

SETTLEMENT AGREEMENT BETWEEN

THE UNITED STATES OF AMERICA

AND

MEDICAL WEIGHT LOSS CLINIC

DEPARTMENT OF JUSTICE COMPLAINT NUMBER 202-37-149

A. BACKGROUND AND PARTIES

1. This matter was initiated by a complaint filed with the United States Department of Justice ("Department") against the Medical Weight Loss Clinic headquartered in Southfield, Michigan, with 34 locations throughout Michigan ("Clinic"). The Complainant alleged that the Clinic refused to serve her because she has HIV disease. The complaint was investigated by the Department. The Department determined that the Clinic refused services to the Complainant because of her HIV disease, in violation of Title III of the Americans with Disabilities Act ("ADA").

2. The Attorney General is authorized under section 308(b)(1) of the ADA, 42 U.S.C. § 12188(b)(1), to investigate complaints and bring a civil action under Title III in any situation where a pattern or practice of discrimination is believed to exist or where a matter of general public importance is raised. In consideration of the terms of this Agreement, the United States agrees to refrain from filing a civil suit under Title III in this matter, except as provided in paragraph 11, below.

3. Medical Weight Loss Clinic provides services to the public and is a public accommodation covered by Title III of the ADA, 42 U.S.C. § 12181(7)(F); 28 C.F.R. § 36.104.

4. The Complainant is an individual with a disability covered by Title III of the ADA, 42 U.S.C. § 12102(2); 28 C. F.R. § 36.104.

B. TERMS OF AGREEMENT

5. The Clinic, by and through its officials, agents, and employees, will abide by all requirements of the ADA, and specifically agrees that it will not discriminate against individuals on the basis of disability with respect to the provision of its services.

6. In particular, the Clinic, by and through its officials, agents, and employees, will not impose eligibility criteria that screen out or tend to screen out an individual, or a class of individuals, with a disability, unless such criteria can be shown to be necessary for the provision

of the Clinic's services.

7. Within 30 days of the effective date of this Agreement, the Clinic will adopt and post for prominent, public display at each of its locations the "Nondiscrimination Policy and Procedure" that appears here as Attachment A. These postings will remain in place for the duration of this Agreement and will also be publicly displayed at any additional locations that the Clinic opens during the life of the Agreement.

8. Each January, the Clinic will provide training for its employees on the nondiscrimination requirements of the ADA, including specific training on these requirements with regard to individuals with HIV disease.

9. Within 90 days of the effective date of this Agreement, and each January thereafter for the duration of this Agreement, the Clinic will submit a letter to the Department concerning its compliance with paragraphs 5 and 6 of this Agreement. In pertinent part this letter will confirm that the Clinic continues to comply with the requirements of this Agreement, with a copy of its current policy regarding eligibility requirements attached. The report shall be sent by fax or hand delivery to John Wodatch and Allison Nichol at 202-307-1997 or to the following address: U.S. Department of Justice, Disability Rights Section, 1425 New York Avenue, NW, Washington D.C. 20005.

10. Within 30 days of the effective date of this Agreement, the Clinic agrees to send a copy of this Agreement and Attachments A, B, and C to the Complainant's attorney by certified mail, return receipt requested, or by Federal Express. Attachment B notifies the Complainant that an Agreement has been reached with the United States, offers to pay Complainant \$20,000 as compensatory damages, and explains that, in order to accept the relief offered, Complainant must return an executed "Release of All Claims," Attachment C, to the Clinic's attorney within 30 days of receipt. That attorney will send the undersigned counsel for the United States a copy of Attachments B and C when they are sent to the Complainant's attorney.

11. If the Complainant accepts the Clinic's offer of relief as set out in Attachments B and C, the Clinic will, within 15 days of receipt of the signed "Release of All Claims," send the Complainant, by certified mail, return receipt requested, or by Federal Express, a check for \$20,000. The Clinic will provide to the United States a copy of the check and transmittal letter sent to the Complainant.

C. IMPLEMENTATION AND ENFORCEMENT

12. The Department of Justice may review compliance with this Agreement if the Department suspects a violation by contacting the Clinic's counsel to engage in further inquiry. Thereafter, if the Department believes that this Agreement or any of its requirements has been violated, it may institute a civil action in federal district court to enforce this Agreement or the requirements of Title III, following written notice to the Medical Weight Loss Clinic of possible violations and a period of 30 days in which the Medical Weight Loss Clinic has the opportunity

to cure the alleged violations.

13. Failure by the Department of Justice to enforce this entire Agreement or any of its provisions or deadlines shall not be construed as a waiver of the Department's right to enforce other deadlines and provisions of this Agreement.

14. A copy of this document or any information contained in it may be made available to any person by the Medical Weight Loss Clinic or the Department on request.

15. The effective date of this Agreement is the date of the last signature below.

16. This Agreement constitutes the entire agreement between the parties on the matters raised here, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written agreement, shall be enforceable. This Agreement does not purport to remedy any other potential violations of the ADA or any other federal law. This Agreement does not affect the Medical Weight Loss Clinic's continuing responsibility to comply with all aspects of the ADA.

17. The Agreement will remain in effect for a minimum of two years from the effective date of this Agreement.

18. The person signing this document for the Medical Weight Loss Clinic represents that he is authorized to bind the Medical Weight Loss Clinic to this Agreement.

19. This Agreement shall be binding on the Medical Weight Loss Clinic and the successors in interest of the Medical Weight Loss Clinic. The Medical Weight Loss Clinic has a duty to so notify all such successors in interest of the existence and terms of this Agreement and to obtain their written accession to any obligations remaining under the Agreement.

For the Medical Weight Loss Clinic:

DAVID M. PAULL

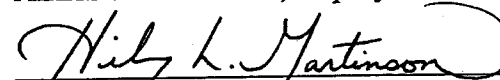


Medical Weight Loss Clinic
23625 Northwestern Highway
Southfield, MI 48075

For the United States:

GRACE CHUNG BECKER
Acting Assistant Attorney General
Civil Rights Division

JOHN L. WODATCH, Chief
PHILIP L. BREEN, Special Legal Counsel
ALLISON NICHOL, Deputy Chief

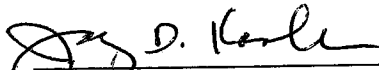


HILARY L. MARTINSON
Trial Attorney
Disability Rights Section

248-353-8446
248-355-0475 (facsimile)

Dated: 7/9/08

For the Complainant:
JAY D. KAPLAN



JAY D. KAPLAN

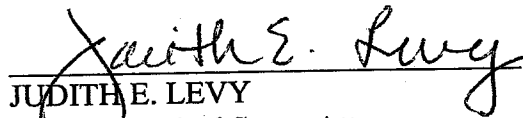
Staff Attorney
ACLU of Michigan
60 West Hancock Street
Detroit, Michigan 48201
(313) 578-6812
(313) 578-6811 (facsimile)

Dated: 7/17/08

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
(202) 616-7292
(202) 307-1197 (facsimile)

Dated: 7/10/08

STEPHEN J. MURPHY, III
United States Attorney



JUDITH E. LEVY

Assistant United States Attorney
Eastern District of Michigan
211 West Fort Street, Ste. 2001
Detroit, Michigan 48226
313-226-9727
313-226-3271 (facsimile)

Dated: 7/14/2008

Attachment A

**MEDICAL WEIGHT LOSS CLINIC'S
NONDISCRIMINATION POLICY AND PROCEDURE
FOR CLIENTS AND CLIENT APPLICANTS**



In accordance with Title III of the Americans with Disabilities Act of 1990 (“ADA”), the Medical Weight Loss Clinic (“Clinic”) will not discriminate against any individual, on the basis of his or her disability, in the provision of our services. For purposes of the ADA, a “disability” is a mental or physical impairment that substantially limits one or more major life activities.

If you are a person with a disability who has a concern about your experience at the Medical Weight Loss Clinic, please contact [insert company contact information].

You may also contact the Disability Rights Section, Civil Rights Division, U.S. Department of Justice which enforces Title III of the ADA, at 1-800-514-0301 (voice) 800-514-0383 (TDD). Its website address is at www.ada.gov.

Attachment B

**BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Jay Kaplan
Staff Attorney
ACLU of Michigan
60 West Hancock
Detroit, MI 48201-134

Re: DJ # 202-37-149, Medical Weight Loss Clinic

Dear Mr. Kaplan:

The United States and the Medical Weight Loss Clinic have entered into a settlement agreement to resolve the complaint filed by your client. A copy of the settlement agreement is enclosed.

Pursuant to the Settlement Agreement, the Clinic offers your client a monetary award of \$20,000, which shall be considered compensatory in nature. To receive the monetary award, your client must communicate her acceptance to Karen S. Kienbaum, by executing the enclosed "Release of All Claims" and returning it to Karen S. Kienbaum within 30 days of your receipt of this letter. You must send your client's "Release of All Claims" by mail to:

Karen S. Kienbaum
Karen Smith Kienbaum & Associates, P.C.
400 Monroe Street, Suite 470
Detroit, Michigan 48226

If you have any questions concerning the Settlement Agreement, you may contact Hilary L. Martinson (202-616-7292) or Judith E. Levy (313-226-9727) who are handling the matter for the Department of Justice.

Sincerely,

Karen Smith Kienbaum & Associates, P.C.

Leah Roush-DeFrank

Encls.