

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

TAJUAN FARMER and MIKA
PYYHKALA, on behalf of themselves
and all others similarly situated,

Plaintiffs,

— against —

SWEETGREEN, INC.

Defendant.

Case Civ. Action No. 16-cv-2103

SETTLEMENT AGREEMENT

WHEREAS plaintiffs Mika Pyyhkala and Tajuan Farmer (“Plaintiffs”) commenced a civil action against Defendant Sweetgreen, Inc. (“Defendant”) on March 2, 2016 in the United States District Court for the Southern District of New York (Index No. 16-cv-2103) (“Action”) alleging claims of discrimination in violation of Title III of the Americans with Disabilities Act (“ADA”) as well as the New York State Human Rights Law (“NYSHRL”) and the New York City Human Rights Law (“NYCHRL”);

WHEREAS Defendant offers its customers a fast and an efficient way of ordering food online ahead of time so that when they arrive at the restaurant they can pick up their food without waiting behind other customers who place their orders in the restaurant;

WHEREAS Defendant’s online ordering portal and mobile application allow customers to “customize signature salads, filter by dietary preferences, track calories and more...”;

WHEREAS Plaintiffs allege that they are blind individuals who both use the internet via a talking screen reader installed on their computers which verbalizes what is on the screen, as

well as iPhones and mobile applications to access various services via VoiceOver, a talking software installed on all Apple products;

WHEREAS Plaintiffs allege in the Action that they experienced accessibility barriers when attempting to access Defendant’s online ordering portal and mobile app, and as a result were prohibited from independently placing orders online for salads for pick-up; and

WHEREAS Defendant disputes Plaintiffs’ allegations set forth above and in the Complaint, denies that its online ordering portal or mobile app are in violation of Title III of the ADA, NYSHRL, or NYCHRL, and has denied and continues to deny that it has any liability to Plaintiffs for any claim asserted whatsoever.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. **DEFINITIONS.** In addition to the terms defined elsewhere in the Agreement, the following terms will have the meanings set forth below. Any terms not defined herein will have the meaning ascribed to them in the ADA and/or the ADA regulations.

- A. “ADA” means Title III of the Americans with Disabilities Act, 42 U.S.C. §§12181, et seq., and its implementing regulations Title III, 28 C.F.R. pt. 36.
- B. “NYSHRL” means the New York State Human Rights Law, 15 N.Y. Exec. Law § 290, et seq.
- C. “NYCHRL” means the New York City Human Rights Law, N.Y.C. Admin. Code § 8-101, et seq.
- D. “Agreement” means this Settlement Agreement and the exhibits hereto.
- E. “Effective Date” is the date of the last signature to this Agreement, listed below.

2. **RECITALS.** The Parties acknowledge that all of the preceding paragraphs are incorporated as material parts of this Agreement.
3. **MUTUAL RELEASE.**
 - A. In consideration of the foregoing Recitals, the mutual promises, covenants, and undertakings contained in this Agreement, and for other good and valuable consideration, the receipt of which is hereby acknowledged, Plaintiffs shall irrevocably and completely release, acquit, and forever discharge Defendant from any and all claims they have or may have against Defendant as of the Effective Date of this Agreement, relating to Defendant's website, online ordering portal, and mobile application, except that Plaintiffs retain the right to bring an Action to enforce this Agreement. Defendant shall irrevocably and completely release, acquit, and forever discharge Plaintiffs from any and all claims it has or may have against Plaintiffs as of the Effective Date of this Agreement.
 - B. Plaintiffs represent that as of the Effective Date of this Agreement they are not aware of any other claims or complaints by any person or entity against Defendant resulting from the inaccessibility of Defendant's website, online ordering portal, or mobile application. Plaintiffs' counsel represent that as of the Effective Date of this Agreement they are not retained by any other persons with similar claims involving the accessibility of Defendant's website, online ordering portal, or mobile application.
4. **CONSIDERATION.** In consideration of Plaintiffs' Release in Paragraph 3 above, and in consideration of Plaintiff's agreement to dismiss the Action, as specified in Paragraph 5 below, Defendant shall accomplish the relief identified below in paragraphs 6-13 of this Agreement and the obligations of Defendant specified in the confidential side letter executed concurrently with this Agreement.

5. **STIPULATION OF DISMISSAL.** Within five (5) business days of the Effective Date of this Agreement, Plaintiffs' counsel will sign and return to Defendant's counsel the Stipulation of Dismissal with Prejudice attached as Exhibit A to this Agreement. The stipulation shall include a retention of jurisdiction provision by the Southern District of New York over enforcement of this Agreement. Defendant's counsel will file with the Court no earlier than five (5) business days after receipt of the Confidential Monetary Payment by Plaintiffs' Counsel.

6. **REMEDICATION OF WEBSITE AND MOBILE APPLICATION.**
 - A. Defendant agrees to improve accessibility to both its online ordering portal and mobile application to conform to, at minimum, the Web Content Accessibility Guidelines 2.0 Level A and AA Success Criteria ("WCAG2.0AA") by March 31, 2017. subject to the terms described in Paragraph 15 of this Agreement
 - B. The requirements set forth in Paragraph 6(A) do not apply to content provided by third parties unless such content provides a function that is necessary to complete a transaction on Defendant's online ordering portal or mobile application (*e.g.*, finding a Sweetgreen restaurant location, payment, registration, or log-in).
 - C. Defendant agrees to maintain accessibility of both its online ordering portal and mobile applications to the Web Content Accessibility Guidelines identified in A above, throughout any updates, maintenance, and reformatting of its website and mobile applications.

7. **WEB ACCESSIBILITY FEEDBACK.** By April 1, 2017, Defendant shall provide a link on its contact page (<http://www.sweetgreen.com/contact/>) that provides the opportunity to provide feedback regarding accessibility or accessibility issues from visitors; the linked to

page shall provide an accessible form to submit feedback, or an email address, and a toll-free phone number (with TTY) to contact applicable representatives with Defendant regarding accessibility.

8. **REMEDATION BASED ON FEEDBACK.** Defendant shall take reasonable steps to remedy accessibility issues learned through the feedback provision above to the extent such feedback is consistent with WCAG2.0AA, within thirty (30) days from the date they are received by Sweetgreen.
9. **WEB ACCESSIBILITY TRAINING.** In November 2016, Defendant provided web accessibility training to applicable employees who write or develop programs or code for <http://order.sweetgreen.com>, and its mobile applications, or who publish final content to <http://order.sweetgreen.com>, and its mobile applications (“Web Content Personnel”) on how to conform all web content and services with, at minimum, WCAG 2.0 AA and the terms of this Agreement.. Defendant shall provide such training again at least annually for a period of two (2) additional years from November 2016.
10. **COUNTERPARTS.** This Agreement can be executed in any number of counterparts, each of which shall be taken to be one and the same instrument, for the same effect as if all Parties had signed the same signature page. The Parties agree and acknowledge that a photocopy, facsimile copy, PDF or scanned copy of an executed signature may be used in place of an original signature for any purpose and shall be deemed as legally binding as the original signature.
11. **NO WAIVER.** Failure to insist on compliance with any term, covenant or condition contained in this Settlement Agreement shall not be deemed a waiver of that term, covenant or condition. Nor shall any waiver or relinquishment of any right or power contained in this

Settlement Agreement at any one time or more times be deemed a waiver or relinquishment of any right or power at any other time or times.

12. **PUBLIC DOCUMENT.** The Parties agree that this Agreement is a public document, except that the side letter specified in Paragraph 4 above will remain confidential.

13. **MUTUAL NON-DISPARAGEMENT.**

A. Plaintiffs agree that they will not make, or cause to be made, any public statements related to Defendant, which disparage, demean, or impugn Defendant or its staff or its products or services including, without limitation, any statements impugning its/their professional reputations.

B. Defendant agrees that it will not make, or cause to be made, any statements that disparage, demean, or impugn Plaintiffs, including, without limitation, any statements impugning their personal or professional character.

C. Nothing in Paragraph 13 shall prevent Plaintiffs from complaining about a breach of the Agreement that has not been remedied in accordance with Paragraph 15.

D. The Parties will not be held responsible for any disparaging statements made by third parties resulting from this lawsuit or this Agreement.

14. **SEVERABILITY.** The illegality, unenforceability or overbreadth of any provision of this Agreement shall have no effect upon, and shall not impair the enforceability of, any other provision of this Agreement. Upon a finding by a court of competent jurisdiction that this Agreement, or any of its provisions, is illegal, void or unenforceable, the Parties agree to execute a settlement agreement that is legal and enforceable, and which has the effect of accomplishing the intent of the Parties as set forth herein.

15. **NOTICE AND OPPORTUNITY TO CURE.** If Plaintiffs or their counsel believes that this Agreement or any portion of it has been violated, Plaintiffs or their counsel shall give notice (including reasonable particulars) of such violation to Defendant. Defendant must respond to such notice as soon as practicable but no later than thirty (30) days thereafter. Plaintiffs or their counsel and Defendant shall negotiate in good faith in an attempt to resolve any dispute relating thereto; if the parties are unable to reach a mutually acceptable resolution, Plaintiffs may seek court enforcement of compliance with this Agreement. Plaintiffs and Defendant are to each bear their own or its own attorneys' fees and costs and any expert or consultant fees, costs, and expenses incurred for the notice and cure period.
16. **NO ADMISSION OF LIABILITY OR WRONG DOING.** It is understood and agreed this Agreement and the performance of the obligations herein, including the making of the Confidential Monetary Payment, reflects the compromise and settlement of disputed claims among the Parties and are for the sole purpose of compromising and settling the disputed claims. Its constituent provisions, and any and all drafts, communications, and discussions relating to it, shall not be construed as or deemed to be an admission of liability or wrongdoing by any Party or evidence of an admission or concession of any point of fact or law by any person, including Defendant, and shall not be offered or received in evidence or requested in discovery in any action or proceeding as evidence of an admission or concession. The Parties expressly deny any liability or wrongdoing whatsoever.
17. **ADOPTION OF STANDARDS.** If the United States Department of Justice promulgates a final ADA Title III regulation setting out a website accessibility technical standard during the term of this Agreement, then the Parties shall meet and confer at the request of either party to discuss whether modification to the terms of this Agreement regarding the technical standard

is necessary to be consistent with the final regulation and shall modify this Agreement accordingly.


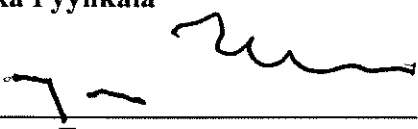
18. **INVESTIGATION AND CHANGED FACTS.** Each of the Parties has made such investigation of the facts pertaining to this Agreement, as it deems necessary. The Parties understand that if any fact with respect to any matter covered by this Agreement is found hereafter to be other than, or different from, the facts now believed by the Parties to be true, each Party expressly accepts and assumes the risk of such possible difference in facts and agrees that this Agreement shall become and remain effective notwithstanding such different facts.
19. **JOINTLY DRAFTED AGREEMENT.** This Agreement shall be deemed to have been jointly drafted, and no provision herein shall be interpreted or construed for or against any party because such party drafted or requested such provision or this Agreement as a whole.
20. **ENTIRE AGREEMENT.** This Agreement sets forth the entire agreement between the Parties. This Agreement supersedes any and all prior oral or written understandings and agreements among the Parties. This Agreement may not be modified, except by a writing signed by the Parties. Plaintiffs acknowledge that they have not previously transferred, assigned or conveyed any right or claim released in this Agreement.
21. **SUCCESSORS.** The Parties are bound by this Agreement. Any person or entity that succeeds to the rights and responsibilities of any of the Parties is also bound by this Agreement. This Agreement is made for the benefit of the Parties and to all who succeed to their rights and responsibilities, including without limitation their successors or assigns.
22. **NON-RELIANCE.** The Parties acknowledge that they have been represented by counsel throughout the negotiation and execution of this Agreement. The Parties represent that, in

entering into this Agreement, they are not relying on and have not relied upon any representation or statement not set forth expressly in this Agreement.

23. **WARRANTY.** The Parties expressly represent and warrant that they have full legal capacity to enter into this Agreement, that they have been advised of their right to discuss all aspects of this Agreement with an attorney, that they have carefully read and fully understand the Agreement, that they have reviewed the Agreement with their attorneys, that they have had a reasonable period of time to consider whether or not to enter into this Agreement, and that they have executed the Agreement voluntarily, knowingly, and without duress, coercion or undue influence.
24. **GOVERNING LAW.** This Agreement is to be construed in accordance with the laws of the State of New York without regard to any state's conflict of laws' provisions. The Parties agree that the United States District Court for the Southern District of New York shall retain jurisdiction over this Agreement and that any future legal proceedings arising out of this Agreement shall be instituted in this court. Should this court find that a party has failed to perform any obligation arising under this Agreement, then that party which failed to perform shall pay all the attorneys' fees, expenses and costs incurred by the other party for enforcing the terms and conditions of this Agreement.
25. **NOTICES.** All notices related to this Agreement shall be in writing addressed to the counsel for each party by mail or email. Notices delivered shall be deemed received on the day of delivery.
26. **TERM OF AGREEMENT.** The terms of this Agreement shall be three (3) years from the Effective Date.

The Parties have each executed this Agreement on the dates indicated below.

PLAINTIFFS

 _____	12/21/2016 _____
Mika Pyyhkala	Date
 _____	12/21/2016 _____
Tajuan Farmer	Date

DEFENDANT

SWEETGREEN, INC.

By: _____	_____
Print name:	Date
Title:	

The Parties have each executed this Agreement on the dates indicated below.

PLAINTIFFS

Mika Pyyhkala

Date

Tajuan Farmer

Date

DEFENDANT

SWEETGREEN, INC.

By: _____

Print name: _____

Title: _____

Mitchell
Mitchell Rebak
C.F.O

Date

12/23/16

Exhibit A
Stipulation of Dismissal

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

TAJUAN FARMER and MIKA
PYYHKALA, on behalf of themselves
and all others similarly situated,

Plaintiffs,

— against —

SWEETGREEN, INC.

Defendant.

Case Civ. Action No. 16-cv-2103

STIPULATION OF DISMISSAL

Plaintiffs Tajuan Farmer and Mika Pyyhkala, and defendant Sweetgreen, Inc., by and through their respective counsel of record, hereby stipulate pursuant to Fed. R. Civ. Proc. 41(A)(1)(a) that this action shall be dismissed as to defendant Sweetgreen, Inc., subject to the terms of a Settlement Agreement between the parties dated _____, which are incorporated as though fully set forth herein by reference. Except as to the performance of the settlement terms, this action shall be dismissed with prejudice as to the named plaintiffs and without prejudice as to any putative class members or claims. The Court shall retain jurisdiction to enforce the terms of the Settlement Agreement in the event of breach, and a claim of breach may be asserted by a motion to enforce the Settlement Agreement.

Dated: _____

Respectfully Submitted,

/s/ Matthew K. Handley

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