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11 Attorney for Defendants
12 BRADSHAW BAR GROUP, INC.,
13 BRUCE D. FITE, and ESTATE OF CHARLES FITE

14 UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF CALIFORNIA

16 GUY JONES

CASE NO. 2:14-cv-01841-JAM-AC

17 Plaintiff,

18 v.

19 BRADSHAW BAR GROUP, INC. dba
THE RINK; BRUCE D. FITE;
20 CHARLES FITE; and DOES 1-10,
Inclusive,

**CONSENT DECREE AND ORDER
AS TO INJUNCTIVE RELIEF AND
DAMAGES ONLY**

Action Filed: August 5, 2014

21 Defendants.

22
23
24 1. Plaintiff GUY JONES ("Plaintiff") filed a Complaint in this action on
25 August 5, 2014, to obtain recovery of damages for his discriminatory experiences,
26 denial of access, and denial of his civil rights, and to enforce provisions of the
27 Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. §§ 12101 *et seq.*, and
28 California civil rights laws against defendants BRADSHAW BAR GROUP, INC. dba

1 THE RINK; BRUCE D. FITE; ESTATE OF CHARLES FITE (defendants
2 sometimes referred to together as “Defendants”), relating to the condition of
3 Defendants’ public accommodations as of February 22, 2014, and continuing.
4 Plaintiff has alleged that Defendants violated Title III of the ADA; sections 51, 52,
5 54, 54.1, and 54.3 of the California Civil Code; sections 19955 *et seq.* of the
6 California Health & Safety Code; and sections 17200 *et seq.* of the California
7 Business and Professions Code by failing to provide full and equal access to their
8 facilities at 2900 Bradshaw Road, Sacramento, California.

9 2. Plaintiff and Defendants (together sometimes the “Parties”) hereby enter
10 into this Consent Decree and Order for the purpose of resolving injunctive relief
11 issues in this lawsuit without the need for protracted litigation. Issues of damages
12 and attorneys’ fees, costs, and expenses will be the subject of further negotiations and
13 litigation if necessary.

14

15 **JURISDICTION:**

16 3. The Parties to this Consent Decree and Order agree that the Court has
17 jurisdiction of this matter pursuant to 28 U.S.C. section 1331 for alleged violations of
18 the Americans with Disabilities Act of 1990, 42 U.S.C. sections 12101 *et seq.* and
19 pursuant to supplemental jurisdiction for alleged violations of California Health &
20 Safety Code sections 19955 *et seq.*; California Business and Professions Code
21 sections 17200 *et seq.*; Title 24, California Code of Regulations; and California Civil
22 Code sections 51, 52, 54, 54.1, and 54.3.

23 4. In order to avoid the costs, expense, and uncertainty of protracted
24 litigation, the Parties to this Consent Decree and Order agree to entry of this Consent
25 Decree and Order to resolve all injunctive relief claims raised in the Complaint filed
26 with this Court. Accordingly, the Parties agree to the entry of this Order without trial
27 or further adjudication of any issues of fact or law concerning Plaintiff’s claims for
28 injunctive relief.

1 WHEREFORE, the Parties to this Consent Decree hereby agree and stipulate to
2 the Court's entry of this Consent Decree and Order, which provide as follows:

3

4 **SETTLEMENT OF INJUNCTIVE RELIEF:**

5 5. This Order shall be a full, complete, and final disposition and settlement
6 of Plaintiff's injunctive relief claims against Defendants that have arisen out of the
7 subject Complaint.

8 6. The Parties agree and stipulate that the corrective work will be
9 performed in compliance with the standards and specifications for disabled access as
10 set forth in the California Code of Regulations, Title 24-2, and Americans with
11 Disabilities Act Standards for Accessible Design, unless other standards are
12 specifically agreed to in this Consent Decree and Order.

13 a) **Remedial Measures:** The corrective work agreed upon by the
14 Parties is set forth in **Attachment A** (the report of Gary Waters, RA, CAsP, NCARB
15 of Waters MacRae Architects, for November 19, 2014 inspection date), which is
16 attached and incorporated herewith. Additionally, Defendants will install an
17 accessible porta-potty and hand wash station in the back, open-air roller rink area
18 while the restrooms at the subject property are remediated.

19 b) **Timing of Injunctive Relief:** Defendants will submit plans for
20 all corrective work requiring permits to the appropriate governmental agencies within
21 15 days of the entry of this Consent Decree by the Court. Defendants will commence
22 work within 20 days of receiving approval from the appropriate agencies.
23 Defendants will install the agreed table seating within three (3) months of entry of
24 this Consent Decree by the Court. Defendants will complete work related to the "Site
25 Arrival Point" and "Entry Doors and Signage" within six (6) months of entry of this
26 Consent Decree by the Court. Defendants will complete the restrooms within 18
27 months of the entry of this Consent Decree by the Court. The remaining work
28 identified in Attachment A will be completed within one year of entry of this Consent

1 Decree by the Court. In the event that unforeseen difficulties prevent Defendants
2 from completing any of the agreed-upon injunctive relief, Defendants or their counsel
3 will notify Plaintiff's counsel in writing within 5 days of discovering the delay.
4 Plaintiff will have thirty (30) days to investigate and meet and confer, and to approve
5 the delay by stipulation or otherwise respond to Defendants' notice. If the Parties
6 cannot reach agreement regarding the delay within an additional fifteen days, Plaintiff
7 may seek enforcement by the Court. Defendants or their counsel will notify
8 Plaintiff's counsel when the corrective work is completed, and in any case will
9 provide a status report to Plaintiff's counsel no later than 90 days from the Parties'
10 signing of this Consent Decree and Order.

11 c) Defendants will notify Plaintiff in writing at the end of 90 days
12 from the Parties' signing of this Consent Decree and Order as to the current status of
13 agreed-to injunctive relief, and every 90 days thereafter until all access is provided.
14 If Defendants fail to provide injunctive relief on the agreed upon timetable and/or fail
15 to provide timely written status notification, and Plaintiff file a motion with the Court
16 to obtain compliance with these terms, Plaintiff reserves the right to seek additional
17 attorneys' fees for any compliance work necessitated by Defendants' failure to keep
18 this agreement. If the Parties disagree, such fees shall be set by the Court.
19

20 **DAMAGES:**

21 7. Defendants shall pay to Plaintiff the amount of \$12,000 as full and final
22 resolution of Plaintiff's claims for damages. Defendants shall make payment of the
23 first \$6,000 within 30 days of entry of this Consent Decree and Order. Defendants
24 shall make payment of the remaining \$6,000 within three (3) months of entry of this
25 Consent Decree and Order. Payments described in this paragraph shall be made by
26 check payable to "PAUL L. REIN IN TRUST FOR GUY JONES." Payment shall be
27 received at the Law Offices of Paul L. Rein, 200 Lakeside Drive, Suite A, Oakland,
28 CA 94612. A W-9 from Plaintiff's attorneys' office shall be provided to Defendants

1 for the payments described in this paragraph. Plaintiff specifically reserves his right
2 to seek additional attorney fees and costs related to delayed payment by Defendants.
3

4 **ATTORNEYS' FEES, LITIGATION EXPENSES, AND COSTS:**

5 8. Parties have not reached any agreement regarding Plaintiff's claims for
6 attorneys' fees, litigation expenses, and costs. These matters will be the subject of
7 future negotiation or litigation as necessary. The Parties jointly stipulate and request
8 that the Court not dismiss the case in its entirety as these issues remain unresolved.

9
10 **ENTIRE CONSENT DECREE AND ORDER:**

11 9. This Consent Decree and Order and **Attachment A** constitute the entire
12 agreement between the signing Parties and no other statement, promise, or agreement,
13 either written or oral, made by any of the Parties or agents of any of the Parties that is
14 not contained in this written Consent Decree and Order, shall be enforceable
15 regarding the matters described herein.

16
17 **CONSENT DECREE AND ORDER BINDING ON PARTIES AND**
18 **SUCCESSORS IN INTEREST:**

19 10. This Consent Decree and Order shall be binding on Plaintiff,
20 Defendants, and any successors-in-interest. Defendants have a duty to so notify all
21 such successors-in-interest of the existence and terms of this Consent Decree and
22 Order during the period of the Court's jurisdiction of this Consent Decree and Order.

23
24 **MUTUAL RELEASE AND WAIVER OF CIVIL CODE SECTION 1542 AS TO**
25 **INJUNCTIVE RELIEF ONLY:**

26 11. Each of the Parties to this Consent Decree and Order understands and
27 agrees that there is a risk and possibility that, subsequent to the execution of this
28 Consent Decree and Order, any or all of them will incur, suffer, or experience some

1 further loss or damage with respect to the lawsuit that is unknown or unanticipated at
2 the time this Consent Decree and Order is signed. Except for all obligations required
3 in this Consent Decree and Order, the Parties intend that this Consent Decree and
4 Order apply to all such further loss with respect to the lawsuit, except those caused by
5 the Parties subsequent to the execution of this Consent Decree and Order. Therefore,
6 except for all obligations required in this Consent Decree and Order, this Consent
7 Decree and Order shall apply to and cover any and all claims, demands, actions, and
8 causes of action by the Parties to this Consent Decree with respect to the lawsuit,
9 whether the same are known, unknown, or hereafter discovered or ascertained, and
10 the provisions of Section 1542 of the California Civil Code are hereby expressly
11 waived. Section 1542 provides as follows:

12 **A GENERAL RELEASE DOES NOT EXTEND TO
13 CLAIMS WHICH THE CREDITOR DOES NOT
14 KNOW OR SUSPECT TO EXIST IN HIS OR HER
15 FAVOR AT THE TIME OF EXECUTING THE
16 RELEASE, WHICH IF KNOWN BY HIM OR HER
17 MUST HAVE MATERIALLY AFFECTED HIS
SETTLEMENT WITH THE DEBTOR.**

18 This waiver applies to the injunctive relief aspects of this action only and does not
19 include resolution of Plaintiff's claims for damages, attorneys' fees, litigation
20 expenses, and costs.

21 12. Except for all obligations required in this Consent Decree and Order --
22 and exclusive of the referenced continuing claims for damages, attorneys' fees,
23 litigation expenses, and costs – each of the Parties to this Consent Decree and Order
24 on behalf of each, their respective agents, representatives, predecessors, successors,
25 heirs, partners, and assigns, releases and forever discharges each other Party and all
26 officers, directors, shareholders, subsidiaries, joint venturers, stockholders, partners,
27 parent companies, employees, agents, attorneys, insurance carriers, heirs,
28

predecessors, and representatives of each other Party, from all claims, demands, actions, and causes of action of whatever kind or nature, presently known or unknown, arising out of or in any way connected with the lawsuit.

TERM OF THE CONSENT DECREE AND ORDER:

13. This Consent Decree and Order shall be in full force and effect -- and the Court shall retain jurisdiction of this action to enforce provisions of this Consent Decree and Order -- for a period of eighteen (18) months after the date of entry of this Consent Decree and Order by the Court or until the injunctive relief contemplated by this Order is completed, whichever occurs later.

SEVERABILITY:

14. If any term of this Consent Decree and Order is determined by any court to be unenforceable, the other terms of this Consent Decree and Order shall nonetheless remain in full force and effect.

SIGNATORIES BIND PARTIES:

15. Signatories on the behalf of the Parties represent that they are authorized to bind the Parties to this Consent Decree and Order. This Consent Decree and Order may be signed in counterparts and a facsimile signature shall have the same force and effect as an original signature.

END OF PAGE.

**SIGNATURES CONTINUE ON THE NEXT PAGE AND ORDER IS AT THE
END OF THE DOCUMENT.**

1 Dated: _____, 2015

PLAINTIFF GUY JONES

4 _____
5 GUY JONES
6

7 Dated: _____, 2015

8 DEFENDANT BRADSHAW BAR GROUP, INC.
9 dba THE RINK

10 By: _____

11 Print name: _____

12 Title: _____

13 Dated: _____, 2015

14 DEFENDANT BRUCE D. FITE

15 _____
16 BRUCE D. FITE
17

18 Dated: _____, 2015

19 DEFENDANT ESTATE OF CHARLES FITE

20 _____
21 By: _____

22 Print name: _____

23 Title: _____

1 APPROVED AS TO FORM:

2 Dated: March 6, 2015

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5 LAW OFFICES OF PAUL L. REIN

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/s/ Catherine Cabalo
By: CATHERINE CABALO, ESQ.
Attorneys for Plaintiff
GUY JONES

Dated: March 6, 2015

LEWIS BRISBOIS BISGAARD & SMITH

/s/ Shane Singh
By: SHANE SINGH.
Attorneys for Defendants BRADSHAW BAR
GROUP, INC., BRUCE D. FITE, and
ESTATE OF CHARLES FITE

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ORDER

Pursuant to stipulation, and for good cause shown, **IT IS SO ORDERED.**

Dated: 3/9/2015

/s/ John A. Mendez
Honorable John A. Mendez
United States District Court Judge