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JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Monday, December 3, 2012

Justice Department Settles Discrimination Claim Against Oregon Homecare Provider

The Justice Department announced today that it reached an agreement with ComForcare In-Home Care & Senior Services, a home care provider for sick and elderly patients in Tigard, Ore. The agreement resolved claims that the provider violated the anti-discrimination provision of the Immigration and Nationality Act (INA), when it demanded unnecessary documentation from a newly naturalized citizen in response to an initial mismatch in E-Verify and then refused to hire her when she did not produce it.

The investigation stemmed from a charge filed by a naturalized U.S. citizen, who was not allowed to work for ComForcare after the company received an initial mismatch in her data in E-Verify, called a tentative non-confirmation. E-Verify is an Internet-based system run by U.S. Citizenship and Immigration Services (USCIS) that confirms employment eligibility by comparing information from an employee's Form I-9, the form that all new employees must complete upon hire, to data in the Department of Homeland Security's and Social Security Administration's records.

If an employee receives a tentative non-confirmation, E-Verify requires the employer to provide the employee with a tentative non-confirmation notice offering the employee the choice to contest the mismatch. If the employee decides to contest the mismatch, the employee must be allowed to work while resolving a tentative non-confirmation, and the rules do not permit an employer to request additional documentation based on a tentative non-confirmation. ComForcare failed to provide the charging party with written notice of her tentative non-confirmation, as required by E-Verify, demanded that she produce an "alien card" and did not allow her to start working. When the charging party informed ComForcare that, as a naturalized citizen, she did not possess an alien card, ComForcare demanded her naturalization papers even though she had already produced proper work authorization documents during the Form I-9 process. The investigation also established that ComForcare requested that non-U.S. citizens and persons perceived to be non-U.S. citizens produce specific employment eligibility documents to establish their employment eligibility rather than allowing these individuals to show their choice of valid documentation.

Under the settlement agreement, ComForcare will pay approximately \$525 in back pay to the charging party and \$1,210 in civil penalties to the United States. ComForcare will also train its human resources staff about employers' responsibilities to avoid discrimination in the employment eligibility verification process and be subject to reporting and compliance monitoring by the department for eighteen months.

"This case illustrates the importance of following E-Verify rules consistently regardless of citizenship status or perceived status, or risk running afoul of the anti-discrimination provision," said Thomas E. Perez, Assistant Attorney General for the Civil Rights Division. "Subjecting naturalized citizens to heightened documentary standards that result in the loss of employment constitutes discrimination, and the Division is fully committed to enforcing the law that prohibits it."

The Office of Special Counsel (OSC) for Immigration-Related Unfair Employment Practices is responsible for enforcing the anti-discrimination provision of the INA, which protects work-authorized individuals from employment discrimination on the basis of citizenship status or national origin discrimination, including discrimination in hiring and the employment eligibility verification (Form I-9) process.

For more information about protections against employment discrimination under federal

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immigration law, call OSC's worker hotline at 1-800-255-7688 (1-800-237-2515, TDD for hearing impaired), OSC's employer hotline at 1-800-255-8155 (1-800-237-2515, TDD for hearing impaired), or 202-616-5594; e-mail oscrt@usdoj.gov or visit OSC's website at www.justice.gov/crt/about/osc.

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Civil Rights Division

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