

**SETTLEMENT AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA
AND MIDTOWN NEUROLOGY, P.C.**

PARTIES

1. The parties to this Settlement Agreement are the United States of America and Midtown Neurology, P.C., a Georgia professional corporation (hereinafter "Midtown Neurology" or the "Practice").
2. The United States Department of Justice ("United States") is the federal agency responsible for administering and enforcing Title III of the Americans with Disabilities Act of 1990, as amended ("ADA"), 42 U.S.C. §§ 12181 - 12188.

BACKGROUND

3. This matter was initiated by a complaint filed with the United States against the Practice, alleging violations of Title III of the ADA, 42 U.S.C. §§ 12181 – 12188 and its implementing regulation at 28 C.F.R. § 36.503(a). Specifically, the Complainant, who is deaf, alleged that, during some of her visits to the Practice, the Practice failed to provide a qualified sign language interpreter when necessary to ensure effective communication. The Practice disputes these allegations and strenuously denies that it failed to comply with any requirements of Title III of the ADA or any other legal requirement. The Practice fully cooperated with the government's investigation in this matter. Nothing in this Agreement is or shall be held out to be an admission or concession by the Practice of any wrongdoing of any kind.
4. Complainant is a person who is deaf and relies upon American Sign Language as her primary means of communication. Complainant is an individual with a disability within the meaning of the ADA. 42 U.S.C. § 12102; 28 F.F.R. § 36.104.
5. The Attorney General of the United States is authorized to investigate alleged violations of Title III of the ADA, and to bring a civil action in federal court if the United States is unable to secure voluntary compliance in any case that involves a pattern or practice of discrimination or that raises issues of general public importance. 42 U.S.C. § 12188(b).
6. The Practice is a professional corporation providing medical services and is located in Atlanta, Georgia. The Practice is a "public accommodation" within the meaning of Title III of the ADA, 42 U.S.C. § 12181(7)(F), and its implementing regulation at 28 C.F.R. § 36.104.
7. The ADA prohibits public accommodations from discriminating against an individual on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations, and requires public accommodations to provide auxiliary aids and services when necessary to ensure effective communication. 42 U.S.C. § 12182(a); 12182(b)(2)(A)(iii); 28 C.F.R. § 36.201(a); §36.303.

8. The Practice is committed to full compliance with federal and state laws barring discrimination on the basis of disability. The Practice recognizes its legal obligations to ensure effective communication with persons who are deaf or hard of hearing. The Practice is committed to proactively assessing communication needs as well as providing the highest quality of services for all who use them, including persons who are deaf or hard of hearing. Sign language interpreters and other auxiliary aids and services can serve an important role in ensuring equal access to the Practice's services for deaf and hard of hearing individuals.
9. The United States and the Practice each have an interest in working to ensure effective communication between deaf and hard of hearing individuals and the employees of the Practice. In pursuit of this shared interest and without resolving the factual and legal dispute regarding the lawfulness of the actions taken by the Practice, the Parties have committed to a series of arrangements and procedures that the Practice has agreed to put into place pursuant to this Agreement. The Practice fully embraces these arrangements and procedures, which are spelled out in detail below, as part of its ongoing commitment to the needs of persons with disabilities, and reiterates its intention to comply with all provisions of the Settlement Agreement. Accordingly, the Practice has determined that there is no need to litigate the complaint received by the United States Attorney's Office to a conclusion, and it has jointly agreed to the final disposition of this action in its entirety by consent to the specific terms set forth herein.

DEFINITIONS

10. The term "auxiliary aids and services" includes qualified interpreters on-site or through video remote interpreting (VRI) services; note takers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing. 28 C.F.R. § 36.303.
11. The term "qualified interpreter" means an interpreter who, via a video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include, for example, sign language interpreters, oral translators, and cued-language translators. 28 C.F.R. § 36.104.
12. For purposes of this Agreement, the term "Patient" shall be broadly construed to include any individual who is deaf or hard of hearing and who is seeking or receiving health care services from the Practice.
13. The term "Companion" means a person who is deaf or hard of hearing and is a family member, friend, or associate of an individual seeking access to, or participating in, the goods, services, facilities, privileges, advantages, or accommodations of a public accommodation, who, along with such individual, is an appropriate person with whom the public accommodation should communicate.

REMEDIAL ACTION

14. The Practice denies that it has violated the ADA and believes that its current policies and practices are consistent with the ADA. The Practice's agreement to the following remedial actions is neither an admission that each of these precise actions are required by the ADA nor that the actions specified herein were not already in place at the Practice prior to the execution of this Agreement.
15. Consistent with the ADA, the Practice will not discriminate against any individual, including both Patients and Companions, on the basis of disability in the full and equal enjoyment of the Practice's goods, services, facilities, privileges, advantages, or accommodations by excluding or providing unequal treatment to persons with disabilities. 42 U.S.C. § 12182.
16. Immediately as of the effective date of this Agreement, the Practice will provide to individuals who are deaf or hard of hearing appropriate auxiliary aids and services, including qualified interpreters, where necessary to ensure effective communication unless an undue burden or a fundamental alteration would result.
17. The determination of whether to provide auxiliary aids or services, which aids are appropriate, and the timing, duration, and frequency with which they will be provided, will be made by the Practice in consultation with the person with a disability. In making these determinations, the Practice will take into account all relevant facts and circumstances, including without limitation the following:
 - a. the nature, length, complexity, and importance of the communication at issue;
 - b. the individual's communication skills and knowledge;
 - c. the Patient's health status or changes thereto; and
 - d. the Patient's and/or Companion's request for, or statement of, need for an interpreter.
18. Examples of circumstances when it *may* be necessary to provide interpreters include, but are not limited to:
 - a. Discussing a patient's symptoms and medical condition, medications, and medical history;
 - b. Explaining medical conditions, treatment options, tests, medications, surgery and other procedures;
 - c. Providing a diagnosis and recommendation for treatment;
 - d. Communicating with a patient during treatment, testing procedures, and during physician's rounds;
 - e. Obtaining informed consent for treatment;
 - f. Providing instructions for medications, post-treatment activities and follow-up treatments.
19. The Practice shall not retaliate against or coerce in any way any person who made, or is making, a complaint according to the provisions of this Agreement or exercised, or is exercising, his or her rights under this Agreement or the ADA. *See* 42 U.S.C. §12203.

20. The determination of whether to provide auxiliary aids or services, which aids are appropriate, and the timing, duration, and frequency with which they will be provided, must be made at the time an appointment is scheduled for the Patient (if the Patient's deaf or hearing impaired status is known or reasonably should be known to the Practice) or on the arrival of the Patient or Companion at the Practice, whichever is earlier. The Practice will perform a communication assessment as part of each initial Patient assessment, consulting with the Patient and document the results in the Patient's medical chart. In the event that communication is not effective, the Practice will reassess, in consultation with the Patient, Companion as applicable, which auxiliary aids and services are needed to ensure effective communication, and document the results accordingly.
21. If a Patient or a Companion is determined to need auxiliary aids or services and has an ongoing relationship with the Practice, with respect to each of these subsequent visits, the Practice will continue to provide the appropriate auxiliary aids or services to the Patient or Companion without requiring a separate request for the appropriate auxiliary aids or services by the Patient or Companion for each visit. The Practice will keep appropriate records that reflect the ongoing provision of auxiliary aids and services to Patients and Companions, such as notations in a Patient's medical charts.
22. If a Patient and/or Companion does not request auxiliary aids or services, but the Practice has reason to believe that such auxiliary aids or services would assist the Practice and the Patient in rendering medical services to the Patient, the Practice will inform the Patient and/or Companion that auxiliary aids and services are available free of charge. The Practice will document its provision of this information to the Patient.
23. The Practice will maintain a written policy explaining that it will provide auxiliary aids and services, including qualified interpreters, where such auxiliary aids and services are needed to ensure effective communication with Patients and Companions.
24. Within thirty (30) days of the effective date of this Agreement, the Practice will establish and maintain a list of qualified interpreters or interpreter agencies that employ or arrange the services of qualified interpreters to ensure that qualified interpreter services are available.
25. Immediately, as of the effective date of this Agreement, the Practice will maintain a log of each request for an auxiliary aid or service. The log will record the time and date of the request, the name of the individual who made the request, the name of the individual for whom the auxiliary aid or service is being requested (if different from the requestor), the specific auxiliary aid or service requested, the time and date of the scheduled appointment (if a scheduled appointment was made), the time and date the auxiliary aid or service was provided, the type of auxiliary aid or service provided if different from what was requested, and, if applicable, a statement that the requested auxiliary aid or service was not provided.
26. Within sixty (60) days of the effective date of this Agreement, and annually thereafter, the Practice will provide mandatory ADA training for all its physicians, employees, staff members, and other individuals affiliated with the Practice who might interact with Patients and/or Companions. Such training will be sufficient in duration and content to train the individual in:

- a. how to promptly identify communication needs of Patients and Companions who are deaf or hard of hearing;
 - b. recommended and required charting procedures governing requests for auxiliary aids and services;
 - c. types of auxiliary aids and services available at the Practice;
 - d. the proper use and role of qualified interpreters;
 - e. the proper use and role of video remote interpreting services, if applicable;
 - f. making and receiving calls through TTYs and the relay service;
 - g. notification procedures to appropriate staff and physicians in the Practice when Patients and Companions who might need auxiliary aids or services schedule appointments, tests, therapies or other health care services at the Practice;
 - h. any other applicable requirements of this Agreement.
 - i. how to secure qualified interpreter services as quickly as possible when necessary
27. The Practice will hire an outside group to conduct the initial trainings described in paragraph 26 of this Agreement. For the required annual trainings thereafter, the Practice may conduct the trainings without the assistance of an outside group, but must sufficiently update and/or create training materials in order to ensure the trainings include any new developments to the ADA and its requirements. The Practice may also videotape the initial trainings for annual trainings thereafter.
28. All employees who receive incoming telephone calls on the Practice phones from the public will receive instructions by the Practice on using TTYs or relay services to make, receive, and transfer telephone calls. Such training must be provided within 60 days of the effective date of this Agreement and will be conducted annually thereafter.
29. The Practice will provide the training specified above in paragraphs 26 and 28 to new employees within thirty (30) days after the commencement of their services for the Practice.
30. Five (5) months after the effective date of this Agreement, and annually thereafter during the term of this Agreement, the Practice will provide a certification to the United States that the required trainings described in paragraphs 26 and 28 were completed.

COMPENSATORY RELIEF AND CIVIL PENALTIES

31. Within thirty (30) days of the effective date of this Agreement, the Practice will send by Federal Express or certified mail, return receipt requested, a check in the amount of ten thousand (\$10,000.00) dollars made out to the Complainant. The check shall be mailed to: Office of the United States Attorney, 75 Spring Street, S.W., Suite 600, Atlanta, GA 30303, Attn: Aileen BellHughes.

32. Within sixty (60) days of the entry of this Agreement, the Practice will send by Federal Express or certified mail, return receipt requested, a second check in the amount of two thousand (\$2,000) dollars made out to the United States of America. The check shall be mailed to: Office of the United States Attorney, 75 Spring Street, S.W., Suite 600, Atlanta, GA 30303, Attn: Aileen BellHughes.
33. Within ninety (90) days of the entry of this Agreement, the Practice will send by Federal Express or certified mail, return receipt requested, a second check in the amount of ten thousand (\$10,000.00) dollars made out to the Complainant. The check shall be mailed to: Office of the United States Attorney, 75 Spring Street, S.W., Suite 600, Atlanta, GA 30303, Attn: Aileen Bell Hughes.
34. Within ten (10) days of the effective date of this Agreement, the United States will deliver to counsel for the Practice, a release signed by the Complainant. The release will be in the form of Attachment A.

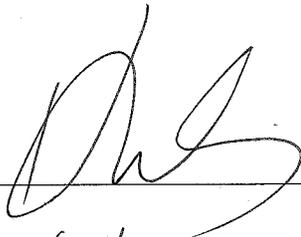
ENFORCEMENT

35. Five (5) months after the effective date of this Agreement, and annually thereafter during the term of this Agreement, the Practice will provide the log described in paragraph 26 to the United States.
36. During the term of this Agreement, the Practice will notify the United States if any individual brings any lawsuit, complaint, charge, or grievance alleging the Practice failed to provide any auxiliary aids or services to any individual with a disability. Such notification must be provided in writing via a method that can provide tracking and confirmed delivery (i.e., FedEx, UPS, Certified Mail, etc.) within thirty (30) days of the day when the Practice has received oral or written notice of the allegation and will include, at a minimum, the nature of the allegation, the name of the individual making the allegation, and any documentation possessed by the Practice or any of its agents or representatives relevant to the allegation.
37. In consideration of the terms of this Agreement, the United States agrees to refrain from undertaking further investigation or filing a civil suit in this matter, except as provided in paragraph 40 below. The United States also agrees to obtain a release of liability from the Complainant.
38. The United States may review compliance with this Agreement at any time but must provide reasonable notice and time to provide requested information and/or records. If the Practice fails to comply in a timely manner with any requirement of this Agreement without obtaining advance written agreement with the United States for a modification of the relevant terms, the United States will so notify the Practice in writing and will attempt to resolve the issue or issues in good faith. If the United States is unable to reach a satisfactory resolution of the issue or issues raised within thirty (30) days of the date it provides notice to the Practice, it may institute a civil action in federal district court to enforce the terms of this Agreement and may, in such action, seek any relief available under law. Nothing in this agreement shall abridge any rights of the Practice to defend itself if any such actions were to be brought, nor does the Agreement prevent the Practice from pursuing available actions in appropriate courts to enforce its rights and/or to demonstrate its compliance under this Agreement.
39. For purposes of the immediately preceding paragraph, it is a violation of this Agreement for the Practice to fail to comply in a timely manner with any of the requirements in this Agreement without obtaining advance written agreement with the United States for an extension of the relevant time frame imposed by the Agreement.

40. Failure by the United States to enforce this Agreement with regard to any deadline or any other provision herein shall not be construed as a waiver of the United States' right to enforce other deadlines and provisions of this Agreement.
41. This Agreement shall be binding on the United States and on the Practice and its agents, employees, shareholders, partners, and associates. In the event the Practice seeks to transfer or assign all or part of its interest in any entity covered by this Agreement, and the successor or assignee intends to carry on the same or similar use of the entity, as a condition of sale, the Practice shall obtain the written accession of the successor or assign to any obligations remaining under this Agreement for the remaining term of this Agreement.
42. This Agreement constitutes the entire agreement between the United States and the Practice on the matters raised herein, 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 continuing responsibility of the Practice to comply with all aspects of the ADA.
43. This Agreement will remain in effect for three (3) years from its effective date.
44. The person signing this Agreement for the Practice represents that he is authorized to bind the Practice to this Agreement.
45. The effective date of this Agreement is the date of the last signature below.

For Midtown Neurology, P.C.

By: _____



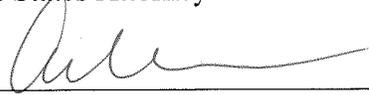
Date: _____

6/20/13

For the United States of America:

SALLY QUILLIAN YATES
United States Attorney

By: _____



AILEEN BELLHUGHES
Assistant United States Attorney
75 Spring Street, Suite 600
Atlanta, GA 30303
(404) 581-6133

Date: _____

4/24/13