

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

JIMMY ASHLEY

PLAINTIFF

v.

Case No. 3:12-cv-274-KGB

HIGHLAND SQUARE, INC.

DEFENDANT

ORDER

Before the Court is plaintiff Jimmy Ashley's motion to strike defendant Highland Square, Inc.'s demand for jury trial (Dkt. No. 7). Highland Square has responded (Dkt. No. 11).

Mr. Ashley files suit under Title III of the Americans with Disabilities Act. Rule 38(d) of the Federal Rules of Civil Procedure provides that "[a] proper demand [for jury trial] may be withdrawn only if the parties consent." Mr. Ashley contends that Highland Square's demand for jury trial is not proper because his complaint seeks injunctive relief only and does not include a demand for compensatory or punitive damages, which are unavailable under Title III of the Americans with Disabilities Act. He asks this Court to strike Highland Square's demand for jury trial.

Highland Square's response indicates that it agrees to withdraw its jury demand because Mr. Ashley seeks only injunctive relief and does not seek any compensatory or punitive damages or any legal remedy. Highland Square's withdrawal is expressly contingent on these representations by Mr. Ashley.

Based on Mr. Ashley's motion to strike (Dkt. No. 7) and Highland Square's response to that motion (Dkt. No. 11), the Court concludes that the parties have consented to the withdrawal of the jury demand. Accordingly, Mr. Ashley's motion is granted, and this case will be set for a bench trial.

SO ORDERED this the 27th day of February, 2013.



Kristine G. Baker
United States District Judge