

**SETTLEMENT AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA
AND
WESTBORN INC.
DJ# 202-37-307**

I. INTRODUCTION

1. The Parties to this Settlement Agreement ("Agreement") are the United States of America ("United States") and Westborn Inc., owner and operator of four markets bearing the Westborn name in Plymouth, Dearborn, Livonia, and Berkley, Michigan ("Westborn Markets").
2. The United States Department of Justice ("Department"), of which the United States Attorney's Office for the Eastern District of Michigan is a component, is responsible for enforcing title III of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12181-12189 ("the ADA"), and its implementing regulations, 28 C.F.R. part 36. The United States is authorized to investigate alleged violations of title III of the ADA, and 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.
3. 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, 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) and 28 C.F.R. § 36.201(a).
4. Westborn Markets, as retail food and grocery stores, are places of public accommodation within the meaning of 42 U.S.C. § 12181(7)(e) and 28 C.F.R. § 36.104(5). As the owner and operator of Westborn Markets, Westborn Inc. is a public accommodation covered by title III of the ADA. 28 C.F.R. § 36.104.

II. BACKGROUND

5. This Settlement Agreement resolves a matter that was initiated by a complaint filed with the United States alleging that operators of the Plymouth Westborn Market discriminated against a person with a disability who uses a service animal, in violation of title III of the ADA. Specifically, the complaint alleged that a Plymouth Westborn Market employee asked for written proof that his dog is a service animal and was asked to leave when he refused.

6. As provided by the ADA, the United States opened an investigation into the complaint. At all times, Westborn Inc. cooperated with the investigation.
7. The United States determined that Westborn Inc. improperly requested documentation of the service animal but did not require the customer to leave the store. The United States also learned that Westborn Inc. did not have any policies or training in place regarding title III of the ADA as it applies to service animals. Westborn Inc. disputes any violation of the ADA occurred. However, the parties agree that it is in their best interests, and the United States believes that it is in the public interest, to resolve this matter on mutually agreeable terms without litigation and therefore have agreed to the terms of this Agreement. This Agreement is neither an admission of liability by Westborn Inc. nor a concession by the United States that its claims are not well founded.
8. In consideration of the terms of this Agreement, the United States agrees to refrain from undertaking further investigation or filing a civil suit under title III in this matter, except as provided in paragraph 19 of this Agreement.

III. DEFINITIONS

9. The term "Westborn Personnel" means all owners/operators and employees of Westborn Inc. and the Westborn Markets, both full and part-time, who have or are likely to have job duties that require direct contact with the public, or supervise anyone who does.
10. The term "service animal" means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. 28 C.F.R. §§ 36.104, 36.302(c).

IV. REMEDIAL ACTION TO BE TAKEN BY WESTBORN INC.

A. Prohibition of Discrimination

11. Westborn Inc. and the Westborn Markets shall not discriminate against any individual with a disability in the full and equal enjoyment of its goods, services, facilities,

privileges, advantages or accommodations. 42 U.S.C. § 12182; 28 C.F.R. § 36.201(a).

12. Westborn Inc., and the Westborn Markets shall not deny equal services, accommodations, or other opportunities to any individual because of a known relationship between that individual and a person with a disability. 42 U.S.C. § 12182(b)(1)(E).
13. Westborn Inc. and the Westborn Markets shall generally modify any policies, practices, or procedures to permit the use of a service animal by an individual with a disability. 42 U.S.C. §12182(b)(2)(A)(ii); 28 C.F.R. § 36.302(c).
14. Westborn Inc. and the Westborn Markets 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. 42 U.S.C. § 12203.

B. Required Policies and Training

15. No later than thirty (30) days after the Effective Date of this Agreement, Westborn, Inc. shall develop and submit for approval to the United States, written policies and procedures concerning persons with disabilities at the Westborn Markets. The written policies shall include, but not be limited to, the following provisions:
 - a. General Provisions
 - i. Westborn Personnel shall not discriminate against any individual with a disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations it provides.
 - b. Provisions Concerning Service Animals
 - i. Westborn Personnel shall permit individuals with disabilities who use service animals to be accompanied by the service animal in Westborn Market facilities; 28 C.F.R. § 36.302;
 - ii. Westborn Personnel shall limit any inquiries concerning a service animal to two questions: whether the animal is required because of a disability, and what work or tasks the animal has been trained to perform. Westborn Personnel shall not ask a person for documentation of the animal's certification or training, ask that the animal demonstrate its ability to perform the work or task, or inquire about the nature of the person's disability; and
 - iii. Westborn Personnel shall only exclude a service animal accompanied by an individual with a disability if the service animal is out of control

or not house broken. If a service animal is properly excluded, Westborn Personnel shall give the individual with a disability the opportunity to obtain Westborn Markets' goods and services without the service animal being present.

16. Within fourteen (14) days of the United States approving the policies and procedures referenced in Paragraph 15, Westborn Inc. will:
 - a. adopt the approved policies and procedures;
 - b. keep the policies and procedures on hand in all facilities for any Westborn Market customers who wish to, upon request, read them;
 - c. prominently post the policies and procedures on its website; and
 - d. post a copy of the Notice (Attachment A) attached to this Agreement in a conspicuous location visible to the public in all Westborn Market facilities.

17. Within thirty (30) days of adoption of the approved policies and procedures referenced in Paragraphs 15-16, Westborn Inc. shall ensure that all Westborn Personnel attend training session(s) regarding their obligations under title III of the ADA, including the requirements to accommodate individuals with disabilities who use service animals.
 - a. The training session(s) shall be sufficient in duration and content to adequately train Westborn Personnel on:
 - i. Accommodations and modifications for people with disabilities, including the use of service animals.
 - ii. Information about modification of policies, practices, and procedures, including permitting service animals to enter and remain at the Market.
 - b. All employees hired after the date of the above training session(s) must be trained on the requirements of the ADA within thirty (30) days of their hire date.
 - c. Westborn Inc. shall require Westborn Personnel to comply with the obligations in this Agreement, and shall use all of its powers to do so including, but not limited to, personnel actions, reprimand, or termination of employment, whenever an employee violates or causes a failure to comply with the requirements of this Agreement.
 - d. All training materials, including the names of training instructors, required by this Agreement shall be submitted to the United States for review and approval prior to their implementation.

18. Westborn Inc. shall notify the United States in writing of the date and length of the training session, the topics covered, and a list of those individuals in attendance by name and position.

V. COMPLIANCE REVIEW AND ENFORCEMENT

19. The United States may review compliance with this Agreement at any time. If the United States believes that this Agreement or any portion of it has been violated, it will raise concerns with Westborn Inc. and the Parties will attempt to resolve the concerns in good faith. If the United States' concerns are not fully resolved within sixty (60) days of the written notice, the United States may institute a civil action in the Eastern District of Michigan or any other appropriate court to seek appropriate relief to enforce the terms of this Agreement or to enforce title III of the ADA.
20. Failure by the United States to seek enforcement of this Agreement pursuant to its terms with respect to any instance or provision shall not be construed as a waiver of the United States' right to seek enforcement with respect to other instances or provisions.

VI. MISCELLANEOUS

21. This Agreement will be in effect for three (3) years from the Effective Date.
22. The Effective Date of this Agreement ("Effective Date") is the date of the last signature below.
23. 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 a compromise of claims and limited to the facts set forth herein and does not purport to remedy any other potential violations of the ADA or any other federal law.
24. This Agreement is final and binding on the Parties, including all principals, agents, executors, administrators, representatives, successors in interest, beneficiaries, assigns, heirs and legal representatives thereof. Each party has a duty to so inform any such successor in interest.

Agreed and Consented to:

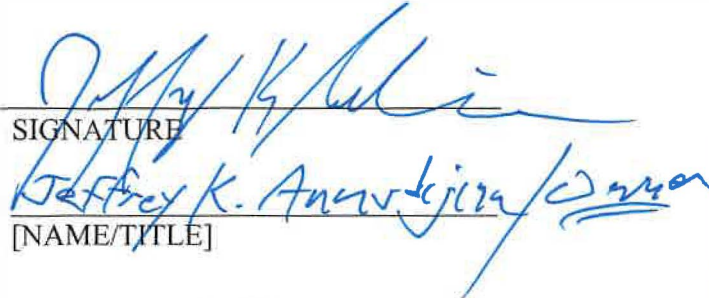
For the UNITED STATES OF AMERICA

For WESTBORN INC.

SAIMA S. MOHSIN
Acting United States Attorney
Eastern District of Michigan



SUSAN K. DeCLERCQ
Assistant United States Attorney



SIGNATURE
Jeffrey K. Anwar
[NAME/TITLE]

July 26, 2021
Dated: _____

7/21/2021
Dated: _____

ATTACHMENT A:

**Persons with Disabilities
Accompanied by Service
Animals Are Welcome Here**