

SETTLEMENT AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA
AND
GOOD TIMES RESTAURANTS, INC.

DJ No. 202-71-159

I. INTRODUCTION

1. The parties to this Settlement Agreement (the “Agreement”) are the United States of America (“United States”) and Good Times Restaurants, Inc. (“Good Times”), a public company with its principal place of business at 651 Corporate Circle #200, Golden, Colorado.
2. The United States Department of Justice (the “Department” or the “United States Attorney’s Office for the Middle District of Tennessee”) opened an investigation of Good Times pursuant to Title III of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12181-12189 (“Title III”), and its implementing regulation, 28 C.F.R. part 36 (“Title III Regulation”). The United States initiated its investigation upon the receipt of complaints from parents of minors with mobility disabilities claiming denial of service and entry at one of the restaurants owned by Good Times. The restaurant at issue is known as Bad Daddy’s Burger Bar, located at 2243 Medical Center Parkway, Suite B, Murfreesboro, Tennessee (“Bad Daddy’s”). The restaurant location is owned by Good Times.
3. The United States is authorized to investigate alleged violations of Title III of the ADA. Moreover, the United States is authorized, where appropriate, to use alternative means of dispute resolution, including settlement negotiations to resolve disputes. If resolution is not achieved, the United States may bring a civil action in federal court in any case where the Attorney General has reasonable cause to believe that a pattern or practice of discrimination exists or where the case raises an issue of general public importance. 42 U.S.C. §§ 12188(b), 12212; 28 C.F.R. §§ 36.502, 36.503, 36.506.
4. Title III of the ADA mandates that “no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.” 42 U.S.C. § 12182(a). Bad Daddy’s is a place of public accommodation within the meaning of Title III because it is a restaurant. 42 U.S.C. § 12181(7)(B). Bad Daddy and Good Times are subject to the requirements of Title III of the ADA because Good Times owns and operates Bad Daddy. 28 C.F.R. § 36.104. Individuals with disabilities who use wheelchairs for mobility are covered by the ADA. 28 C.F.R. § 36.105. The ADA’s protections extend to individuals associated with people with disabilities. 42 U.S.C. § 12182(E); 28 C.F.R. § 36.205.
5. A place of public accommodation may not impose or apply eligibility criteria that screen out or tend to screen out individuals with disabilities, unless such criteria are shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or

accommodations being offered. Only legitimate safety requirements that are necessary for safe operation are permissible, and they must be based on actual risks, not “mere speculation, stereotypes, or generalizations about individuals with disabilities.” 28 C.F.R. § 36.301(b).

II. BACKGROUND

6. This matter was initiated by complaints filed under Title III of the ADA with the Department.
7. The complainants are parents of minor children with disabilities who require wheelchairs for mobility. Complainants alleged that on February 17, 2024, they traveled to Middle Tennessee with their children for a youth wheelchair basketball tournament. The team was sponsored by the Lakeshore Foundation, a nonprofit organization located in Birmingham, Alabama. The regional tournament was organized by ABLE Youth, a nonprofit organization located in Franklin, Tennessee. Seven families with children on the team, and one additional family whose child uses a wheelchair, agreed to meet at Bad Daddy’s for dinner on February 17, 2024. The families alleged that upon arriving at Bad Daddy’s, the restaurant was less than half full, and that they offered to sit in different clusters. The families alleged that Bad Daddy’s denied service and entry and that the Bad Daddy’s staff stated that the children’s wheelchairs were a fire hazard.
8. Good Times denies these allegations and contends that the Bad Daddy’s staff was attempting to accommodate the families in full compliance with its legal obligations.
9. Good Times’s participation in this Agreement shall not constitute or be construed as an admission of liability, nor of the United States’s determinations contained in this Agreement, except in a proceeding to enforce the terms of this Agreement. Good Times agrees to comply with and be bound by the terms of this Agreement.
10. The parties wish to resolve this matter without litigation. The United States believes that voluntary resolution of this matter through this Agreement is in the public interest. In consideration of, and consistent with, the terms of this Agreement, the United States agrees to refrain from filing a civil suit under Title III in this matter, except as provided in the Implementation section of this Agreement.

III. REMEDIAL ACTION

11. Good Times shall, within sixty (60) days of the effective date of this agreement, draft a policy that ensures that all of its employees and agents to comply with its obligations under 42 U.S.C. § 12182. The Department shall have the right to comment on and approve any such policy within sixty (60) days of its receipt of the draft policy from Good Times. Within sixty (60) days of the Department’s approval of such policy, Good Times shall provide/publish to all current employees a copy of the policy. Good Times also agrees to publicly post any such ADA policy in break rooms, employee spaces, and other areas of its restaurants for the benefit of its employees and agents. Good Times also agrees to provide all current employees with a copy of the policy and include such policy in its handbook and training materials. Good Times also agrees to ensure that any franchised restaurants with which it is associated are made aware of and are bound by the policy.

12. Good Times shall, within ninety (90) days of the effective date of this agreement, provide training to all employees and agents of Good Times on the requirements of the ADA and of Title III by a person or entity selected by Good Times and approved by the Department, with Good Times to bear the cost of such training. Good Times shall ensure that all new employees and all new managers are trained to comply with Title III of the ADA within the first sixty (60) days of hire/promotion.
13. The Complainants shall have forty-five (45) days following the effective date of this agreement to elect whether to sign Releases of ADA Claims, a form of which is attached as Exhibit A. Within forty-five (45) days of Good Times's receipt of the signed Releases of ADA Claims and IRS Form W-9 completed by the Complainant(s) and related families and individuals, Good Times shall provide to the United States, via Assistant U.S. Attorney Mike Tackeff or Assistant U.S. Attorney Emily Harake, checks in the amount of \$34,000.00, made payable to each complainant(s). For the avoidance of doubt, each complainant-family/parent shall receive \$34,000.00 in exchange for a signed Release of ADA claims. Pursuant to the Freedom of Information Act, the complainants' Releases and names shall not be made public. If any one of the Complainants elects not to sign a Release within forty-five (45) days of the effective date of this agreement, Good Times remains obligated to pay other Complainants who did elect to sign a Release within forty-five (45) days of the effective date of this agreement. Good Times shall not be obligated to pay any Complainant who does not execute a Release and transmit it to Good Times through counsel for the United States, within forty-five (45) days of the effective date of this agreement.
14. Within forty-five (45) of the effective date of this Agreement, pursuant to 42 U.S.C. § 12188(b)(2)(C) and 28 C.F.R. § 36.504(a)(3), Good Times shall pay to the United States a civil penalty of \$80,000.00 to vindicate the public interest. The United States shall provide payment instructions to Good Times through counsel. Presuming all Releases are returned to Good Times, the total amount of the settlement, including the civil penalty and payments to the Complainant(s) and related families and individuals, shall be \$352,000.00.
15. In consideration for the Agreement, the United States will refrain from filing a civil suit under Title III in this matter, except as provided in the Implementation section of this Agreement.

IV. IMPLEMENTATION

16. This Settlement Agreement cannot be modified or amended except in writing, agreed to and signed by the Parties.
17. The United States may review compliance with this Agreement at any time. If the United States believes that any provision of this Agreement has been violated, it will notify Good Times in writing and the parties will attempt to resolve the concerns in good faith. If the parties are unable to reach a satisfactory resolution of the issue(s) within thirty (30) days of the date the United States provides such written notice to Good Times, the United States may institute a civil action in the United States District Court for the Middle District of Tennessee to enforce this Agreement or the requirements of Title III.

18. It is a violation of this Agreement for Good Times to fail to comply in a timely manner with any of its requirements without obtaining sufficient advance written agreement with the United States for an extension of the relevant timeframe imposed by the Agreement.
19. Failure by the United States to enforce any provision or deadline in this Agreement shall not be construed as a waiver of the United States' right to enforce any deadline or provision of this Agreement. The 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, will be enforceable under its provisions.
20. This Agreement is limited to the facts set forth above and does not purport to remedy or resolve any other existing or potential violations of the ADA or any other local or federal law.
21. This Agreement does not affect Good Times's continuing obligation to comply with all applicable aspects of Title III of the ADA. The United States does not assert that this Agreement will bring Good Times or Bad Daddy into 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, the parties enter into this Agreement 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 between the parties to this Agreement.
22. Good Times shall not discriminate or retaliate against any person because of his or her participation in this matter.
23. A copy of this document or any information contained in it will be made available to any person by Good Times or the United States on request.
24. This Agreement may be executed in several counterparts, with a separate signature page for each party. All such counterparts and signature pages, together, shall be deemed to be one document.
25. The effective date of this Agreement is the date of the last signature below. This Agreement will remain in effect for three (3) years from the effective date of this Agreement.
26. The provisions of this Agreement shall be deemed severable, and any invalidity or unenforceability of any one or more of its provisions shall not affect the validity or enforceability of the other provisions herein. If any term of this Agreement is determined by any court of competent jurisdiction 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 Good Times shall engage in good faith negotiations 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.

27. The person signing this Agreement for Good Times represents that he or she is authorized to bind Good Times to this Agreement. This Agreement is binding on Good Times, including all administrators, representatives, and employees.

All notifications to the Department under this Agreement shall be sent by certified U.S. Mail, return receipt requested, to the United States Attorney's Office, Middle District of Tennessee, 719 Church Street, Suite 3300, Nashville, Tennessee 37203, Attn: AUSAs Mike Tackeff / Emily Harake. All notifications to Good Times shall be sent by certified U.S. mail, return receipt requested, to Ryan Zink, Chief Executive Officer, Good Times Restaurants, Inc., 651 Corporate Circle, Suite 200, Golden, CO 80401-5653, and via regular U.S. mail to Peter L. Loh, Foley & Lardner LLP, 2021 McKinney Drive, Suite 1600, Dallas, Texas 75201.

THE UNITED STATES OF AMERICA

DATED: 7-29-24

BY:



MIKE TACKEFF
Assistant United States Attorney
Middle District of Tennessee

GOOD TIMES

DATED: 29 July 2024

BY: /s/

RYAN ZINK, Chief Executive Officer

DATED: July 29, 2024

BY:



ATTORNEY for Good Times