

**SETTLEMENT AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA AND
HOT STONE, LLC.**

This Settlement Agreement (herein “this Agreement”) is made and entered into between the United States of America by and through the United States Attorney’s Office for the Eastern District of Washington (herein “the United States”) and Hot Stone, LLC (herein “Hot Stone”) (herein collectively “the Parties,” where appropriate), through their authorized representatives.

RECITALS

- A. Title III of the Americans with Disabilities Act (herein “ADA”) and its implementing regulations prohibit discrimination on the basis of disability by places of public accommodation. 42 U.S.C. § 12182; 28 C.F.R. § 36.201. Specifically, Title III of the ADA requires places of public accommodation to make reasonable modifications to policies, practices, or procedures to afford access to persons with disabilities, including those who use service animals, that is equal to the access afforded to individuals without disabilities. 42 U.S.C. § 12182(b)(2)(A)(ii); 28 C.F.R. § 36.302(a).
- B. The United States is authorized to enforce Title III of the ADA by seeking damages and full compliance with the provisions of Title III of the ADA, including requiring the owners and operators of a place of public accommodation to make reasonable modifications to policies, practices, and procedures, 28 C.F.R. § 36.504(a).
- C. The United States initiated an investigation of Hot Stone under Title III of the ADA after receiving a complaint alleging that Hot Stone discriminated against a person with disabilities (herein “the Complainant”) by denying service to the Complainant and failing to make reasonable modifications to rules, policies, and procedures. The Complainant is an individual with disabilities, as defined by the ADA and its implementing regulation, 42 U.S.C. § 12102(2); 28 C.F.R. § 36.104
- D. Hot Stone is a franchisee of Keep Rockin LLC and is owner of The Rock Wood Fired Pizza located in Kennewick, WA (herein “The Rock Kennewick”). As a franchisee of Keep Rockin LLC, Hot Stone owns and operates a total of four restaurants, The Rock Kennewick being one, which are located within the State of Washington. The Rock Kennewick is a public accommodation as defined in section 301(7)(E) of the ADA, 42 U.S.C. § 12181(7)(E), and its implementing regulation, 28 C.F.R. § 36.104.
- E. On November 1, 2021, Hot Stone refused to serve the Complainant at The Rock Kennewick because the Complainant was a disabled person with a service animal. Hot Stone’s refusal was a mistake and done in error. Prior to November 1, 2021, Hot Stone had never had a written Title III ADA policy in place at any of its stores and had never provided any formal Title III ADA training for its employees at any of its stores.
- F. The Parties agree that Recitals A through E are true and accurate.
- G. The United States contends that it has certain civil claims against Hot Stone arising from Hot Stone’s violation of Title III of the ADA occurring on November 1, 2021.

- H. In consideration of the terms of this Agreement, the United States agrees to refrain from filing a civil suit under Title III of the ADA for the conduct described in paragraph E above, except as provided in the Enforcement Section of this Agreement.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation, and in consideration of the mutual promises and obligations of this Agreement, the Parties agree and covenant as follows:

REMEDIAL ACTION

1. Consistent with the ADA, Hot Stone will not discriminate against any individual on the basis of disability in the full and equal enjoyment of any of its goods, services, facilities, privileges, advantages, or accommodations, at any of its restaurants now owned or which it may acquire during the life of this Agreement. Specifically, as provided by the ADA, Hot Stone will not refuse to make reasonable modifications to policies, practices, and procedures to afford equal access to its goods, services, facilities, privileges, advantages, or accommodations of Hot Stone at any of its restaurants now owned or which it may acquire during the life of this Agreement, by persons with disabilities, including but not limited to persons who use service animals.

Service Animal Policy

2. On or before the Effective Date of this Agreement, to ensure equal access for persons with disabilities who use service animals at Hot Stones' restaurants in the United States, Hot Stone will institute and implement a written Service Animal Policy (hereinafter "the written Policy") that is compliant with federal and state law, including, but not limited to, the ADA, and which ensures that persons with disabilities are not denied service, denied reasonable accommodation, or subject to other discrimination on the basis of having a service animal. The written Policy is attached to this Agreement as Attachment A.
3. Within fifteen (15) days of the Effective Date of this Agreement, Hot Stone will distribute the written Policy to all Hot Stone employees, requiring each to certify that they have read, understand, and agree to abide by the written Policy. Thereafter, Hot Stone will require all new employees not previously trained on the written Policy to certify that they have read, understand, and agree to abide by the written Policy within () five (5) days of the employee's start date with Hot Stone.
4. Within fifteen (15) days of the Effective Date of this Agreement, Hot Stone will post a copy of the written Policy on its website in a location that is easy for the public, including customers and potential customers with disabilities, to find in a format accessible to persons with disabilities (i.e., HTML format).
5. Within fifteen (15) days of the Effective Date of this Agreement Hot Stone will post the written Policy in a conspicuous location in all of its restaurants where customers can readily read the written Policy. The posted written Policy shall be printed in a bold font

no smaller than 16 points on a contrasting background and shall include an image designed by Hot Stone of a person with a disability who uses a service dog. The heading on the posted written Policy ("HOT STONES' RESTURANT POLICY REGARDING SERVICE ANIMALS FOR PEOPLE WITH DISABILITIES") shall be printed in capital letters in a bold font no smaller than 20 points. Physical copies of the posted written Policy will be refreshed, as needed, for the life of this Agreement. Upon request of any customer or potential customer who is vision impaired, Hot Stone will read the written Policy to that individual.

6. Within fifteen (15) days of the Effective Date of this Agreement, Hot Stone will also post a copy of the written Policy where employees can readily read the written Policy, such as the employee lounge or prominently at an employee entrance. The posted written Policy shall be printed in a bold font no smaller than 16 points on a contrasting background and shall include an image designed by Hot Stone of a person with a disability who uses a service dog. The heading on the posted written Policy ("HOT STONES' RESTURANT POLICY REGARDING SERVICE ANIMALS FOR PEOPLE WITH DISABILITIES") shall be printed in capital letters in a bold font no smaller than 20 points. Physical copies of the posted written Policy will be refreshed, as needed, for the life of this Agreement.
7. Within sixty (60) days of the effective date of this Agreement, Hot Stone will provide the United States with a certification that it has complied with paragraph 2 through 6 of this Agreement, and provide proof of the same. Such proof shall include a log detailing all Hot Stone employees who have certified that they have read, understand, and agree to abide by the written Policy; photographic evidence of the written Policy being posted on Hot Stone's website and at locations conspicuous to the public and at locations conspicuous to employees at each of its four restaurants.

Title III ADA Written Policy

8. Within ninety (90) days of the effective date of this agreement Hot Stone will create, institute, and distribute to all of its employees a comprehensive Title III ADA policy (the Title III Policy). The Title III policy shall adequately and appropriately ensure compliance with Title III of the ADA and shall be adequate to ensure that all persons with disabilities are provided with reasonable accommodations. The Title III Policy shall include information on each individual employee's duties and obligations under Title III of the ADA generally to making reasonable accommodations to persons with disabilities. No later than fifteen (15) days before distribution to all employees, Hot Stone will provide the Title III Policy to the United States.

Training

9. Within one hundred twenty (120) days of the effective date of this Agreement, and on an annual basis for the life of this Agreement, Hot Stone will provide educational training concerning the substantive provisions of the ADA and the Title III Policy. Hot Stone shall provide the training to all of its employees. This training shall ideally be in person,

but can also be performed through a web portal or similar online platform provided Hot Stone provides written notice to the United States, which shall include electronic access to an advanced digital copy of the web or online training, at least fifteen (15) days in advance of the training. The training shall be adequate to ensure that employees are appropriately trained regarding, and are able to follow, the Title III Policy. This training, which, for employees must be at least thirty (30) minutes in duration shall include the following:

- a. Accurate information on each individual's duties and obligations under Title III of the ADA generally and with respect to the obligations to make reasonable modifications to policies, practices, and procedures and to maintain accessible features;
- b. Instruction on the Title III Policy and on the written Policy regarding service animals;
- c. Instruction on procedures to ensure that customers with disabilities accompanied by service animals have access to Hot Stones' restaurants that is equal to the access afforded to customers without disabilities;
- d. A question-and-answer session to review each of the foregoing areas; and
- e. Certification of attendance by the person conducting the training for each person attending the program. Hot Stone will send the United States copies of all such certifications of attendance within thirty (30) days of each training.

Grievance Procedure

10. Within fifteen (15) days of the Effective Date of this Agreement, Hot Stone will post, in a conspicuous location in the public entryways of all Hot Stones' restaurants, a sign prominently stating, "All Persons with Disability and Service Animals Are Welcome Here – Please Report Any Concerns to _____" At The Rock Kennewick the signage will further state "You may also report concerns or file a complaint online through [beta.ADA.gov/file-a-complaint](https://beta.ada.gov/file-a-complaint), or by emailing uswae.CIVILRIGHTS@usdoj.gov or by calling (509) 835-6306." Signage at all Hot Stone Restaurants will be printed in a bold font no smaller than 20 points in size on a contrasting background. This signage will be refreshed, as needed, for the life of this Agreement.
11. For purposes of this Agreement, a complaint alleging any problem related to a customer's or potential customer's service animal will be treated as an ADA Title III related complaint. Hot Stone will maintain written records of ADA Title III related complaints by customers, its investigations, and its responses to those complaints throughout the life of this Agreement. Copies of such records will be provided to the United States as part of its required Semi-Annual Reports as provided in paragraph 13(a)(iv) below, and at any other time upon written request of the United States.
12. Hot Stone agrees to take appropriate action with respect to any Hot Stone restaurant employees who engage in conduct that denies or interferes with the rights of a customer with a disability, or potential customer with a disability, under Title III of the ADA. This

action, which may include disciplinary action, will be consistent with the action Hot Stone would take against an employee who committed a comparable violation of any policy adopted by Hot Stone to comply with federal, state, or local law.

Semi-Annual Reporting

13. For the life of this Agreement, except as provided in paragraph 27, Hot Stone shall submit a Report to the United States documenting its compliance with this Agreement every six (6) months starting, six (6) months from the Effective Date of this Agreement, except for the Final Semi-Annual Report which shall be sixty (60) days prior to three (3) years from the Effective Date of this Agreement.
- a. The Semi-Annual Reports shall include, for the preceding six (6) months:
 - i. All dates of Hot Stone’s ADA training conducted pursuant to this Agreement;
 - ii. A certification by counsel for Hot Stone, or an owner of Hot Stone, that all required individuals have received training;
 - iii. Attendance logs reflecting the dates of the trainings and names and job titles of individuals who attended the trainings; and
 - iv. Notification regarding any lawsuit, informal or formal complaint, charge, or grievance alleging that Hot Stone has violated Title III of the ADA. Such notice will include a description of the nature of the allegation, the name of the individual making the allegation, and all documentation in the possession, custody, or control of Hot Stone relevant to the allegation. The first Semi-Annual Report filed with the United States under this Agreement shall include all ADA Title III lawsuits and all complaints, charges, or grievances of which Hot Stone is aware and that are pending or otherwise unresolved at the time the first Semi-Annual Report is made. All subsequent reports shall include notice of all relevant lawsuits, complaints, charges, and grievances made subsequent to the immediately previous Semi-Annual Report, as well as those reported in previous Semi-Annual Reports that remain pending or were, for whatever reason, omitted from a previous Semi-Annual Report.
 - b. All Semi-Annual Reports required pursuant to this Agreement shall be delivered to the undersigned counsel for the United States, and/or his designees as may be directed in writing, via electronic mail to uswae.CIVILRIGHTS@usdoj.gov with the subject line “HOT STONE LLC SEMI-ANNUAL REPORT.”

Compensatory Damages

14. The ADA authorizes the United States to seek a court award of compensatory damages on behalf of individuals aggrieved as the result of violations of Title III of the ADA. 42 U.S.C. § 12188(b)(2)(B); 28 C.F.R. § 36.504(a)(2).

15. Hot Stone will directly pay Complainant one lump sum of \$11,000.00 within fifteen (15) days of the effective date of this agreement based on written wire instructions that will be provided to Hot Stone within three (3) days of the Effective Date of this Agreement.

ENFORCEMENT

16. If at any time Hot Stone desires to modify any portion of this Agreement because of changed conditions making performance impossible or impractical or for any other reason, it will promptly notify the United States in writing, setting forth the facts and circumstances thought to justify modification and the substance of the proposed modification. Until there is a written Agreement by the United States to the proposed modification, the proposed modification will not take effect. The United States shall grant or deny any proposed modification in its sole discretion and shall not act unreasonably, arbitrarily, or capriciously, and will not unreasonably withhold or delay a decision.
17. The United States may review compliance with this Agreement or with the ADA at any time, including but not limited to testing at any Hot Stone restaurants during their respective hours of operation. If the United States believes that Hot Stone has failed to comply in a timely manner with any requirement of this Agreement without obtaining sufficient advance written agreement with the United States for a modification of the relevant terms, the United States will so notify Hot Stone in writing through its legal counsel James M. Susag, and it will attempt to resolve the issue or issues in good faith. If the United States is unable to reach an agreed to satisfactory resolution of the issue or issues raised within thirty (30) days of the date it provides written notice to Hot Stone through its legal counsel James M. Susag, it may institute a civil action in federal court to enforce the terms of this Agreement and/or Title III of the ADA, including but not limited to an action based on the conduct described in paragraph E of this Agreement, and may, in such action, seek any relief available under law. The parties agree that the United States District Court for the Eastern District of Washington will have sole and exclusive venue and jurisdiction for any such civil action including whether Hot Stone failed to comply in a timely manner with any requirement of this Agreement.
18. In order to effectuate paragraph 17 of this Agreement, and in consideration for the United States not initiating a civil action against Hot Stone under Title III of the ADA except as provided for under this Agreement, Hot Stone agrees that the period of time between July 22, 2022, and September 15, 2025, shall be excluded when determining whether any civil claims under Title III of the ADA arising from the conduct described in paragraph E of this Agreement are time-barred by statute of limitations, laches, or any other time-related defenses.
19. Failure by the United States to enforce this entire Agreement or any provision thereof with regard to any deadline or any other provision herein will not be construed as a waiver of the United States' right to enforce other deadlines and provisions of this Agreement. Hot Stone shall send all notices and required communications under this Agreement to the United States by emailing them to uswae.CIVILRIGHTS@usdoj.gov with the subject line: "PURSUANT TO HOT STONE LLC ADA AGREEMENT" or, in

the case of semi-annual reports as provided in paragraph 13b, with the subject line: “[HOT STONE LLC SEMI-ANNUAL REPORT.](#)”

20. Hot Stone consents to the United States’ disclosure of this Agreement and information about it to the public.
21. This Agreement shall be binding on Hot Stone’s successors, transferees, heirs, and assigns.
22. 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, will be enforceable. This Agreement is intended to be for the benefit of the Parties only.
23. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.
24. Hot Stone and its below signatories to this Agreement represents that they freely, voluntarily, and knowingly enter into this Agreement.
25. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Eastern District of Washington. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all parties to this Agreement and shall not, therefore, be construed against any party for that reason in any subsequent dispute.
26. This Agreement does not affect Hot Stone’s continuing responsibility to comply with all aspects of the ADA.
27. The life of this Agreement is for three (3) years from the Effective Date of this Agreement unless otherwise agreed to in writing by the Parties. Notwithstanding the three (3) year life of this Agreement, after two (2) years from the effective date of this Agreement and upon the submission of Hot Stone’s fourth Semi-Annual Report as required under paragraph 13, the Parties may agree in writing that this Agreement has been fully complied with and that the Parties owe each other no further duties or obligations under this Agreement, such written agreement by the United States shall not be unreasonably withheld. Nothing in this Agreement prevents the parties from validly agreeing in writing to any other changes to this Agreement as provided for in paragraph 16 and consistent with the law of the United States.
28. This Agreement shall be binding on Hot Stone’s successors, transferees, heirs, and assigns, except that if Hot Stone sells its company or its assets to an unrelated, arms-length purchaser during the life of this Agreement, the remedial requirements of this Agreement shall not be binding upon the purchaser. Hot Stone agrees to provide thirty

(30) days' prior notice of a proposed sale of its company or assets during the life of this Agreement to the United States.

29. The persons signing this Agreement for Hot Stone represent, respectively, that they are each individually authorized to bind Hot Stone to this Agreement.

30. The Effective Date of this Agreement is the date of the last signature to this Agreement. This Agreement may be executed in counterparts.

FOR THE UNITED STATES:

Vanessa R. Waldref
United States Attorney for the
Eastern District of Washington

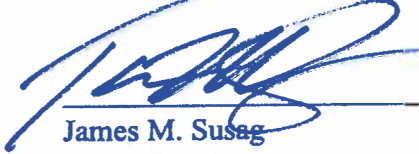


Tyler H.L. Tornabene
Assistant United States Attorney
Eastern District of Washington

11/21/2022

Date

FOR HOT STONE, LLC:



James M. Susag
Larkin Hoffman
Attorney for Hot Stone LLC

11/19/22

Date



Brad Loucks
Governor Hot Stone LLC

11/17/22

Date

Attachment A

POLICY REGARDING SERVICE ANIMALS FOR PEOPLE WITH DISABILITIES

Hot Stone is committed to making reasonable modifications in policies, practices, and procedures to permit the use of service animals by persons with disabilities. Service animals play an important role in ensuring the independence of people with disabilities, and it is therefore our policy to welcome to our establishments any animal that is individually trained to assist a person with a disability.

What is a Service Animal?

Service animals include any dog that is individually trained to do work or perform tasks for individuals with disabilities, including a physical, sensory, psychiatric, intellectual, or other mental disability. Service animals do not always have a harness, a sign, or a symbol indicating that they are service animals. A service animal is not a pet. Service animals assist people with disabilities in many different ways, such as:

- Guiding people who are blind or have low vision and retrieving dropped objects for them;
- Alerting people who are deaf or hard of hearing to sounds and the presence of others;
- Carrying and picking up items, opening doors, or flipping switches for people with disabilities who have limited use of hands or arms, limited use of their legs, or limited ability to bend or stoop;
- Pulling wheelchairs;
- Alerting people with disabilities to the onset of medical conditions such as seizures, protecting them and cushioning them if they fall, reviving them, and performing other tasks that reduce the risk of disability-related injury;
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities, or psychiatric disabilities, such as reminding a person with depression to take medication or waking him up, alerting a person with anxiety to the onset of panic attacks, orienting people with schizophrenia to reality, and helping people with intellectual or cognitive disabilities to locate misplaced items, find places, or follow daily routines; and
- Providing physical support and assisting people with physical disabilities with stability and balance.

Requirements with Regard to Service Animals:

Most of the time, people with disabilities who use service animals may be easily identified

without any need for questioning. If we can tell by looking, it is our policy not to make an individual feel unwelcome by asking questions. If we are unsure whether an animal meets the definition of a service animal, it is our policy to ask the individual only two questions at the point that the individual seeks entry to our establishment:

- *Is the dog a service animal required because of a disability?*
- *What work or task has the dog been trained to perform?*

If the individual says yes to the first question and explains the work or tasks that the animal is trained to perform, we will welcome the person and service animal without asking any additional questions about his or her service animal. We will **not** ask an individual questions about his or her disability. We will **not** ask an individual to show a license, certification, or special ID card as proof of their animal's training. We **must** permit service animals to accompany individuals with disabilities to all areas of our establishments normally used by members of the public and will treat individuals with service animals with the same courtesy and respect that we afford to all of our patrons.

Hot Stone Responsibilities:

Hot Stone has the right to exclude a service animal from its establishments if the dog is out of control and the handler does not take effective action to control it, or the dog is not housebroken. We will not exclude a particular service animal based on past experience with other animals or based on fear unrelated to an individual service animal's actual behavior. Each situation will be considered individually. When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to obtain goods or services without the animal's presence. Only an owner of Hot Stone or a manager he or she designates can make the decision to exclude a service animal.

By signing below, I, _____, acknowledge that I have reviewed and understand the Hot Stone Service Animal Policy.

Dated:

Employee Signature