

**SETTLEMENT AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA
AND
WOODLAWN FAMILY DENTISTRY
UNDER THE AMERICANS WITH DISABILITIES ACT**

DJ# 202-79-262

[Press Release](#)

BACKGROUND

1. The parties to this Settlement Agreement are the United States of America and Woodlawn Family Dentistry.
2. This matter was initiated by and is based upon a complaint filed with the United States Department of Justice that alleges that Woodlawn Family Dentistry discriminated against an individual with a disability in violation of title III of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12181, *et seq.* Specifically, the complainant alleges that Woodlawn Family Dentistry failed to treat him equally by requiring that he schedule all his future appointments for the last appointment of the day because he is a person with HIV.
3. 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 dispute without engaging in protracted litigation. The parties have therefore voluntarily entered into this Agreement, agreeing as follows:

TITLE III COVERAGE AND FINDINGS

4. The Attorney General is responsible for administering and 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, an individual who has HIV, has a physical impairment that substantially limits one or more major life activities, including the operation of his immune system, which is a major bodily function. Accordingly, he has a disability within the meaning of 42 U.S.C. § 12102 and 28 C.F.R. § 36.104.
6. Woodlawn Family Dentistry is a dental office located at 9492 Richmond Highway, Wood Lawn Garden, # 104, Alexandria, Virginia 22309. Dr. Monique H. Nguyen is the sole practitioner and owner of Woodlawn Family Dentistry.
7. Dr. Nguyen owns, leases (or leases to), or operates a place of public accommodation within the meaning of 42 U.S.C. § 12182(a). Woodlawn Family Dentistry is a private entity within the meaning of 42 U.S.C. § 12181(6), and is considered a place of public accommodation because it affects commerce and is a service establishment within the meaning of 42 U.S.C. § 12181(7).
8. Under title III of the ADA, no person who owns, leases (or leases to), or operates a place of public accommodation may discriminate against an individual on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation. 42 U.S.C. § 12182(a).
10. As a result of its investigation, the United States has determined that:
 - a. On December 1, 2011, the complainant went to Woodlawn Family Dentistry for a routine teeth cleaning. Because it was his first visit to the dental practice, the complainant completed the required paperwork, and in doing so, disclosed that he has HIV.
 - b. Shortly after, the hygienist brought the complainant to the dental chair and took x-

rays of the complainant's teeth. After the complainant was x-rayed, the dentist entered the room with the complainant's completed paperwork and inquired about the information contained in the paperwork, including the complainant's HIV. The dentist informed the complainant that all future appointments must be scheduled as the last appointment of the day because the complainant has HIV.

- c. The dentist subsequently performed a dental examination of the complainant. After informing the complainant of a potential developing cavity and some minor gum recession, the dentist provided the complainant with a referral to a specialist to treat his gum recession. The dentist then exited the room, and the hygienist informed the complainant that the examination was finished.
- d. The complainant then approached the receptionist and was given an appointment card for June 7, 2012 at 4:30 p.m., which was the last appointment of the day.
- e. The dental practice allows patients who do not have HIV to schedule appointments for times of their choosing without any restrictions so long as the desired appointment time does not conflict with an existing appointment.

- 11. The United States has determined that Woodlawn Family Dentistry discriminated against the complainant on the basis of disability when it failed to offer the complainant the same options and availability in scheduling future appointments as offered to other patients, in violation of 42 U.S.C. § 12182 and 28 C.F.R. §36.201.
- 12. The United States has further determined that Woodlawn Family Dentistry cannot show that treating the complainant at any time during normal business hours would have posed a direct threat to the health or safety of others. 42 U.S.C. § 12182(b)(3).
- 13. Woodlawn Family Dentistry and Dr. Nguyen specifically deny the allegations in paragraph 10(b) above and contend that the complainant was offered, but not required to accept, the last appointment of the day on his next visit as an accommodation to the

complainant and in consideration of his condition. Woodlawn Family Dentistry and Dr. Nguyen do not agree with the United States' findings and deny that they discriminated against the complainant in violation of the ADA or any other provisions of law.

ACTIONS TO BE TAKEN BY WOODLAWN FAMILY DENTISTRY

14. Woodlawn Family Dentistry shall not discriminate against any individual on the basis of disability, including HIV, in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of Woodlawn Family Dentistry in violation of the ADA, 42 U.S.C. § 12181, *et seq.*, and the relevant implementing regulation, 28 C.F.R. Part 36. Woodlawn Family Dentistry shall not discriminate against people with disabilities in identifying or scheduling future appointment times in violation of title III.
15. Within 30 days of the effective date of this Agreement, Woodlawn Family Dentistry shall draft and implement a policy stating that it does not discriminate in the provision of goods, services, privileges, advantages, or accommodations to persons with disabilities, including persons who have HIV. Once it has been approved by the United States, this policy statement shall be conspicuously posted in the waiting area of the Woodlawn Family Dentistry for the duration of this Agreement.
16. Within 60 days of the effective date of this Agreement, and every year thereafter for the duration of this Agreement, Woodlawn Family Dentistry shall conduct training on title III of the ADA to all Woodlawn Family Dentistry employees. The training shall also provide information on HIV discrimination under the ADA and on the policy statement adopted under paragraph 15.
17. All training manuals or written materials concerning the training required in paragraph 16, or revised or created after the effective date of this Agreement, shall be consistent with the provisions of this Agreement, and approved in advance by the United States.

18. Woodlawn Family Dentistry will notify the United States when it has completed the actions described in paragraphs 15 and 16.
19. Every 6 months for the first two years of this Agreement, Woodlawn Family Dentistry shall notify the United States in writing of any new or existing patients with HIV (via unique identifier, which identifier for each individual shall be consistent throughout all reports required under this Agreement), what services they were provided during the preceding 6 months (including the dates and times of services), and any scheduled appointments in the future (including the dates and times of the appointments).
Woodlawn Family Dentistry shall also inform the United States of the details of any HIV-related complaint within 24 hours of receiving such complaint orally or in writing.
20. Within 30 days of receiving the attached release, signed by the complainant in favor of Woodlawn Family Dentistry and Monique Nguyen, D.D.S., Woodlawn Family Dentistry shall pay a total of \$7,000.00 to the complainant. A copy of such payment shall be sent to the United States within 10 days of issuance.
21. Within 30 days of the effective date of this Agreement, Woodlawn Family Dentistry shall pay a civil penalty in the amount of \$3,000.00 as authorized by 42 U.S.C. §12188(b)(2)(C) and 28 C.F.R. § 36.504(a)(3), as amended, in order to vindicate the public interest.

OTHER PROVISIONS

22. In consideration for the Agreement set forth above, the United States will not institute any civil action alleging discrimination based on the allegations raised in DJ #202-79-262, except as provided in Paragraph 23, below.
23. During the term of this Agreement, the United States may review Woodlawn Family Dentistry's compliance with this Agreement or title III of the ADA at any time. If the United States believes that this Agreement or any portion of it has been violated, it will

raise its concerns with Woodlawn Family Dentistry and the parties will attempt to resolve the concerns in good faith. The United States will provide 30 days from the date it notifies Woodlawn Family Dentistry of any breach of this Agreement to cure that breach. If the United States is unable to reach a satisfactory resolution of the issue(s) raised within 30 days of the date that it provides notice to Woodlawn Family Dentistry, it may institute a civil action in the appropriate United States District Court to enforce this Agreement or title III of the ADA.

24. Failure by the United States to enforce any of the provisions of this Agreement shall not be construed as a waiver of its right to do so with regard to other provisions of this Agreement.
25. A signatory to this document in a representative capacity for Woodlawn Family Dentistry represents that he or she is authorized to bind Woodlawn Family Dentistry to this Agreement.
26. This Agreement constitutes the entire agreement between the United States and Woodlawn Family Dentistry regarding the matters raised herein, and no other 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, shall be enforceable.
27. 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. Nothing in this Agreement changes Woodlawn Family Dentistry's obligation to otherwise comply with the requirements of the ADA.
28. This Agreement shall be binding on the Woodlawn Family Dentistry, including all principals, agents, executors, administrators, representatives, employees, successors in interest, beneficiaries, and assignees. In the event that the Woodlawn Family Dentistry seeks to sell, transfer, or assign all or part of its interest during the term of this

Agreement, as a condition of sale, transfer, or assignment, the Woodlawn Family Dentistry shall obtain the written accession of the successor or assignee to any obligation remaining under this Agreement for the remaining term of this Agreement.

29. All documents or communications to be provided to the United States and Woodlawn Family Dentistry pursuant to this Agreement shall be in writing and delivered by email or overnight mail to the following persons and addresses (or such other person as may be designated in writing):

Alberto Ruisanchez
Disability Rights Section
U.S. Department of Justice
1425 New York Avenue, NW
Suite 4039
Washington, DC 20005
(202) 305-1291
alberto.ruisanchez@usdoj.gov

Monique Nguyen, D.D.S.
Woodlawn Family Dentistry
8492 Richmond Highway
Wood Lawn Garden, # 104
Alexandria, VA 22309
Telephone: (703) 780-3482
Facsimile: (703) 799-9577

EFFECTIVE DATE/TERMINATION DATE

30. The effective date of this Agreement is the date of the last signature below.
31. The duration of this Agreement will be three years from the effective date.

AGREED AND CONSENTED TO:

/s/Monique Nguyen
MONIQUE NGUYEN, D.D.S.
Woodlawn Family Dentistry
9492 Richmond Highway
Wood Lawn Garden, #104
Alexandria, VA 22309

February 6, 2013

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February 12, 2013

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February 12, 2013