

**SETTLEMENT AGREEMENT BETWEEN THE UNITED STATES OF AMERICA
AND HELPING HANDS CAREGIVERS LLC
UNDER THE AMERICANS WITH DISABILITIES ACT
DJ #202-85-136**

BACKGROUND

1. The parties to this Settlement Agreement are the United States of America and Helping Hands Caregivers LLC (“Helping Hands”).
2. This matter is based upon a complaint filed with the United States Department of Justice, in which a Complainant alleged that Helping Hands discriminated against him on the basis of his disability in violation of Title III of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12181-12189. Specifically, the Complainant alleges that Helping Hands refused to provide in-home caregiving services to him because he has HIV. Helping Hands denies the allegations and further denies that ADA Title III applies to its in-home caregiving services.
3. The parties have reached an agreement that it is in the parties’ best interests, and the United States believes that it is in the public interest, to resolve this dispute. The parties have therefore voluntarily entered into this Agreement, agreeing as follows:

TITLE III COVERAGE AND DETERMINATIONS

4. The Attorney General is responsible for administering and enforcing title III of the ADA, 42 U.S.C. §§ 12181-12189, and the relevant regulation implementing title III, 28 C.F.R. Part 36.
5. The Complainant, an individual with HIV, has a physical impairment that substantially limits one or more major life activities, including the functions of the immune system, which is a major bodily function. Accordingly, he has a disability within the meaning of 42 U.S.C. § 12102 and 28 C.F.R. §§ 36.105; 36.105(d)(2)(iii)(J) (“(HIV) infection substantially limits immune function”).
6. Helping Hands is a Wisconsin corporation with its principal place of business located at 509 West Walnut Street, Green Bay, WI 54303. Helping Hands offers in-home caregiving services in Northeastern Wisconsin.

7. The United States alleges that Helping Hands is a public accommodation within the meaning of 42 U.S.C. § 12181(7)(F) because the business affects commerce and its facilities are places of public accommodation, specifically service establishments. Accordingly, the United States alleges that Helping Hands, which owns, operates, leases, or leases to places of public accommodation, is a public accommodation subject to the requirements of title III of the ADA. 28 C.F.R. §§ 36.104; 36.201(a). Helping Hands denies that it is a place of public accommodation within the meaning of ADA Title III.
8. The ADA prohibits discrimination on the basis of disability at a place of public accommodation in the full and equal enjoyment of the entity's goods and services. 42 U.S.C. § 12182(a); 28 C.F.R. § 36.201. Public accommodations may not subject an individual on the basis of disability, directly or through contractual, licensing, or other arrangements, to a denial of the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of the entity. 42 U.S.C. § 12182(b)(1)(A)(i); 28 C.F.R. § 36.202(a).
9. The ADA further prohibits public accommodations from imposing or applying eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered. 28 CFR § 36.301(a). A public accommodation may impose legitimate safety requirements that are necessary for safe operation. Safety requirements must be based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities. 28 CFR § 36.301(b).
10. Ensuring that public accommodations that provide health services do not discriminate on the basis of disability is an issue of general public importance. 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, 503, 506.
11. As a result of its investigation, the United States alleges:

- a. Beginning in January 2019, Complainant sought in-home caregiving services from Helping Hands.
 - b. As part of the intake process, the Complainant self-identified as having HIV.
 - c. On the basis of that information, Helping Hands caregivers refused to provide services to the Complainant, and, after providing just a few weeks of care, on February 18, 2019, Helping Hands informed the Complainant that they would no longer provide services to him.
12. The United States alleges that Helping Hands discriminated against the Complainant by denying him the opportunity to equally participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of Helping Hands on the basis of HIV, in violation of 42 U.S.C. § 12182 and 28 C.F.R. § 36.201. Helping Hands denies this allegation, and further denies that ADA Title III applies in this instance.
13. The United States alleges that Complainant is an aggrieved person pursuant to 42 U.S.C. § 12188(b)(2)(B). Helping Hands deines the applicability of this law to its home health care services.

ACTIONS TO BE TAKEN BY HELPING HANDS

14. Helping Hands will not discriminate against any individual on the basis of disability, including HIV, in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations offered at any of its current or future locations.
15. Within 21 days of the effective date of this Agreement, Helping Hands will adopt and implement a non-discrimination policy approved by the United States (the “Non-Discrimination Policy”), and Helping Hands will maintain and enforce the Non-Discrimination Policy for the duration of this Agreement.
16. Within 120 days of implementing the Non-Discrimination Policy, and annually during the duration of the agreement, as well, Helping Hands will provide non-discrimination training to all Helping Hands employees and contractors who are involved with caregiving services, including training about HIV and discrimination on the basis of disability in general.

17. In addition, Helping Hands will ensure that all new employees and contractors who are involved with intake and/or providing care receive the training referenced in paragraph 16 as a component of new employee training and orientation through the duration of this Agreement. Helping Hands shall provide the training to such new employees and contractors within 45 days of their start date.
18. All training manuals or written or electronic materials dealing with Helping Hands' policies and practices used in the trainings required in paragraphs 16 and 17 or created or substantively revised after the effective date of this Agreement shall be consistent with the provisions of this Agreement, and, if requested, approved in advance by counsel for the United States. Approval will not be unreasonably withheld.
19. Helping Hands shall create and maintain a log that documents the name of each individual who participates in the trainings required in paragraphs 16 and 17, his or her title, and the date he or she participated in the training(s). This log may be kept in electronic format. Copies of such log shall be provided to the United States within 21 days of any written request for it.
20. In exchange for a release to be executed by the Complainant, Helping Hands will pay \$10,000.00 to the Complainant within 120 days of receiving said release to resolve claims for the alleged harm he claims with respect to Helping Hands (including, but not limited to, claims alleging emotional distress, pain, and suffering). The \$10,000 shall be paid in 4 installments of \$2,500. The first payment of \$2,500 shall be made within 30 days of receiving Complainant's release; the second payment shall be made within 60 days; the third payment within 90 days and the fourth within 120 days. Helping Hands shall provide written notification to counsel for the United States, including copies of the checks, when it has completed the actions described in this paragraph.
21. For the duration of this agreement and within 21 days of receipt of any written or oral complaint made to Helping Hands alleging discrimination based on HIV, Helping Hands shall send written notification to counsel for the United States with a copy of any such written complaint (or, if an oral complaint was made, a description of the oral complaint) and a complete copy of Helping Hands' response.
22. Helping Hands will notify the United States in writing when it has completed the actions described in paragraphs 16-18. Notification of

Helping Hands' completion of the training described in paragraph 17-18 will be provided to the United States on an annual basis within 60 days of the end of each calendar year covered by this Agreement. If any issues arise that affect the anticipated completion dates set forth in paragraphs 15-21, Helping Hands will immediately notify the United States of the issue(s), and the parties will attempt to resolve those issues in good faith.

OTHER PROVISIONS

23. In consideration for the Agreement set forth above, the United States will close its investigation and will not pursue a civil action alleging discrimination based on the allegations and matters set forth in paragraph 11. However, the United States may review Helping Hands' compliance with this Agreement at any time. If the United States believes that this Agreement, or any portion of it has been violated, it may institute a civil action in the appropriate U.S. District Court to enforce this Agreement and/or any claims it may assert under Title III of the ADA.
24. Failure by the United States to enforce any provision of this Agreement is not a waiver of its right to enforce any provision of this Agreement.
25. If any term of this Agreement is determined by any court to be unenforceable, the other terms of this Agreement 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, the United States and Helping Hands shall engage in good faith negotiations in order to adopt mutually agreeable amendments to this Agreement as may be necessary to restore the parties as closely as possible to the initially agreed upon relative rights and obligations.
26. This Agreement is binding on Helping Hands, including all principals, agents, executors, administrators, representatives, employees, and beneficiaries. In the event that Helping Hands seeks to sell, transfer, or assign substantially all of its assets or a controlling membership position in Helping Hands during the term of this Agreement, then, as a condition of such sale, transfer, or assignment, Helping Hands will obtain the written agreement of the successor, buyer, transferee, or assignee to all obligations remaining under this Agreement for the remaining term of this Agreement.
27. The signatory for Helping Hands represents that they are authorized to bind Helping Hands to this Agreement.

28. This Agreement constitutes the entire agreement between the United States and Helping Hands on the matters raised herein, 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 written agreement, including any attachments, is enforceable. This Agreement can only be modified by mutual written agreement of the parties.
29. This Agreement pertains only to this matter and does not constitute a finding by the United States that Helping Hands is in full compliance with the ADA. This Agreement is not intended to remedy any other potential violations of the ADA or any other law that is not specifically addressed in this Agreement, including any other claims by others for discrimination on the basis of HIV. Nothing in this Agreement relieves Helping Hands of its obligation to fully comply with the requirements of the ADA, if applicable, or other applicable laws.
30. This Agreement shall be a public document. A copy of this Agreement may be made available to the public by either party.
31. The paragraph headings in this Agreement are for convenience only and will not be deemed to affect in any way the language or meaning of the provisions to which they refer.
32. Helping Hands shall not discriminate or retaliate against any person because of their participation in this matter.

EFFECTIVE DATE/TERMINATION DATE

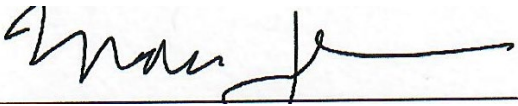
33. The effective date of this Agreement is the date of the last signature below.
34. The duration of this Agreement will be two years from the effective date.

AGREED AND CONSENTED TO:

THE UNITED STATES OF AMERICA

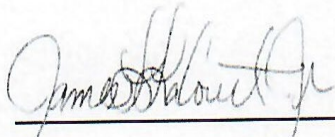
RICHARD G. FROHLING
United States Attorney

DATED: 9/7/22


BY: 
MAURA S. FLAHERTY
Assistant United States Attorney
Eastern District of Wisconsin

Helping Hands Caregivers LLC

DATED: 9/15/22

BY: 
James M. Petesch
Counsel for Helping Hands Caregivers LLC

DATED: 9/15/22

BY: 
Peter J. Petesch
Counsel for Helping Hands Caregivers LLC