

EXHIBIT “A”

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
(TAMPA DIVISION)**

**CASE NO. 8:01 CV-00787-EAJ
CLASS ACTION**

**MICHAEL YELAPI, KATHY DYER
and SHERRI BASTRESS, individuals,**

Plaintiffs

vs.

**ST. PETERSBURG SURGERY
CENTER, LTD., et al.,**

Defendants.

**REPORT AND RECOMMENDATION OF THE SPECIAL MASTER ON THE PARTIES'
ACCESSIBILITY COMPLIANCE REPORTS ACR NO. 203 AND ACR NO. 252**

ROBERT S. FINE, Special Master in this matter, hereby gives notice of filing of his Report and Recommendation on the Parties' Accessibility Compliance Reports ("ACR") Nos. 203 and 252 and states as follows:

1. On September 4, 2015, the special master filed his Amended Report and Recommendation of the Special Master on Parties' Final 84 Accessibility Compliance Reports. [D.E. 158-1].

2. During review of those 84 ACRs that were submitted for Court approval (after the fairness hearing), the Parties determined that they had transposed ACR numbers and incorrectly submitted ACR No. 202 (Doc Nos. 152-5 and 160-5) and ACR No.250 (Doc. Nos. 152-56 and 160-56) to the Special Master and the Court. These ACRs are not subject to the Consent Decree because the Defendants no longer own, lease, occupy, or operate either facility. *See* Section 3.a. of the Consent Decree (Doc 121-2); *see also* [D.E. 178].

3. On April 28, 2016, the Parties submitted ACR No. 203 and 252 to the Court and requested the Court to refer the ACRs to the special master to perform a substantive review of the ACRs and to prepare a report and recommendation. The Parties also requested that upon the special master completing his review and filing his report and recommendation, that the Court substitute ACR Nos. 203 and 252 for the erroneously filed ACR Nos. 202 and 250. [D.E. 178].

4. In response to the Parties' request, on April 29, 2016, the Court referred ACR Nos. 203 and 252 to the special master for a report and recommendation regarding removal of architectural barriers identified in these ACRs. [D.E. 179].

5. Having now preformed his review of ACR Nos. 203 and 252, the special master files this report and recommendation.

6. The procedural history of the appointment of the special master, a description of the tasks he was charged with, the standards upon which he performed his substantive review of the ACRs, the criteria that the ACRs were evaluated based upon and the special master's conclusion are set forth in the Amended Report and Recommendation of the Special Master on Parties' Final 84 Accessibility Compliance Reports. [D.E. 158-1]. For the sake of brevity, that information is incorporated herein by reference and will not be restated.

7. The review of ACR Nos. 203 and 252 by the special master is based on the requirements set forth in the ADA Accessibility Guidelines, 1994 Rev. ("ADAAG"). Since the Department of Justice issued an updated version of architectural standards for Title III, the 2010 ADA Standards, subsequent to a settlement being reached in this matter, ACR Nos. 203 and 252 each contain a column which provides a cross-reference to the citation of the requirements in the 2010 ADA Standards that correspond to the ADAAG citation that the Parties agreed to for each element identified in the ACRs. The citations to the 2010 ADA Standards are for reference

purposes only and are not intended to change the agreement forged by the Parties—which is compliance based on the ADAAG.

8. It should also be noted that as with the prior ACRs submitted to the Court in this matter, the requirements in ACR Nos. 203 and 252 may be subjected to the application of the Order Adopting Special Master’s Amended Report and Recommendation (on Defendants’ Unopposed Motion for Partial Summary Judgment). [**D.E. 112**].

9. ACR Nos. 203 and 252 were evaluated utilizing the criteria set forth in **D.E.102** and **D.E. 112**, and as described in **D.E. 158-1** and this report and recommendation. ACR Nos. 203 and 252 are, in the special master’s opinion, consistent with the requirements of the Consent Decree and therefore should be approved.

CONCLUSION

Subject to the comments regarding ACR Nos. 203 and 252 discussed above, and the standards set forth in **D.E. 158-1**, the special master finds that the Agreed Accessibility Modification required of Defendants as set forth in these ACRs represent appropriate compliance with the requirements of the Consent Decree, and are “fair, adequate and reasonable...” See *Bennett v. Behring Corp.*, 737 F. 2d 982, 986 (11th Cir. 1984).

Dated May 10, 2015

Respectfully submitted,

/s/ Robert S. Fine
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Special Master

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 10, 2015, I electronically filed the foregoing Report and Recommendation with the Clerk of the Court using CM/ECF. I also certify that it is being served this day on all counsel of record or pro se parties identified below, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronic Notices of Electronic Filing

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