

**SETTLEMENT AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
AND
MADISON ASBURY CONVENTION HALL, LLC
REGARDING
THE PARAMOUNT THEATRE
DJ #202-48-263**

The parties to this agreement ("Agreement") are the United States of America and the Madison Asbury Convention Hall, LLC (collectively "Parties"). The Parties hereby agree as follows:

BACKGROUND AND JURISDICTION

1. The Madison Asbury Convention Hall, LLC ("Madison LLC") is the owner/operator of the Paramount Theatre located at 1300 Ocean Avenue, Asbury Park, New Jersey.
2. The Paramount Theatre is an enclosed theatre with 1569 seats. It is part of the larger Convention Hall complex located on the Boardwalk in Asbury Park, New Jersey. The Paramount Theatre hosts three levels of seating: the orchestra level and two balcony levels. The balcony levels are not served by elevators.
3. The United States Attorney's Office for the District of New Jersey, a component of the United States Department of Justice, opened an investigation of the Paramount Theatre pursuant to the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12181-12189, as amended. The investigation was initiated upon the receipt of a complaint from an individual who alleged that portions of the Paramount Theatre were inaccessible.
4. 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, including the ADA Standards for Accessible Design. For purposes of this Agreement, the term "ADA Standards for Accessible Design" means the 1991 Standards, 28 C.F.R. Part 36, Appendix D, and the 2010 Standards, 28 C.F.R. § 36.104, which consists of the 2004 ADA Accessibility Guidelines (set forth in appendices B and D to 36 C.F.R. part 1191). 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.
5. Title III of the ADA prohibits discrimination against persons with disabilities by owners or operators of places of public accommodation, 42 U.S.C. § 12182(a), and establishes an ongoing requirement by such owners and operators to, among other things: remove architectural barriers to access where such removal is "readily achievable," *id.* at § 12182(b)(2)(A)(iv), 28 C.F.R. § 36.304; provide alternative methods to make goods and services available where it is deemed not readily achievable to remove barriers, 42 U.S.C. § 12182(b)(2)(A)(v), 28 C.F.R. § 36.305; make required alterations to facilities readily accessible to and usable by individuals with disabilities to the maximum extent feasible, 42 U.S.C. § 12183(a)(2), 28 C.F.R. §§ 36.402-404; and reasonably modify

policies and practices so as to ensure “full and equal enjoyment” of their goods and services by individuals with disabilities, 42 U.S.C. §§ 12182(a) and (b)(2)(A)(ii), 28 C.F.R. §§ 36.201-202.

6. The United States alleges that the Paramount Theatre is a place of public accommodation within the meaning of title III of the ADA. 42 U.S.C. § 12181(7)(D); 28 C.F.R. § 36.104. The Madison LLC is subject to title III because it is a private entity that owns, leases, or operates a place of public accommodation. *Id.*
7. The United States alleges that the Paramount Theatre is an existing facility under the ADA, and so it is subject to the “readily achievable” barrier removal provisions of the ADA at 42 U.S.C. § 12182(b)(2)(iv)-(v) and 28 C.F.R. § 36.304.
8. The Convention Hall complex, including the Paramount Theatre, is listed in the National Register of Historic Places, and in the New Jersey Register of Historic Places. “Alterations to buildings or facilities that are . . . designated as historic under State or local law shall comply with the alteration requirements to the maximum extent feasible.” 28 C.F.R. § 36.405(a). “If it is determined that it is not feasible to provide physical access to an historic property that is a place of public accommodation in a manner that will not threaten or destroy the historic significance of the building or the facility, alternative methods of access shall be provided . . .” 28 C.F.R. § 36.405(b).
9. The United States reviewed architectural plans and other information provided by Madison LLC, and conducted a site visit of the Paramount Theatre. The results of the site visit, which were shared with Madison LLC, revealed a number of architectural barriers to access in and around the Paramount Theatre.
10. As required by the ADA’s regulatory provisions, the United States used the 1991 Standards for Accessible Design to identify architectural barriers to access, *see* 28 C.F.R. § 36.304 (d)(2)(ii)(B), but any remedies for the identified barriers implemented by Madison LLC under this Agreement shall be done in compliance with the 2010 Standards. *Id.*
11. The United States does not assert that this Agreement or the modifications contemplated herein will necessarily bring the Paramount Theatre into full compliance with all aspects of the ADA, and nothing in this Agreement is intended to constitute an interpretation of the legal requirements of the ADA by the United States. Rather, this Agreement is entered into by the Parties for the purpose of compromising disputed claims and avoiding the risk and expenses of litigation. This Agreement is a compromise, and it shall not be used or introduced into evidence in any other case or proceeding other than an action to enforce this Agreement between the Parties to this Agreement.

REMEDIAL ACTIONS TO BE TAKEN BY MADISON LLC

12. To resolve this matter, Madison LLC agrees to take the following steps to remove architectural barriers to access at the Paramount Theatre according to the deadlines stated below.

Entrances and Exits

Main Street Entrance

13. Madison LLC represents that it has installed directional signage at the stairway indicating the route to the designated accessible entrance. *See* 2010 Standards §§ 216.6 and 703.5.
14. Within 60 days of the Effective Date of this Agreement, Madison LLC shall ensure that the Main Street Entrance to the Paramount Theatre is in compliance with the 2010 Standards, as follows:
 - a. Madison LLC shall extend the ramp handrails on the ramp serving the Main Street Entrance at least twelve (12) inches horizontally above the landing beyond the top and bottom of ramp runs. *See* 2010 ADA Standards §§ 206.2.1, 402.2, 405.8, and 505.10.
 - b. Madison LLC shall modify the single door on the right of the southerly entrance to serve as an accessible entrance. Madison LLC shall also replace the existing metal threshold for the single door on the right with a new metal threshold that is beveled with a slope not steeper than 1:2. *See* 2010 ADA Standards §§ 206.4, 206.5.1, 303.3, and 404.2.5. Madison LLC shall further provide signage identifying the door on the right as an accessible entrance. *See* 2010 ADA Standards §§ 703, 703.2, 703.3, 703.4.2, and 703.7.2.

Main Arcade Entrance

15. Within 90 days of the Effective Date of this Agreement, Madison LLC shall ensure that the ramp serving the Main Arcade Entrance shall have handrails on both sides of the ramp. The handrails shall be anchored into the surface of the ramp. *See* 2010 ADA Standards §§ 206.2.1, 402.2, 405.8, and 505.

Side Street Entrance

16. Within 90 days of the Effective Date of this Agreement, Madison LLC shall ensure that the Side Street Entrance to the Paramount Theatre is in compliance with the 2010 Standards, as follows:

- a. Madison LLC shall provide directional signage indicating the location of the nearest accessible entrance is provided at the Side Street Entrance. *See* 2010 ADA Standards §§ 216.6, 703.5.
- b. Madison LLC shall ensure that, at the top of the stairs serving this entrance, the handrails shall extend horizontally above the landing for at least twelve (12) inches beginning directly above the first riser nosing. Madison LLC shall further ensure that, at the bottom of the stairs serving the Side Street Entrance, the handrails shall extend at the slope of the stair flight for a horizontal distance at least equal to one tread depth beyond the last riser nosing. The extension shall return to a wall, guard, or the landing surface, or shall be continuous to the handrail of an adjacent stair flight. *See* 2010 ADA Standards §§ 210.1, 504.6, and 505.10.

Exit Doors

17. Madison LLC represents that it has installed tactile signage with raised characters and Braille identifying exit doors at all exit passageways, exit discharge, and exit stairway locations in the theatre. *See* 2010 ADA Standards §§ 216.4.1, 703.1, 703.2, and 703.5.

Theatre Seating

Wheelchair Spaces

18. Within 120 days of the Effective Date of this Agreement, Madison LLC shall provide an additional 8 wheelchair spaces and 8 companion seats in the fixed seating area of the theater. *See* 2010 ADA Standards §§ 221.2, 802.

Designated Aisle Seats

19. Within 120 days of the Effective Date of this Agreement, Madison LLC shall provide at least 14 aisle seats designated for individuals with disabilities. These designated aisle seats shall be the aisle seats located closest to accessible routes. Where armrests are provided on the seating, folding or retractable armrests shall be provided on the aisle side of the seat. Each designated aisle seat shall be identified by a sign or marker. *See* 2010 ADA Standards §§ 221.4, 802.4.

Orchestra Level

Ticket Lobby

20. Madison LLC represents that it now ensures that a staff member is present to greet those individuals who need assistance at the ticket counter and to assist those individuals in purchasing or obtaining tickets or other information.

21. Within 90 days of the Effective Date of this Agreement, Madison LLC shall ensure that the Ticket Lobby of the Paramount Theatre is in compliance with the 2010 ADA Standards, as follows:
- a. Madison LLC shall provide automatic door openers on the accessible doors to the Ticket Lobby. Madison LLC shall also install appropriate signage consistent with the 2010 ADA Standards identifying the door as an accessible entrance. *See* 2010 ADA Standards §§ 206.5.2, 404.3, 216.6, 703.5.
 - b. Madison LLC shall remove or replace the existing doors serving the Ticket Lobby with doors that comply with the 2010 ADA Standards. In the alternative, Madison LLC shall replace, modify, or remove these doors and threshold to comply with the 2010 Standards. *See* 2010 ADA Standards §§ 206.5.2, 404.2.3 and 404.2.5.
 - c. Madison LLC shall install signage in the Ticket Lobby informing patrons of the availability of assistive listening devices. Madison LLC shall also ensure that such signage shall include the International Symbol of Hearing Loss. Madison LLC shall further ensure that in each assembly area where audible communication is integral to the use of the space, an assistive listening shall be available. Madison LLC shall ensure that at least forty-seven (47) assistive listening receivers shall be available, of which at least twenty-five percent shall be hearing-aid compatible. *See* 2010 ADA Standards §§ 216.10, 219, 703.5, 703.7.2.4, and 706.

Orchestra Lobby

22. Madison LLC represents that it has taken the following actions to ensure that the Orchestra Lobby of the Paramount Theatre is in compliance with the 2010 ADA Standards, as follows:
- a. Madison LLC represents that it will ensure that from the time that the doors to an event are opened to patrons, the middle set of doors in the Orchestra Lobby are held open, and two staff members are present to assist individuals in need of assistance. Madison LLC shall further ensure that once the event begins and the doors are closed, staff members are positioned on both sides of the doors to assist individuals in need of assistance. Madison LLC shall also ensure that when the event is concluded, all of the double doors are placed in the open position to provide an easy exiting process, and that there are staff members present to assist individuals in need of assistance.
 - b. Madison LLC represents that it has lowered the height of the concession counter in the Orchestra Lobby to thirty-six (36) inches above the finished floor so as to bring the height of the counter into compliance with the 2010 ADA Standards. *See* 2010 ADA Standards §§ 227.3 and 904.4.

Unisex Toilet Room

23. Madison LLC represents that it has installed tactile signage that complies with the 2010 ADA Standards. Such signage shall be located alongside the door at the latch side, with a clear floor space of at least eighteen (18) inches by eighteen (18) inches, centered on the tactile characters, is provided beyond the arc of the swing of the door, measured between the closed position of the door and a forty-five (45) degree open position. *See* 2010 ADA Standards §§ 216.2 and 703.4.
24. Madison LLC represents that it has replaced the lavatory faucet controls in the unisex toilet room with faucet controls that are operable with one hand and that do not require tight grasping, pinching, or twisting of the wrist. *See* 2010 ADA Standards §§ 213.3.4, 309.4, and 606.4.
25. Within 90 days of the Effective Date of this Agreement, Madison LLC shall ensure that the Unisex Toilet Room of the Paramount Theatre is in compliance with the 2010 ADA Standards, as follows:
 - a. Madison LLC shall ensure that handles, pulls, latches, locks, and other operable parts on doors and gates in the unisex toilet room comply with the 2010 ADA Standards. *See* 2010 ADA Standards §§ 206.5.2, 309.4, and 404.2.7.
 - b. Madison LLC shall ensure that the side grab bar in the unisex toilet room shall be 42 inches long minimum, located 12 inches maximum from the rear wall and extending 54 inches minimum from the rear wall in compliance with the 2010 ADA Standards. *See* 2010 ADA Standards §§ 213.3.2, 604.5.1, and 609.
 - c. Madison LLC shall ensure that the water supply and drainage piping under the lavatory in the unisex toilet room is insulated so as to protect against contact and to bring the piping into compliance with the 2010 ADA Standards. *See* 2010 ADA Standards §§ 213.3.4 and 606.5.
 - d. Madison LLC shall ensure that an additional coat hook is installed in the unisex toilet room, installed at a height no lower than fifteen (15) and no higher than forty-eight (48) inches above the floor, in compliance with the 2010 ADA Standards. *See* 2010 ADA Standards §§ 213.3.7, 308.3.1, and 603.4.

Stage Level

Route to Stage from Auditorium

26. Within 120 days of the Effective Date of this Agreement, Madison LLC shall ensure that a portable platform lift is available at either the left or right side of the stage.

Balcony Level 1

Men's and Women's Toilet Rooms

27. Within 60 days of the Effective Date of this Agreement, Madison LLC shall ensure that directional signage indicating the location of the nearest accessible toilet room within the facility is installed. Such signage shall comply with the requirements of the 2010 ADA Standards and shall include the International Symbol of Accessibility. *See* 2010 ADA Standards §§ 216.8, 603, 703.5, and 703.7.2.1.

IMPLEMENTATION AND ENFORCEMENT OF AGREEMENT

28. In consideration of the terms of this Agreement, the United States agrees to refrain from filing a civil suit against Madison LLC for failure to comply with title III of the ADA; provided however, that the United States reserves the right to file a civil lawsuit to enforce this Agreement or the ADA in accordance with paragraph 30 below.
29. The United States may review compliance with this Agreement at any time. Upon reasonable advance notice to Madison LLC (through counsel for Madison LLC identified in paragraph 29), Madison LLC shall permit the United States and any person acting on its behalf unlimited access to the Paramount Theatre to review compliance with the Agreement, provided that such access does not interfere with the comfort, privacy or safety of the patrons at the Paramount Theatre, or unreasonably interfere with the management and operation of the Paramount Theatre.
30. If the United States believes that this Agreement or any requirement thereof has been violated, it agrees to notify Madison LLC in writing of the specific violations alleged. Madison LLC shall have 30 days from its receipt of the notice to cure and/or respond in writing to the United States the alleged violations. If, after further discussion with Madison LLC, the United States believes that Madison LLC has violated the Agreement, the United States may institute a civil action for relief in federal district court.
31. Due to the historic nature of the theater and the various approvals required for alternations, it is acknowledged that Madison LLC may require additional time to complete the obligations under this Agreement. If Madison LLC believes it requires additional time to complete the obligations under this Agreement, it may notify the United States, in writing, detailing an explanation of the reason for the delay in completion and the revised estimated time, and the United States will not unreasonably withhold its consent for an extension of time.
32. One year after the Effective Date of this Agreement, Madison LLC shall certify to the United States, in writing, that it has fulfilled to completion all of its obligations under this Agreement. The certification shall describe the steps that were taken to fulfill those obligations and shall be accompanied by photographs depicting the completed barrier

removal work. Along with the aforesaid certification, Madison LLC shall submit a similar certification regarding the completion of all modifications to the toilet rooms under this Agreement.

33. All notices, demands, reports or other communication to be provided to the United States pursuant to this Agreement shall be in writing and delivered by U.S. mail or electronic mail to the following:

Michael E. Campion,
Assistant U.S. Attorney
Chief, Civil Rights Unit
U.S. Attorney's Office
970 Broad Street, Suite 700
Newark, New Jersey 07102
Email: michael.campion@usdoj.gov

Raymond J. Michaud, Esq.
Marshall Dennehey Warner Coleman & Goggin
15000 Midatlantic Drive
Mt. Laurel, New Jersey 08054
Email: rjmichaud@mdweg.com

34. This Agreement is a public document. A copy of this document or any information contained in it may be made available to any person.
35. Failure by the United States to enforce this entire Agreement or any provision thereof with regard to any deadline or any other provision herein shall not be construed as a waiver of its right to do so with regard to other deadlines and provisions of this Agreement.
36. This Agreement constitutes the entire agreement between the Parties 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 is limited to the facts set forth herein and it does not purport to remedy any other potential violations of the ADA, including violations of the alterations or new construction provisions of the Act, or any other Federal law. This Agreement does not affect the continuing responsibility of Madison LLC to comply with all aspects of the ADA, including readily achievable barrier removal.
37. If any provision 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 Madison LLC shall engage in good faith negotiations in order to adopt such mutually agreeable amendments to this Agreement as

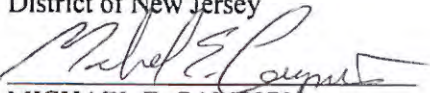
may be necessary to restore the Parties as closely as possible to the initially agreed-upon relative rights and obligations.

38. A signor of this document in a representative capacity for an entity represents that he or she is authorized to bind such entity to this Agreement.
39. This Agreement shall be binding on Madison LLC and its successors in interest in ownership or operation of the Paramount Theatre, and Madison LLC has a duty to so notify all such successors in interest.
40. The Effective Date of this Agreement is the date of the last signature below. This Agreement shall remain in effect for three years from the Effective Date.

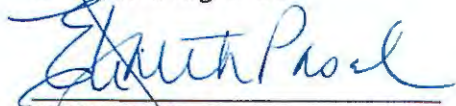
Agreed and Consented to:

For the UNITED STATES OF AMERICA

CRAIG CARPENITO
United States Attorney
District of New Jersey



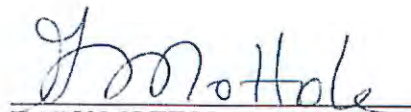
MICHAEL E. CAMPION
Assistant United States Attorney
Chief, Civil Rights Unit



ELIZABETH PASCAL
Assistant United States Attorney
Deputy Chief, Civil Division

Dated: 11/19/19

For MADISON ASBURY
CONVENTION HALL, LLC



GARY MOTTOLA
President, Madison LLC

Dated: 11/6/19