

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

vs.

LAKELAND EYE CLINIC, P.A.,  
Defendant.

Case No. 8:14-cv-2421-T-35AEP

**CONSENT DECREE**

This Consent Decree ("Decree") is made and entered into by and between Plaintiff Equal Employment Opportunity Commission ("EEOC"), and Defendant Lakeland Eye Clinic, P.A. ("Lakeland" or "Defendant"). EEOC and Lakeland are referred to as the "Parties" throughout this Decree.

**INTRODUCTION**

1. The EEOC filed this action on September 25, 2014, under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.*, ("Title VII") alleging unlawful employment practices on the basis of sex and seeking relief on behalf of Brandi M. Branson ("Branson").
2. The EEOC alleges that Lakeland violated Title VII by terminating Branson based on sex-or gender-based considerations including, but not limited to, because Branson is transgender, because of Branson's transition from male to female, and/or because Branson did not conform to the Defendant's sex- or gender-based preferences,

**JOINT EXHIBIT ONE**

expectations or stereotypes. Lakeland, on the other hand, asserts that Branson was terminated for legitimate, non-discriminatory reasons. Lakeland further asserts that Branson's gender, including transgender status, transition from one sex to another, and any other gender-related factor, were not considered in any way in terminating Branson's employment.

3. In the interest of resolving this matter, to avoid further cost of litigation, and as a result of having engaged in comprehensive settlement negotiations, the Parties have agreed that this action should be finally resolved by entry of this Decree. This Decree is final and binding on the Parties, their successors, and assigns.

4. No waiver, modification or amendment of any provision of this Decree will be effective unless made in writing and signed by an authorized representative of each of the Parties. By mutual agreement of the Parties, this Decree may be amended or modified in the interests of justice and fairness in order to effectuate the provisions of this Decree.

5. If one or more of the provisions are rendered unlawful or unenforceable, the Parties shall make good faith efforts to agree upon appropriate amendments to this Decree in order to effectuate the purposes of the Decree. In any event, the remaining provisions will remain in full force and effect unless the purposes of the Decree cannot, despite the Parties' best efforts, be achieved.

6. This Decree fully and finally resolves any and all claims asserted in the Complaint filed by EEOC in this action, in the Complaint in Intervention filed by Branson, and in the underlying charge filed by Branson. No party admits the claims or defenses of the other.

7. The Parties acknowledge that this Decree does not resolve any Charges of Discrimination that may be pending with EEOC against Lakeland.

**FINDINGS**

8. Having carefully examined the terms and provisions of this Decree, and based on the pleadings, record, and stipulations of the parties, the Court finds the following:

- a. This Court has jurisdiction over the subject matter of this action and the Parties, and will retain jurisdiction for a period of two (2) years.
- b. No party shall contest the jurisdiction of this Federal Court to enforce this Decree and its terms or the right of EEOC to bring an enforcement suit upon alleged breach of any term(s) of this Decree.
- c. The terms of this Decree are adequate, fair, reasonable, equitable, and just. The rights of Branson and the public interest are adequately protected by this Decree.
- d. This Decree conforms to the Federal Rules of Civil Procedure and Title VII and is not in derogation of the rights or privileges of any person. The entry of this Decree will further the objectives of Title VII and will be in the best interests of Branson, Lakeland, EEOC and the public.
- e. The terms of this Decree are and shall be binding upon the present and future representatives, agents, directors, officers, successors and assigns of Lakeland.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

**GENERAL INJUNCTIVE PROVISIONS**

9. Lakeland shall take affirmative steps, including but not limited to those set forth in paragraphs 14 through 25 below, to ensure that its representatives, agents, directors, officers, successors and assigns, managers and supervisors do not discriminate against any employee because of the applicant or employee's status as transgender and/or because said applicant or employee does not conform to the Defendant's sex- or gender-based stereotypes.

**MONETARY RELIEF FOR CHARGING PARTY**

10. Within five (5) calendar days following the Court's approval of this Decree, Lakeland shall pay a total of One Hundred Fifty Thousand Dollars (\$150,000.00) in the form of two checks as follows:

- a. The first check shall be made payable to "Brandi Branson" in the amount of seventy-five thousand dollars (\$75,000.00) representing backpay, including the value of lost benefits of employment and interest, less only the employee's share of required federal, state and local tax withholdings. Defendant shall timely issue an I.R.S. Form W-2 for Brandi Branson for this amount; and
- b. The second check shall be made payable to "Brandi Branson c/o Jillian T. Weiss, Esq., IOLTA Trust Account" in the amount of seventy-five thousand dollars (\$75,000.00) representing other damages, including but not limited to, damages for emotional distress. Defendant shall designate the compensatory damage payment as "other income" (Box 3) on an I.R.S. Form 1099-MISC.

11. The payment(s) set forth in Paragraph 10 above, shall be delivered, via certified mail, return receipt requested, to: Brandi Branson c/o Jillian T. Weiss, Esq., Law Office of Jillian T. Weiss, P.C., P.O. Box 642, Tuxedo Park, New York 10987.

12. Copies of the payment(s) set forth in Paragraphs 10 and 11 above and related documents (including copies of I.R.S. Form W-2 and I.R.S. Form 1099) shall be sent contemporaneously to Robert E. Weisberg, Regional Attorney, EEOC, Miami District Office, Miami Tower, 100 S.E. 2nd Street, Suite 1500, Miami, Florida 33131.

13. If Lakeland fails to timely meet its payment obligations as described in Paragraphs 10, 11 and 12 above, then Lakeland shall pay interest on the defaulted payments at a rate calculated pursuant to 26 U.S.C. §6621(b) until effective payments are mailed, and bear any additional costs incurred by Branson and/or the EEOC caused by the non-compliance or delay.

#### **NEUTRAL JOB REFERENCE**

14. Lakeland agrees to provide Branson with a neutral letter of reference, in the form attached as Exhibit A. In addition, any inquiries regarding the employment of Branson shall be directed to the Clinic Administrator and shall result in a neutral reference, mentioning only that Brandi Branson held the position of Director of Hearing Services for Lakeland from July 2010 to June 2011. No mention of the charge of discrimination, this lawsuit, Branson's transition from male to female, or the fact that Branson's legal name was previously "Michael" at any time, shall be made as part of any reference. This includes reference to Branson as "he" or "him" or otherwise using male pronouns when referring to Branson.

15. During the term of this Decree, within ten (10) calendar days of responding to any inquiry regarding the employment of Branson, Lakeland shall report in writing to the EEOC its compliance with Paragraph 14, including the name and address of the person or entity to whom a verbal reference or the letter attached as Exhibit A was provided.

**ADOPTION AND DISTRIBUTION OF POLICY REGARDING  
GENDER DISCRIMINATION**

16. Lakeland shall create and/or revise and implement a gender discrimination policy (the "Policy"), consistent with this Decree.

17. The Policy must clearly define prohibited conduct and specifically prohibit gender discrimination against all applicants and employees. Specifically, the policy:

- a. Shall provide that Lakeland shall not terminate employment based on an employee's status as transgender, because of an employee's transition from one gender to another, and/or because the employee does not conform to the Defendant's sex- or gender-based preferences, expectations or stereotypes;
- b. Shall provide that prohibited harassment of an employee based on the employee's status as transgender, because of an employee's transition from one gender to another, and/or because the employee does not conform to the Defendant's sex-or gender-based preferences, expectations or stereotypes will not be tolerated;
- c. Shall explain that prohibited behavior will not be tolerated from its employees, customers, agents, contractors, sub-contractors, clients and any other persons present at any of the Lakeland's facilities and locations;
- d. Shall explain that complaints of discrimination based on gender discrimination may be made to any manager or directly to human resources personnel, that employees who make such complaints or provide information related to such complaints will be protected against retaliation

and that employees will not be required to complain of gender discrimination directly to the individual that is engaged in the discriminatory behavior;

- e. Shall explain that the employer will protect the confidentiality of such complainants to the extent possible and will promptly and thoroughly investigate all complaints;
- f. Shall explain that the employer will take immediate and appropriate corrective action if it determines that gender discrimination has occurred; and
- g. Shall advise that employees who violate the policy are subject to discipline, up to and including discharge.

18. A copy of the Policy will be provided to the EEOC for review within thirty (30) calendar days of the Court's approval of this Decree. Thereafter, copies of the Policy will be distributed to each of Lakeland's existing employees and managers within sixty (60) calendar days of the Court's approval of this Decree. All new employees will receive a copy of the Policy within the first five (5) business days of employment.

19. A copy of the Policy shall also be included in any relevant policy or employee manuals maintained by Lakeland. The Policy must be kept and maintained in a conspicuous and accessible place for all employees of Lakeland and printed in a font that is easily legible (at least 11 point font) in English and Spanish.

### **TRAINING**

20. Management Training. Lakeland shall provide its owner, CEO, Clinic Administrator, and any other individual with responsibility for supervising workers with one (1) hour of

training, annually, during the term of this Decree (the "Management Training"). The first Management Training shall be live and shall take place within ninety (90) calendar days of the Court's approval of this Decree. The remaining Management Training session may be videotaped and shall take place one year after the first training session.

21. The Management Training shall include the following: (1) an explanation of the prohibition against transgender/gender stereotype discrimination under Title VII; (2) an explanation of the rights and responsibilities of managers and supervisors under Title VII and the Policy; and (3) guidance on handling transgender/gender-stereotype complaints made by applicants, employees, and customers/clients/patients.

22. Employee Training.

- a. Lakeland also shall provide all other employees with one (1) hour of training, annually, during the term of this Decree (the "Employee Training"). The first Employee Training shall be a live training and shall take place within ninety (90) calendar days of the Court's execution of this Decree. The remaining Employee Training session may be videotaped and shall take place one year after the first training session.
- b. The Employee Training shall include the following: (1) an explanation of the prohibition against transgender/gender stereotype discrimination under Title VII; and (2) an explanation of the rights of employees under Title VII and the Policy.

23. Lakeland agrees to provide EEOC with at least three (3) weeks notice before conducting training sessions pursuant to this Decree. In the written notice, Lakeland shall notify EEOC of the dates on which training is scheduled, the name and job title of the



person(s)/organization who will conduct the training, a resume of the person conducting the training, and the name and job title of each person who will attend the training.

24. Lakeland shall provide EEOC with any and all copies of pamphlets, brochures, outlines or other written materials provided to the participants of the training sessions. Additionally, Lakeland agrees that the EEOC may, at the EEOC's discretion, attend any training session.

#### **POSTING OF NOTICE**

25. Within ten (10) calendar days from the Court's execution of this Decree, Lakeland shall post an eleven (11) inches by fourteen (14) inches laminated copy of the Notice attached as Exhibit B to this Decree at all of Lakeland's facilities in a conspicuous location or locations, easily accessible to and commonly frequented by Lakeland's employees (*i.e.* employee bulletin board or lunch room). If no complaints of discrimination are made against Lakeland by any applicant, employee, or customer/client/patient during the year following the entry of this Decree, then the Notice shall remain posted for one (1) year from the date of entry of this Decree. If any complaints of discrimination are made against Lakeland by any applicant, employee, or customer/client/patient, then the Notice shall remain posted for the duration of this Decree. Lakeland shall take all reasonable steps to ensure that the posting is not altered, defaced or covered by any other material. Within fifteen (15) calendar days from the Court's execution of this Decree, Lakeland shall certify to EEOC in writing that the Notice has been properly posted as described in this paragraph.

#### **REPORTING**

26. Lakeland shall furnish EEOC with written Reports following entry of this Decree. The first report shall be due six (6) months after entry of the Decree and the last report shall be due twelve (12) months thereafter. Each such Report shall contain:

- h. A certification that Lakeland has complied with Paragraphs 10, 14-24 above and;
- i. A certification that Lakeland has complied with Paragraph 25 above, including a certification that the Notice remained posted for the entire period required by Paragraph 25.

### **COMPLIANCE**

27. The EEOC may review compliance with this Decree at any time during its duration.

28. If any time during the term of this Decree, the EEOC has reason to believe that Lakeland is in violation of the Decree, the EEOC shall have a right to conduct an inspection at Lakeland's facilities. The EEOC must provide Lakeland with twenty-four (24) hours notice of its intent to conduct an inspection by notifying Peter W. Zinober, Esq. of the upcoming inspection via electronic mail at [zinoberp@gtlaw.com](mailto:zinoberp@gtlaw.com). After the inspection, the EEOC shall give notice of any alleged violation(s) to Lakeland. Thereafter, the parties shall follow the Dispute Resolution Procedure set forth in Paragraphs 32-35 below.

29. Any submissions, reports, certifications, notices, or other materials that are required to be submitted to EEOC shall be mailed to the attention of "EEOC Regional Attorney, Robert E. Weisberg, Re: Lakeland Settlement," at United States Equal Employment Opportunity Commission, Miami District Office, Miami Tower, 100 SE 2nd Street, Suite 1500, Miami, Florida 33131.

### **NOTIFICATION OF SUCCESSORS**

30. Lakeland shall provide prior written notice to any potential purchaser of its business, or a purchaser of all or a portion of Lakeland's assets, and to any other potential successor, of the EEOC's lawsuit, the allegations raised in the EEOC's complaint, and the existence and

contents of the Decree. It is agreed that prospective shareholders or partners are not “successors” within the meaning of this paragraph.

**DURATION OF THE DECREE**

31. This Decree shall be in effect for a period of two (2) years, which period commences immediately following the Court’s approval of the Decree.

**DISPUTE RESOLUTION**

32. In the event that EEOC believes that Lakeland has failed to comply with any provision(s) of the Decree, EEOC will notify Lakeland, and Lakeland must make a good faith attempt to cure any breach of the Decree within fifteen (15) business days of notification. The fifteen (15) business days to cure provision of this Paragraph shall not apply, however, to the payment required by Paragraph 10 above.

33. Following the fifteen (15) business day cure period, EEOC shall have the right to seek Court intervention to remedy any breach and/or enforce the Decree.

34. No party shall contest the Court’s jurisdiction to hear a dispute arising from the Decree nor challenge EEOC’s ability to bring an action to enforce the terms of the Decree in this Court.

**COSTS**

35. Each party to this Decree shall bear its own costs associated with this litigation.

**SO ORDERED, ADJUDGED AND DECREED**, this \_\_\_\_ day of 2015.

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THE HONORABLE MARY S. SCRIVEN  
UNITED STATES DISTRICT JUDGE



AGREED TO:

FOR THE PLAINTIFF EQUAL EMPLOYMENT OPPORTUNITY COMMISSION:

By: 

Date: 3/27/2015

Robert E. Weisberg, Regional Attorney  
U.S. Equal Employment Opportunity Commission  
Miami District Office  
Miami Tower  
100 S.E. 2nd Street, Suite 1500  
Miami, Florida 33131  
Telephone: (305) 808-1789  
Facsimile: (305) 808-1835

AGREED TO:

FOR THE DEFENDANT, LAKELAND EYE CLINIC, P.A.

By: 

Date: March 24, 2015

Kevin A. Dorsett  
Print Name

President  
Title

I, Brandi Branson, concur with the relief obtained for me by the EEOC in this Consent Decree.

  
Brandi Branson

**EXHIBIT A**  
**REFERENCE**

Dear \_\_\_\_\_,

This letter is in reference to your request for information regarding the employment of Brandi Branson.

Brandi Branson served as the Director of Hearing Services for Lakeland from July 2010 to June 2011. Company policy does not permit us to provide any additional information concerning Brandi Branson's employment. However, I am sure she can provide you with the details concerning her duties at Lakeland.

I hope this information is helpful and that it satisfactorily answers your inquiry.

Very truly yours,

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*Clinic Administrator*  
on behalf of Lakeland Eye Clinic

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Very truly yours,

  
Janet Townsend  
Clinic Administrator  
on behalf of Lakeland Eye Clinic



**EXHIBIT B**

**NOTICE TO ALL LAKELAND EMPLOYEES**

This Notice is being posted pursuant to a Consent Decree entered by the U.S. District Court in EEOC v. Lakeland Eye Clinic, Case No. 8:14-cv-2421-T-35AEP (M.D. Fla.). In this case, the EEOC alleged that Lakeland Eye Clinic discriminated against an employee by terminating her based on her gender. Lakeland Eye Clinic has denied those allegations.

Lakeland Eye Clinic will not condone employment discrimination of any kind as set forth in federal anti-discrimination laws, including, but not limited to, gender discrimination. It is the policy of Lakeland Eye Clinic to offer employment opportunities to all qualified employees and applicants, regardless of sex, race, color, religion, national origin, age, or disability. There will be no intentional discrimination in violation of the provisions of Title VII of the Civil Rights Act of 1964 (Title VII), as amended; the Age Discrimination in Employment Act (ADEA), as amended, the Equal Pay Act (EPA) of 1963, as amended, the Americans with Disabilities Act (ADA), as amended, and the Genetic Non-Discrimination Information Act (GINA).

Lakeland Eye Clinic assures its employees that it will not take any action against an individual because he/she has exercised his/her rights under the law to oppose discriminatory acts or to file charges with EEOC. Appropriate corrective action, up to and including termination, based upon the circumstances involved, shall be taken against any employee (including management personnel) found to have violated Lakeland Eye Clinic's policy prohibiting discrimination.

EEOC enforces the federal laws against discrimination in employment on the basis of disability, race, color, religion, national origin, sex, and age. If you believe you have been discriminated against, you may contact EEOC at (305) 808-1740. EEOC charges no fees and has employees who speak languages other than English.

This Notice must remain posted for an agreed period of time and must not be altered, defaced or covered by any other material. Any questions about this Notice may be directed to: Lakeland Eye Clinic Settlement, c/o Regional Attorney Robert E. Weisberg, Miami District Office, Miami Tower, 100 S.E. 2nd Street, Suite 1500, Miami, Florida 33131.

Date: March 26 2015



**DO NOT REMOVE, ALTER, DEFACE OR COVER.**

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**EXHIBIT B**

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Date: \_\_\_\_\_

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