

**SETTLEMENT AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA
AND
CANVAS NAILS & SPA LLC
UNDER THE AMERICANS WITH DISABILITIES ACT
DJ # 202-8-365
USAO No. 2022V00826**

I. BACKGROUND

1. The parties to this Settlement Agreement are the United States of America and Canvas Nails & Spa LLC (“Canvas Nails”).
2. This matter was initiated by a prospective customer (“Complainant”), who filed a complaint with the United States Department of Justice, alleging that Canvas Nails discriminated against the Complainant on the basis of her disability, in violation of Title III of the Americans with Disabilities Act of 1990, as amended (“ADA”), 42 U.S.C. §§ 12181-12189. Specifically, the Complainant alleges that Canvas Nails refused to provide her a wet pedicure because she was unable to transfer from her motorized wheelchair to a salon chair.
3. The parties agree that it is in their best interest, and the United States believes that it is in the public interest, to resolve this dispute. The parties have therefore voluntarily entered into this Settlement, agreeing as follows:

II. TITLE III COVERAGE AND DETERMINATIONS

4. The Attorney General is responsible for 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 has a physical impairment that substantially limits one or more major life activities, and uses a motorized wheelchair to aid in mobility. Accordingly, she is a person with a disability within the meaning of 42 U.S.C. § 12102 and 28 C.F.R. § 36.105.
6. Canvas Nails is located at 2080 N. Dobson Road, Suite #2, Chandler, Arizona 85224.
7. Canvas Nails is a public accommodation within the meaning of the ADA, 42 U.S.C. § 12182(a), 28 C.F.R. § 36.104, because it owns, leases, leases to, or operates a place of public accommodation, a nail salon. *See* 42 U.S.C. § 12181(7); 28 C.F.R. § 36.104(6). It is therefore subject to Title III of the ADA, 42 U.S.C. §§ 12181-12189, and its implementing regulation, 28 C.F.R. Part 36.
8. Under Title III of the ADA, no individual shall be discriminated against on the basis of disability, in the full and equal enjoyment of the goods, services, facilities, privileges, and accommodations of any place of public accommodation by any person who owns,

operates, leases, or leases to a place of public accommodation. 42 U.S.C. § 12182(a); 28 C.F.R. § 36.201(a).

9. A public accommodation must make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii); 28 C.F.R. § 36.302(a). Such reasonable modifications may include allowing a customer to receive services without transferring from their motorized wheelchair to a salon chair.
10. Ensuring that nail salons 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 and to bring a civil action in federal court in any case that involves a pattern or practice of discrimination or that raises an issue of general public importance. 42 U.S.C. § 12188(b).
11. As a result of its investigation, the United States has determined the following:
 - a. The Complainant is a person with a disability who uses a motorized wheelchair to aid in mobility.
 - b. On or about September 6, 2022, the Complainant called Canvas Nails to schedule a pedicure. Canvas Nails told the Complainant she would need to come with someone who could assist with transferring her to a salon chair. When the Complainant arrived for the appointment without someone to assist her with transferring to a salon chair, Canvas Nails refused to provide her a wet pedicure. Complainant left without being served because she wanted a wet pedicure.
 - c. Complainant was very upset, embarrassed, and felt worthless because other people in the salon witnessed her unsuccessful attempt to get a wet pedicure. Complainant has not visited a nail salon since this incident because she feels uncomfortable and is afraid she will again be denied full and equal services.
12. The United States has determined that Canvas Nails discriminated against the Complainant by denying her the full and equal enjoyment of its nail services because she uses a motorized wheelchair, in violation of 42 U.S.C. § 12182 and 28 C.F.R. § 36.201(a).
13. The Complainant is an aggrieved person pursuant to 42 U.S.C. § 12188(b)(2)(B).

III. ACTIONS TO BE TAKEN BY CANVAS NAILS

14. Canvas Nails will not discriminate against any individual on the basis of disability, including individuals who use a wheelchair, in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations offered at the current or any future Canvas Nails locations, consistent with Title III of the ADA, 42 U.S.C. § 12182, and its implementing regulation, 28 C.F.R. Part 36.
15. Within 30 days of the effective date of this Agreement, Canvas Nails will adopt the following policy:

Canvas Nails does not discriminate and provides services to persons with disabilities, including persons who use wheelchairs. Canvas Nails will modify its services as necessary to accommodate individuals with disabilities, unless the modification is unreasonable and would fundamentally alter the nature of Canvas Nails' services.
16. Canvas Nails will 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 Canvas Nails facility, on the company's webpage, currently located at <https://canvasnailsandspa.com>, and on the company's Facebook page, currently located at <https://www.facebook.com/canvasnailsandspa>, for the duration of this Agreement.
17. Within 60 days of the effective date of this Agreement, and then again one year later, Canvas Nails will provide the nondiscrimination policy to each employee, contractor, staff, and agent (collectively, "Staff"), and discuss with them wheelchair users and disability discrimination in general, in the language(s) that Staff understand.
18. In addition, Canvas Nails will ensure that all new employees, contractors, and agents receive the nondiscrimination policy and have it explained to them within 30 days of their start date.
19. Canvas Nails shall maintain, for the duration of this Agreement, a record of each request for modification it receives from customers with disabilities where Canvas Nails declined to provide the requested modification, along with the basis for refusal. Canvas Nails agrees to make this record available to the United States upon request.
20. Within ten days after receiving the Complainant's signed release (a blank release form is attached as **Exhibit A**), Canvas Nails will send a check as follows:
 - a. A check for \$500 made out to the Complainant. This check is compensation to the Complainant pursuant to 42 U.S.C. § 12188(b)(2)(B) for the effects of the discrimination

and the harm she has endured (including emotional distress and pain and suffering) as a result of Canvas Nails' denial of the full and equal enjoyment of its nail services.

21. The check shall be mailed or hand-delivered to:

Bill C. Solomon
United States Attorney's Office
40 North Central Avenue, Suite 1800
Phoenix, Arizona 85004

22. Canvas Nails will not withhold taxes from the monetary award, and the Complainant will accept responsibility for taxes due and owing, if any, on the monetary award. Canvas Nails will issue to the Complainant an IRS Form 1099 reflecting the amount paid to her.

23. Within seven days of receipt of any complaint related to any alleged violations of the ADA or related to an action which, if substantiated, would be disability-based discrimination, Canvas Nails shall send written notification to counsel for the United States with a copy of any such complaint (or, if an oral complaint was made, a description of the complaint) and a complete copy of Canvas Nails' response, if any.

24. If any issues arise that affect any of the anticipated completion dates set forth in paragraphs 14-22, Canvas Nails will immediately notify the United States of the issue(s), and the parties will attempt to resolve those issues in good faith.

IV. OTHER PROVISIONS

25. In consideration for the Agreement set forth above, the United States will close its investigation of Canvas Nails and will not institute a civil action at this time alleging discrimination based on the determinations set forth in paragraph 10. However, the United States may review Canvas Nails' compliance with this Agreement or Title III of the ADA at any time. If the United States believes that Title III of the ADA, this Agreement, or any portion of it has been violated, it may commence a civil action in the appropriate U.S. District Court to enforce this Agreement and/or Title III of the ADA.

26. Failure by the United States to enforce any provision of this Agreement is not a waiver of its right to enforce any provisions of this Agreement.

27. 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 Canvas Nails 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.

- 28. This Agreement is binding on Canvas Nails, including all principals, owners, agents, executors, administrators, representatives, employees, successors in interest, beneficiaries, and assignees.
- 29. This Agreement constitutes the entire agreement between the United States and Canvas Nails 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.
- 30. This Agreement does not constitute a finding by the United States that Canvas Nails 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 for discrimination on the basis of wheelchair use. Nothing in this Agreement relieves Canvas Nails of its obligation to fully comply with the requirements of the ADA.
- 31. Canvas Nails shall not discriminate or retaliate against any person because of his or her participation in this matter.

V. EFFECTIVE DATE/TERMINATION DATE

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

FOR CANVAS NAILS

DocuSigned by:

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TOAN LAI
 Managing Member
 Canvas Nails & Spa LLC
 2080 North Dobson Road, Suite #2
 Chandler, Arizona 85224

2/29/2024

 Date

DocuSigned by:
Jonathan A. Dessaules
F79FC5CC614E4F6...

JONATHAN A. DESSAULES
Attorney for Canvas Nails & Spa LLC

2/29/2024

Date

FOR THE UNITED STATES OF AMERICA

GARY M. RESTAINO
United States Attorney
District of Arizona



Digitally signed by WILLIAM SOLOMON
Date: 2024.03.12 08:31:08 -07'00'

BILL C. SOLOMON
Assistant U.S. Attorney
United States Attorney's Office
40 North Central Avenue, Suite 1800
Phoenix, Arizona 85004

3/12/2024

Date

Exhibit A – Release

I, _____, execute this Release for the benefit of Canvas Nails & Spa LLC, located at 2080 N. Dobson Road, Suite #2, Chandler, Arizona 85224 (“Canvas Nails”).

WHEREAS, I have claimed in a complaint filed with the United States Department of Justice (the “United States”) that Canvas Nails discriminated against me on the basis of my disability in violation of Title III of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12181-12189.

WHEREAS, the United States engaged in an investigation and settlement negotiations on behalf of the public interest;

WHEREAS, the United States and Canvas Nails have agreed to a settlement in this matter (the “Settlement”);

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein and in consideration of the payment to me of the sum of \$500 as set forth in the Agreement, I agree as follows:

1. I hereby release and forever discharge Canvas Nails, its parents, sponsors, subsidiaries, affiliates, successors, assigns, shareholders, directors, officers, agents, heirs, and current and former employees from any and all causes, suits, reckonings, whether in law or equity, known or unknown, and claims for attorneys’ fees, costs, interest and claims for any other damages, whether they be compensatory, exemplary, punitive or any other form, and any other claim whatsoever, which I now have or have ever had, relating to or arising (or could have arisen) from my allegations of discrimination under Title III of the Americans with Disabilities Act against Canvas Nails.
2. This Release is a one-page document. By signing below, I agree to all terms contained in this Release. I further acknowledge that I have entered into this Release voluntarily and of my own free will.

Date: _____