibit 1 is specifically incorporated

herein and made a part of this Consent Order.

2. Compensatory Damages. Respondent agrees to pay the affected employee listed in Exhibit 1 compensatory damages that are in addition to the back wages detailed above. The compensatory damages owed are as follows:
 - a) PTO Accruals. The affected employee listed in the attached Exhibit 1 is owed for 28.3 lost hours of PTO, amounting to **\$543.07**.
 - b) 401K Contributions. The affected employee listed in the attached Exhibit 1 is owed for lost 401K contributions, for the periods of August 1 to December 5, 2023, and March 1 to April 1, 2024, in the amount of **\$276.34**.
3. Method of Payment and Due Date: The total amount of back wages and compensatory damages to be paid is \$6,960.21. Respondent shall pay the back wages and compensatory damages to the affected employee in the amount specified in Exhibit 1 and provide the following documentation as proof of payment to the Commissioner on or before 30 days from the Effective Date ("Due Date"):
 - a) an individual check made payable to the affected employee listed on Exhibit 1 for the amount due that employee less applicable FICA, Federal and State withholdings; and
 - b) a wage and earning statement for the affected employee as set forth in Exhibit 1.
4. The check and documentation shall be mailed or delivered on or before 4:30 p.m. on the Due Date to:

Department of Labor and Industry
Division of Labor Standards
Attn: Fuad Ali
443 Lafayette Road N.
St. Paul, MN 55155

5. Liquidated Damages. Respondent agrees to pay the affected employee listed in the attached Exhibit 1 liquidated damages in the amount of **\$6,960.21**. Respondent shall submit to the Department a second check payable to the affected employee listed in the attached Exhibit 1 for the amount of liquidated damages along with a 1099 form for the liquidated damages amount. This check shall be mailed or delivered at the same time and in the same manner as the checks and documents referenced in section VIII, Conditions,

paragraphs 3 and 4 above. The 1099 form shall be delivered as soon as practicable, and no later than January 31, 2025.

6. Civil Penalties. Any employer who is found by the Commissioner to have repeatedly or willfully violated the statutes cited herein shall be subject to a civil penalty of up to \$10,000 for each violation for each employee. The Department has found that Respondent willfully violated Minn. Stat. § 181.939, subd. 2(c) on 19 occasions when it forced the affected employee to take an accommodation reducing her hourly workweek from 40 hours to 32 hours from August 1, 2023, to December 5, 2023. The Department has also found that Respondent also willfully violated Minn. Stat. § 181.941, subds. 1 and 3 on 21 occasions spanning the period between March 1, 2024, to April 1, 2024, when it denied the affected employee reinstatement after the end of the 12-week parenting leave she requested and to which she was entitled, and discharged her after she asserted her right to 12 weeks of parenting leave. As a result, the Department is owed a civil penalty of **\$200,000**, of which \$160,000 is stayed. Respondent shall submit to the Department a check for civil penalties in the amount of **\$40,000**, made payable to the **Minnesota Department of Labor and Industry**, and shall be mailed or delivered at the same time and in the same manner as the checks and documents in Conditions, section VI, paragraphs 3 and 4 above. If Respondent fails to fully comply with this Consent Order or has a future violation of the Minnesota Fair Labor Standards Act (MFLSA) or Minnesota Statutes, Ch. 181 within the next two (2) years from the Effective Date of this Consent Order, then the full amount of the stayed civil penalty shall become due and payable in full to the Minnesota Department of Labor and Industry within 30 days of the Department providing written notice of a breach of the terms of this Consent Order or a final order being issued to Respondent for violation(s) of the MFLSA or Minnesota Statutes, Ch. 181.

7. Other Stipulations: In addition to the terms stipulated above, Respondent agrees to comply with the following:

- a) cease and desist from any and all practices violating Minn. Stat. §§ 181.939 and 181.941;
- b) require all current employee relations staff including human resources professionals, managers, supervisors, employees with decision-making authority related to any requirements of Minn. Stat. §§ 181.939 to 181.943, and employees of any third-party benefit administrators providing human resources or WESA-related services to Respondent, to attend an annual Women's Economic Security Act ("WESA") training, administered by the Department virtually, for each of the two years following the Effective Date of the Consent Order. The first training shall be held no later than 90 days from the Effective Date of the Consent Order; Respondent shall provide a recording of the training to staff unable to attend within 60 days of the

training. Additionally, new hires to any of the positions covered above shall watch a recorded version of the same training within 30 days of their date of hire. Respondent shall provide the names, contact information, and job titles of all training attendees to the Department at the end of each calendar year following the execution of this Consent Order for a period of two years, provided however that the contact information for trainees will only include a corporate or legal representative who the Department can contact should it need further information. Reports should be received by the Department no later than January 15 of each year;

- c) implement system-wide use of letter templates for WESA-related issues (e.g., pregnancy and nursing accommodations, absence letters, return to work letters, etc.) that contain the WESA information set forth at Exhibit 2. Respondent shall store these letters in their electronic medical records system for medical providers to issue each time pregnant or nursing patients request written accommodation or return to work documents. Respondent shall prepare a report to the Department specifying the number of letters created and provided to patients at the end of each calendar year following the Effective Date of the Consent Order, for a period of two years, including a report for the year 2024, 2025, and 2026. If the laws referenced in the letters are updated, Sanford may modify the letters to accurately reflect legal changes, and may do so without obtaining the Department of Labor's approval;
- d) Include the following statement on every after-visit summary linked to an obstetrics or lactation visit in Minnesota (except in cases of pregnancy loss): Pregnant employees and new parents working in the state of Minnesota: are entitled to certain workplace rights under Minnesota law, including items such as workplace accommodations, leaves of absence, and lactation breaks. For more information, visit www.dli.mn.gov/newparents;
- e) provide the Department updated policies and procedures that comply with Minn. Stat. §§ 181.939 to 181.943 within 90 days of the Effective Date of this Consent Order; and
- f) require employees of any third-party benefit administrators to implement and follow Respondent's policies and procedures that comply with Minn. Stat. §§ 181.939 to 181.943.

IX. JUDICIAL RELIEF

The Parties agree that upon the Effective Date this Consent Order shall become a final order of the Commissioner. If Respondent fails to comply with this Consent Order, the Commissioner may bring an action in District Court to enforce or require compliance with this Consent Order without further notice or additional proceedings pursuant to Minn. Stat. § 177.27, subd. 5, and this Consent Order shall be deemed an order to comply issued under Minn. Stat. § 177.27, subd. 4. If Respondent fails to pay any portion of the penalty, the Commissioner may file and enforce any unpaid portion of the penalty as a judgment in district court without further notice or additional proceedings and this Consent Order shall be deemed a final penalty order under Minn. Stat. § 16D.17. Additionally, pursuant to Minn. Stat. § 177.27, subd. 7, interest shall accrue on and be added to the unpaid balance from the date this Order is signed until it is paid, at an annual rate computed in accordance with Minn. Stat. § 549.09.

X. WAIVER OF RIGHTS

For the purposes of this Consent Order, Respondent waives all procedures and proceedings before the Commissioner, Office of Administrative Hearings, or District Court to which it may be entitled pursuant to the Minnesota and United States Constitutions, statutes, or rules. This includes waiver of the right to dispute the STIPULATED FACTS in section III above, the VIOLATIONS set forth in section V above, and/or the CONDITIONS set forth in section VIII above in a contested case proceeding pursuant to Minn. Stat. Ch. 14. If Respondent defaults on the requirements in section VIII, Respondent agrees that, without further notice to or an appearance by it, the Commissioner may issue an order containing all the terms and amounts listed in section VIII above and an additional equal amount as liquidated damages, plus civil penalties, reimbursement of fees and costs, or any combination thereof, plus interest from the date of the order. Default occurs if Respondent fails to satisfy any Condition in section VIII by the applicable date(s) and timelines set forth in section VIII. Respondent waives the right to any judicial review of the Consent Order by appeal, writ of certiorari, or otherwise.

XI. ADDITIONAL ENFORCEMENT ACTION

This Consent Order pertains only to the facts specified herein and shall not in any way limit the initiation of an enforcement proceeding based upon unrelated or unknown facts or violations. Pursuant to Minn Stat. § 177.27, subd. 4, this Consent Order may be used for two years after the Effective Date to prove repeated violation(s) by Respondent of the statutory provisions listed in Minn. Stat. § 177.27, subd. 4. A repeat or willful violator is subject to additional civil penalties of up to \$10,000.00 for each violation for each employee.


XII. GENERAL TERMS

1. **No Admission of Liability.** Respondent disputes and does not admit the Department Findings or violations of law alleged by the Department, and nothing in this Consent Order shall be construed as an admission of any wrongful or unlawful act.
2. **Government Data.** Pursuant to the Minnesota Government Data Practices Act, this Consent Order (other than the attached exhibits) is classified as public data upon its issuance by the Commissioner. Data related to the above-captioned investigation shall maintain the data classification to which they are entitled pursuant to the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13. Data shall not, to the extent they are not already public documents, become public merely because they are referenced herein.
3. **Voluntary Agreement.** The Parties acknowledge that no person has exerted undue pressure on them to sign this Consent Order. Each party is voluntarily choosing to enter into this Consent Order after arm's length negotiations. The Parties acknowledge that they have read and understand the terms of this Consent Order, that they have been represented by legal counsel and that they are voluntarily entering into this Consent Order to resolve the dispute among them.
4. **Severability.** The provisions of this Consent Order will be severable, and should any provisions be declared by a court of competent jurisdiction to be unenforceable, the remaining provisions of this Consent Order will remain in full force and effect.
5. **Entire Agreement.** This Consent Order constitutes the entire agreement between the Parties relating to the Department's investigation for the Audit Period. No party has relied upon any promises or representations that are not stated in this document. No changes to this Consent Order are valid unless they are in writing, identified as an amendment to this Consent Order, and signed by all parties. There are no inducements leading to the execution of this Consent Order except as herein explicitly contained.
6. **Warranty.** The persons signing this Consent Order warrant that they have full authority to enter into this Consent Order on behalf of the party each represents, and that this Consent Order is valid and enforceable as to that party.
7. **Governing Law.** This Consent Order shall be construed and interpreted in accordance with the laws of the State of Minnesota.
8. **Counterparts.** This Consent Order may be executed in multiple counterparts, which shall be construed together as if one instrument. Any party is entitled to rely on an electronic or facsimile copy of a signature as if it were an original.

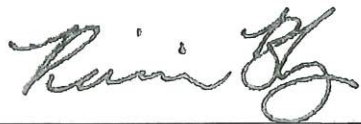
9. **Service.** A copy of this Consent Order shall be served by regular first-class mail and first-class certified mail upon Respondent at the addresses listed above. The Consent Order shall be effective and deemed issued when it is signed on behalf of the Commissioner.

Sanford

Minnesota Department of Labor and Industry

By: 

Scott Aberson
Its: Senior Vice President, Legal and Risk
Management

By: 

Prairie Bly
Assistant Director, Division of Labor
Standards

Dated: 11/14/24

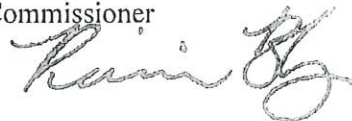
Upon consideration of the forgoing Consent Order and based upon all the facts, records and proceedings herein, the Commissioner makes the following:

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that all terms of the Consent Order are approved and adopted.

Dated: 11/18/2024

Nicole Blissenbach
Commissioner



Prairie Bly, Assistant Director
Division of Labor Standards
Minnesota Department of Labor and Industry

Exhibit 2

PATIENT NAME is currently receiving my professional care for their pregnancy. Due to *** I am recommending ***.

Please take note of the following accommodations mandated by Minnesota state law concerning pregnant employees working in the state of Minnesota. Pregnant employees may request, and the employer shall provide:

- more frequent or longer restroom, food, and water breaks;
- seating; and
- limit on lifting more than 20 pounds.

Minnesota state law allows pregnant employees up to 12 weeks of unpaid leave, as determined by the employees. The 12 weeks of unpaid leave must not be reduced by leave taken for prenatal medical care appointments.

Additionally, employers have a duty to engage with their pregnant employees, upon request, to identify reasonable accommodations during their pregnancy. Employers may not require employees to accept a specific accommodation or take a mandatory leave of absence.

Reasonable accommodations under Minnesota state law may include, but are not limited to:

- Temporary transfer to a less strenuous or hazardous position;
- Temporary leave of absence (e.g., to complete prenatal appointments);
- Modification in work schedule or job assignments;
- Seating;
- More frequent or longer break periods; and
- Limits to heavy lifting

The laws referenced in this letter are enforced by the Minnesota Department of Labor and Industry (DLI). For further information regarding employer responsibilities toward pregnant, nursing, and lactating employees in compliance with Minnesota state law, please contact (DLI) at 651-284-5075 or via email at dli.laborstandards@state.mn.us.

If you have any questions or concerns, please contact my office at XXX-XXX-XXXX.

Sincerely,

XYZ Health Clinic
123 XYZ Street
City MN Zip code
Phone:

Fax:

DATE

To Whom It May Concern:

PATIENT NAME delivered their infant on **[DATE]**. They may return to work on **[DATE]** with [no restrictions or with the following restrictions].

Please take note of the following obligations mandated by Minnesota state law concerning employees returning to work in the state of Minnesota after childbirth.

Minnesota law allows pregnant employees up to 12 weeks of unpaid leave, during or after a pregnancy, as determined by the employee. The 12 weeks of unpaid leave must not be reduced by leave taken for prenatal medical care appointments.

Upon their return, Minnesota employees are also legally entitled to the following rights to express milk during their work hours:

- Break times to express milk without loss of compensation, regardless of their child's age.
- Access to clean, private, and secure lactation spaces, other than a bathroom, that is shielded from view, is free of intrusion from coworkers and the public, is near the work area, and has access to an electrical outlet.
- Break times to express milk must be provided, irrespective of whether providing these breaks unduly disrupts the employer's operations.
- Employees can choose when to express milk based on their needs, whether during an existing paid break, an existing unpaid break (such as a meal break), or another suitable time.

The laws referenced in this letter are enforced by the Minnesota Department of Labor and Industry (DLI). For further information regarding employer responsibilities toward pregnant, nursing, and lactating employees in compliance with Minnesota state law, please contact (DLI) at 651-284-5075 or via email at dli.laborstandards@state.mn.us.

If you have any questions or concerns, please contact my office at XXX-XXX-XXXX.

Sincerely,

[Title]