

**SETTLEMENT AGREEMENT BETWEEN**  
**THE UNITED STATES OF AMERICA AND IKONIK INK TATTOO**

**DJ 202-13-365**

**I. BACKGROUND**

1. This Settlement Agreement (“Agreement”) is entered into among the United States Department of Justice (“United States”), by and through the U.S. Attorney’s Office for the District of Colorado, and Ikonik Ink Tattoo (“Ikonik”) (collectively, “the Parties”).

2. The United States received a complaint that Ikonik discriminated on the basis of disability when it denied the complainant tattoo services because of the complainant’s HIV status.

3. The United States Department of Justice is authorized under 42 U.S.C. § 12188(b)(1)(A) to investigate the allegations of the complaint in this matter to determine compliance with Title III of the ADA, as amended, 42 U.S.C. §§ 12181-12189, and its implementing regulations, 28 C.F.R. Part 36. The United States is authorized to investigate alleged violations of Title III of the ADA, to use alternative means of dispute resolution, where appropriate, including settlement negotiations to resolve disputes, and to bring a civil action in federal court in any case that raises issues of general public importance. 42 U.S.C. §§ 12188(b), 12212; 28 C.F.R. §§ 36.502, 36.503, and 36.506.

4. Under Title III, it is unlawful to deny individuals with disabilities the ability to “participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations” of a place of public accommodation, or to provide such goods and services on an unequal basis because of an individual’s disability. 42 U.S.C. §§ 12182(b)(1)(A)(i) and (ii).

5. Ikonik is a public accommodation within the meaning of Title III because it owns and operates a “service establishment.” 42 U.S.C. § 12181(7)(F).

6. As a result of its investigation, the United States has determined the following:

- a. On March 1, 2020, the complainant in this matter contacted Ikonik Ink Tattoo & Piercing, via e-mail, requesting a consultation for a tattoo. The complainant indicated that his tattoo design related to HIV.
- b. The owner’s response e-mail stated that “[e]very one has the right to reject business,” and the owner continued to explain that the tattoo artist who had been asked to complete the complainant’s tattoo, who was an independent contractor, had stated that she “wasn’t okay with” giving the complainant a tattoo because of his HIV status.

- c. The complainant was hurt and angry, and he informed Ikonik's owner in a reply e-mail that Ikonik's conduct was illegal and that the ADA prohibited Ikonik from discriminating on the basis of his HIV status. The complainant also stated that he was not required to inform Ikonik of his HIV status.
- d. The owner responded via e-mail that he could ask another tattoo artist if they would be willing to work with the complainant, but because tattooing involves blood, Ikonik is required by the local health department to ask about customer's HIV status and "it would only be right" for the complainant to inform Ikonik of his HIV status.
- e. Ikonik's Tattoo Consent Form asks prospective customers whether they have "HIV-AIDS."
- f. The public health department of Jefferson County, Colorado, where Ikonik is located, does not require body art establishments to ask clients about their HIV status.

7. Ikonik and its owner deny that it discriminated against the complainant in violation of Title III of the ADA by refusing the complainant access to its goods and services.

8. All Parties agree that it is in their best interests, and the United States believes it is in the public interest, to resolve this matter promptly and without litigation. In consideration of the terms of this Agreement, the United States agrees to refrain from undertaking further investigation or from filing a civil suit in this action, except as provided in paragraph 29, below.

## **II. INJUNCTIVE RELIEF**

9. Ikonik and its owners, employees, contractors, agents, and any person who volunteers, or is an apprentice at an Ikonik facility (collectively, "Staff"), will not discriminate against any individual on the basis of disability, including HIV or AIDS, in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations offered at Ikonik facilities, consistent with Title III of the ADA, 42 U.S.C. § 12182, and its implementing regulation, 28 C.F.R. Part 36.

10. Ikonik shall remove any reference to HIV or AIDS in its Tattoo and Piercing Consent Forms and agrees not to ask any pre-service questions in the future relating to HIV status.

11. Within 30 days of the Effective Date of this Agreement, Ikonik will submit a non-discrimination policy to the United States for its review and approval. The non-discrimination policy will state that Ikonik will not inquire about or turn away persons with disabilities, including persons who have HIV or AIDS. Once the policy has been approved by the United States, Ikonik will adopt, maintain, and enforce the non-discrimination policy for the duration of this Agreement. This policy statement will be conspicuously posted in the reception area of each current and future Ikonik location, and linked from the front page of Ikonik's website.

12. Within 60 days of the Effective Date of this Agreement, and annually thereafter for the duration of this Agreement, Ikonik will provide all Staff with training on Ikonik's non-discrimination policy, as described in paragraph 11, information about permissible disability-related inquiries under Title III, and training about HIV/AIDS and disability discrimination. Within 30 days of the Effective Date of this Agreement, Ikonik will submit training materials to the United States for its review and approval, which will not be unreasonably withheld. All training materials required by this paragraph that are revised or created after the Effective Date of this Agreement shall be consistent with the provisions of this Agreement, and approved in advance by the United States.

13. Ikonik will ensure that all new Staff receive the training referenced in paragraph 12 within 30 days of their start date.

14. During the term of the Agreement, Ikonik will log and track each time a customer discloses their HIV status to any Ikonik Staff. The log shall include the following information for each person who discloses their HIV status: (1) the date and approximate time of the initial request/encounter with the person or their designee; (2) the type of service the person was seeking; (3) the name(s) of Staff who interacted with the person; (4) whether the requested service or another service was provided to the person; and (5) if no services were provided, written documentation of the reason(s) services were not provided.

### **III. MONETARY RELIEF**

15. Pursuant to 42 U.S.C. § 12188(b)(2), Ikonik will pay four thousand four hundred dollars (\$4,400) in compensation to the complainant. Ikonik shall pay \$2,000 by check within 14 days of the Effective Date of this Agreement, care of the U.S. Attorney's Office, 1801 California Street, Suite 1600, Denver, Colorado 80202. Ikonik will then pay \$800 per month for three months, with the first payment to be made on June 1, 2022.

16. Within 10 days of payment in full of the amount set forth in paragraph 15, the United States will send the release form attached hereto as Attachment A to the complainant. Within 10 days of receiving the executed release form back from the complainant, the United States will send a copy to Ikonik.

### **IV. ENFORCEMENT**

17. **Effective Date.** The Effective Date of this Agreement is the date of the last signature below.

18. **Reporting.** During the term of this Agreement, Ikonik will provide a report annually to the United States, on the anniversary of the Effective Date of the Agreement, regarding its responsibilities pursuant to paragraphs 10 through 14 of this Agreement. Ikonik will send each report to Assistant U.S. Attorney Zeyen Wu at zeyen.wu@usdoj.gov, or an individual designated by the United States. Each report will include: (1) the log described in paragraph 14; (2) information about training of Staff that occurred (by date and the content of the training)

pursuant to paragraphs 12 and 13; (4) documentation concerning any ADA-related complaints received by Ikonik; and (5) any ADA-related policies that Ikonik adopted.

19. **Monitoring.** Ikonik agrees to cooperate with the United States' requests for additional documentation regarding compliance with this Agreement or other complaints under the ADA.

20. **Lack of Waiver.** Failure by the United States to enforce any particular provision of this Agreement is not a waiver of the United States' right to enforce the provisions of this Agreement.

21. **Other Violations.** This Agreement shall have no impact upon the rights or claims of any other individual not identified in this Agreement who has made, or may make, claims against Ikonik for potential violations of the ADA. This Agreement is not intended to remedy any potential violations of the ADA or any other law, other than those allegations specifically addressed in paragraph 2 of this Agreement. Nothing in this Agreement shall preclude the United States from filing a separate action under the ADA for any alleged violation not covered by this Agreement. This Agreement does not affect Ikonik's continuing responsibility to comply with all aspects of the ADA.

22. **Term of Agreement.** This Agreement shall be three years from the Effective Date.

23. **Voluntary Agreement.** Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

24. **Complete Agreement.** This Agreement constitutes the entire agreement between the United States and Ikonik regarding the allegations described in paragraph 2, and no prior or contemporaneous statement, promise, or agreement, either written or oral, made by any Party or agents of any Party, that is not contained in this Agreement, including any attachments, are enforceable.

25. **Modification.** This Agreement can only be modified by mutual written agreement of the Parties.

26. **Successors.** This Agreement is final and binding on Ikonik and its principals, agents, executors, administrators, representatives, successors in interest, beneficiaries, assigns, and legal representatives thereof. Ikonik has a duty to so inform any such successor in interest of this Agreement.

27. **Signatories Bind Parties.** The persons signing on behalf of each Party represent that they are authorized to bind their respective Parties to this Agreement.

28. **Severability.** If any term of this Agreement is determined by any court of competent jurisdiction to be unenforceable, the other terms shall nonetheless remain in full force and effect; provided, however, that if the severance of any such provision materially alters the rights or obligations of the Parties, they shall engage in good faith negotiations in order to adopt

mutually agreeable amendments to this Agreement as may be necessary to restore the Parties' rights and obligations as closely as possible to those initially agreed upon.

29. **Enforcement.** In the event that the United States determines Ikonik is in breach of this Agreement, the United States will notify Ikonik in writing, and the Parties agree to negotiate in good faith to resolve the breach for at least 30 days after Ikonik is notified. If the issue(s) are not resolved, the United States may seek judicial enforcement of this Agreement in U.S. District Court for the District of Colorado.

For Ikonik Ink Tattoo:

By: /s/ \_\_\_\_\_  
Isacc Diaz  
Owner  
Ikonik Ink Tattoo

Date: 5/18/2022 \_\_\_\_\_

For the United States:

COLE FINEGAN  
United States Attorney

By: /s/ \_\_\_\_\_  
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Date: \_5/18/2022\_\_\_\_\_