

# **EXHIBIT 1**

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Attorneys for Defendant  
CRACKER BARREL OLD COUNTY STORE, INC.

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

SARAH HEINZL, individually and on behalf  
of all others similarly situated,

Plaintiff,

v.

CRACKER BARREL OLD COUNTRY  
STORE, INC.,

Defendant.

**Civil Action No. 2:14-cv-01455-RCM**

**CLASS SETTLEMENT AGREEMENT  
AND RELEASE**

Judge: Hon. Mark R. Hornak

Magistrate Judge: Hon. Robert C. Mitchell

1. **Introduction and Recitals.**

1.1. This Settlement Agreement (together with all exhibits, the “Agreement”) is entered into by and between Cracker Barrel Old Country Store, Inc. (“Cracker Barrel”) and Sarah Heinzl (“Heinzl”), individually and on behalf of herself and a class of persons similarly situated (hereinafter referred to as the “Class” and defined below). Cracker Barrel and Heinzl (individually and on behalf of the Class) shall individually be referred to as a “Party” and jointly as “Parties.”

1.2. Heinzl filed a class action complaint in the United States District Court for the Western District of Pennsylvania on October 27, 2014, in which she alleged that Cracker Barrel violated Title III of the Americans With Disabilities Act, 42 U.S.C. §§ 12181 to 12189 (the “ADA”) and its implementing regulations (the “Lawsuit”). The Lawsuit was assigned the civil action number 2:14-cv-01455-MRH-RCM and was assigned to the Honorable Mark R. Hornak and referred to Magistrate Judge Robert C. Mitchell. In her Complaint, Heinzl alleged that she had visited one (1) Cracker Barrel Store (as defined in Section 3 below) in Pittsburgh, PA, where she encountered access barriers in the parking lot and along the route from the accessible parking spaces to the store’s entrance (referred to as a “Parking Facility” and defined in Section 3 below), and that investigators employed by Class Counsel had identified access barriers in the Parking Facilities of six (6) additional Cracker Barrel Stores located in Pennsylvania, West Virginia, and Ohio. Heinzl also alleged in the Complaint that Cracker Barrel’s company-wide ADA compliance policies and practices were inadequate to ensure that the Parking Facilities at all Cracker Barrel Stores in the United States were accessible to individuals who use wheelchairs or scooters for mobility as required by the ADA. Heinzl sought injunctive and declaratory relief, as well as attorneys’ fees and litigation costs.

1.3. On December 15, 2015, Heinzl moved to certify a class defined as: “All persons with qualified mobility disabilities who were denied the full and equal enjoyment of the goods, services, facilities, privileges, advantages or accommodations of any Cracker Barrel store location in the United States on the basis of disability because such persons encountered

accessibility barriers due to Cracker Barrel’s failure to comply with the ADA’s accessible parking and path of travel requirements.”

1.4. On January 27, 2016, United States Magistrate Judge Robert C. Mitchell issued a Report and Recommendation in which he recommended that Heinzl’s motion to certify the class, as defined in her motion, be granted. *See* Dkt. No. 113. United States District Court Judge Mark R. Hornak adopted Magistrate Judge Mitchell’s Report and Recommendation and certified the Class on April 24, 2016. *See* Dkt. No. 126.

1.5. On October 26, 2016, before the close of discovery and following an unsuccessful mediation, Heinzl filed a Motion for Partial Summary Judgment (“MPSJ”) on the issue of liability and asserted that Cracker Barrel’s ADA compliance policies and practices had failed to ensure that its stores’ Parking Facilities were compliant with the ADA. *See* Dkt. Nos. 140-42. In the MPSJ, Heinzl submitted information concerning one hundred and seven (107) Cracker Barrel Stores (including the ones originally identified in the Complaint) (the “Identified Stores”) which allegedly have Parking Facilities that do not comply with the 2010 Americans with Disabilities Act Standards for Accessible Design (“2010 Standards”). Cracker Barrel opposed the MPSJ on a number of grounds, including the admissibility of the information concerning the Identified Stores. On December 20, 2016, after the motion was fully briefed, the Parties attended a status conference where Plaintiff agreed to dismiss the MPSJ without prejudice and the Parties agreed to stay discovery so that they could try to resolve the case. *See* Dkt. No. 140.

1.6. After a series of arms-length settlement discussions, an unsuccessful mediation, significant exchanges of information and multiple proposals/counterproposals, as well as consideration of the risks, possible delays and expense likely to result from prolonged litigation (including appeals), Cracker Barrel and Heinzl have reached agreement on the terms of a proposed class settlement.

1.7. The Parties therefore now wish to effect a complete resolution and settlement of all claims and controversies relating to the allegations of Heinzl and the Class, and

to resolve their differences and disputes by settling the Lawsuit. For purposes of this Agreement, Cracker Barrel does not object to the definition of the Class, to Heinzl serving as Class Representative (as defined below), and to Class Counsel (as defined below) serving as counsel to the Class. Heinzl and Class Counsel acknowledge that they desire to settle on the terms and provisions in this Agreement and believe it is fair, reasonable, and adequate and in the best interests of Heinzl and the Class.

1.8. The terms of all Exhibits attached hereto are fully incorporated into this Agreement and are an integral part thereof. The terms of this Agreement, where applicable, are fully incorporated into all Exhibits and are, where applicable, an integral part thereof. To the extent that there are any conflicts or inconsistencies between the terms of this Agreement and any of the Exhibits, the terms of this Agreement shall control.

2. **No Admission of Liability.** By agreeing to and voluntarily entering into this Agreement, there is no admission or concession by Cracker Barrel, direct or indirect, express or implied, that it has violated the ADA or any other federal, state, or local law, regulation, order, or rule, or that class certification is appropriate in this Lawsuit. The Parties agree that if this Agreement is not finally approved, or is otherwise nullified, then the Parties shall return to their positions preceding this Agreement and Cracker Barrel shall retain all rights to challenge Heinzl's claims and the certification of the Class.

3. **Definitions.** In addition to the terms defined elsewhere in the Agreement, the following terms shall have the meanings set forth below.

3.1. The "2010 Standards" refers to the 2010 ADA Standards for Accessible Design at 28 C.F.R. Part 36, subpart D, and the 2004 ADAAG at 36 C.F.R. Part 1191, appendices B and D.<sup>1</sup>

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<sup>1</sup> The 2010 Standards are available online at

<https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm#c2>.

3.2. The “Class” means all Persons with Qualified Mobility Disabilities who were denied the full and equal enjoyment of the goods, services, facilities, privileges, advantages or accommodations of any Cracker Barrel Store location in the United States on the basis of disability because such persons encountered accessibility barriers due to Cracker Barrel’s failure to comply with the ADA’s accessible parking and path of travel requirements.

3.3. “Class Member” means any member of the Class.

3.4. “Class Counsel” means the law firm of Carlson, Lynch, Sweet, Kilpela & Carpenter, LLP.

3.5. “Class Representative” means Sarah Heinzl.

3.6. “Court” means the U.S. District Court for the Western District of Pennsylvania.

3.7. “Complaint” refers to the operative complaint filed in this Lawsuit.

3.8. “Cracker Barrel” means Cracker Barrel Old Country Store, Inc. and any of its affiliated companies operating Cracker Barrel Old Country Store ® restaurants in the United States.

3.9. “Cracker Barrel Store” means a Cracker Barrel Old Country Store ® restaurant opened by Cracker Barrel.

3.10. “Dispute Resolution” means the process described in Section 11 herein.

3.11. “Effective Date” means the date by which all of the following have occurred:

- a. The Parties have executed the Agreement.
- b. The Parties have submitted to the Court and the Court has entered the following: (a) the Preliminary Approval and Scheduling Order, and (b) the Order of Final Approval.
- c. The Order of Final Approval has become final and is no longer subject to appeal or review.

3.12. “Existing Cracker Barrel Store” means a Cracker Barrel Store that is open on May 1, 2017 that is not an Identified Store.

3.13. “Fairness Hearing” means a hearing held by the Court before Final Approval and after Notice and any responses to any objections have been filed with the Court.

3.14. “Final Approval” means the approval of this Agreement by the Court under Federal Rule of Civil Procedure 23(e) after Notice to the Class and a Fairness Hearing.

3.15. “Identified Stores” means the one hundred and seven (107) Cracker Barrel Stores identified by Heinzl in her Partial Motion for Summary Judgment which allegedly have Parking Facilities that do not comply with the 2010 Standards.

3.16. “New Cracker Barrel Store” means a Cracker Barrel Store that is opened after May 1, 2017.

3.17. “Notice” means notice of this Agreement as provided in Section 10 herein and described in the Proposed Order Granting Motion for Preliminary Approval of Class Settlement; Directing Issuance of Settlement Notice; and Scheduling Hearing on Final Approval, attached as **Exhibit A**, including the Notices to the Class regarding the terms of this Settlement Agreement, attached as **Exhibits B and C**, or notice that is materially identical thereto.

3.18. “Parking Facility” means the area of accessible parking spaces located at a Cracker Barrel Store and the route from the accessible spaces to the entrance of the Cracker Store.

3.19. The phrase “Persons with Qualified Mobility Disabilities” referenced in the definition of the Class means persons who use manual or power wheelchairs or scooters for mobility.

3.20. “Preliminary Approval” means the initial approval by the Court of the terms of this Agreement, which shall occur prior to any Notice being provided to the Class in accordance with Section 10 herein. A draft Proposed Order Granting Motion for Preliminary Approval of Class Settlement; Directing Issuance of Settlement Notice; and Scheduling Hearing on Final Approval is attached as **Exhibit A**.

3.21. “Unit Assessments” are the routine physical inspections of the exterior and interior of a Cracker Barrel Store which are conducted by Cracker Barrel’s Facility Services Project Managers on a periodic basis to identify areas needing maintenance and/or repair.

4. **Conditions Precedent.** This Agreement shall be conditioned upon and shall be effective only upon the occurrence of all of the following events:

4.1. Class Counsel has moved for, and the Court has entered, an order granting Preliminary Approval of this Agreement.

4.2. Upon Preliminary Approval of this Agreement and approval of the Notice and the procedures for providing Notice, Notice has been provided to the Class in accordance with such procedures.

4.3. A Fairness Hearing has been held in accordance with Federal Rule of Civil Procedure 23(e)(2).

4.4. The Court has granted Final Approval of this Agreement, dismissed the claims of the Lawsuit in accordance with the terms set forth herein after a Fairness Hearing has been conducted (subject to the Court's retaining jurisdiction pursuant to Section 13 herein), and all such orders and approvals have become final and non-appealable.

5. **Settlement Purposes Only.** This Agreement is for settlement purposes only. Neither the fact of, nor any term or provisions contained in, this Agreement or its Exhibits, nor any action taken under it shall constitute, be construed as, or be admissible in evidence as (1) any admission of the validity of any claim or fact alleged by Heinzl and the Class in this Lawsuit or any other pending or subsequently filed action; (2) evidence of any wrongdoing, fault, violation of law, or liability of any kind by Cracker Barrel; (3) an admission by Cracker Barrel of any claim or allegation made in this Lawsuit or any action; nor (4) admission by Heinzl, the Class, or Class Counsel of the validity of any fact or defense asserted against them in the Lawsuit or any action.

6. **Term of Agreement.** This Agreement shall have a term ("Term") that expires on the earlier of seven (7) years after the Effective Date or the date that Cracker Barrel has completed surveys and any required remediation at Cracker Barrel Stores.

7. **Injunctive Relief for the Class.**

7.1. **ADA Consultant.** Within two (2) months of the Effective Date, Cracker Barrel will engage accessibility consultant Doug Anderson of LCM Architects, who has knowledge of and experience with applying the 2010 Standards ("ADA Consultant") and who is approved by Heinzl and Class Counsel.

7.2. **ADA Compliance Survey Form.** Within four (4) months of the Effective Date, with the assistance of the ADA Consultant, Cracker Barrel will develop a survey form (the "Survey Form") to assess the compliance of Cracker Barrel's Parking Facilities with the 2010 Standards. Cracker Barrel will send a copy of the Survey Form to Class Counsel, and Class Counsel shall have the opportunity to provide comments on the Survey Form within fourteen (14) days of receipt. Cracker Barrel shall consider Class Counsel's comments in good faith. If there is a disagreement between the Parties over the content of the Survey Form, the Survey Form shall be submitted to United States District Court Judge Mark R. Hornak or Magistrate Judge Robert C. Mitchell for resolution.

7.3. **Employee Training on ADA Compliance Survey Form.** Within six (6) months of the Effective Date, Cracker Barrel, with the assistance of the ADA Consultant, will create a training video or e-learning program for Cracker Barrel's Facility Services Project Managers ("FSPMs") on how to complete an assessment of a Cracker Barrel Store's Parking Facility using the Survey Form.

7.4. **Survey and Remediation of the 107 Allegedly Non-Compliant Stores.**

7.4.1. Within eighteen (18) months of the Effective Date, Cracker Barrel will assess the Parking Facilities at the Identified Stores (set forth at **Exhibit D**) using the Survey Form. The FSPMs conducting the surveys shall have received training described in Section 7.3 on how to complete the Survey Form. Cracker Barrel will provide Class Counsel with copies of

the Survey Forms for all of the Identified Stores and, therewith shall indicate the actions it will take to bring any Parking Facilities at the Identified Stores into compliance with the 2010 Standards (subject to recognized construction tolerances or any technical infeasibility) (“Remediation Plan”). The Parties agree that slopes of up to 3% shall be within acceptable construction tolerances for accessible parking spaces and access aisles that serve them. Class Counsel and Heinzl shall make any objections to the Remediation Plan within sixty (60) days of receiving the completed Survey Forms and Remediation Plan.

7.4.2. Within thirty (30) months of the Effective Date (subject to any event of force majeure), Cracker Barrel will complete all actions required by the Remediation Plan relating to the Identified Stores in **Exhibit D**. Cracker Barrel will report to Class Counsel and the Court as to the status of the implementation of the Remediation Plan thirty (30) days after this deadline.

7.5. **Nationwide ADA Compliance and Remediation Policy.**

7.5.1. Discovery in this action confirms that Cracker Barrel currently has in place a process in which it conducts a Unit Assessment of each Cracker Barrel Store, beginning after the fourth anniversary of its opening date, on a rolling basis approximately every two years. Within six (6) months of Class Counsel’s approval of the Survey Form, Cracker Barrel will prepare and implement a written ADA compliance policy (the “Policy”) requiring that the Survey Form be completed on a Parking Facility of any Existing Cracker Barrel Store (that is not an Identified Store) and New Cracker Barrel Store in the United States (after said store has been open for at least four years) as part of the Unit Assessment conducted by the FSPM, as further described below. Cracker Barrel will provide a copy of the Policy to Class Counsel within thirty (30) days prior to implementation of the Policy, and Class Counsel shall have the opportunity to comment on the Policy within fourteen (14) days of receipt. Cracker Barrel shall consider Class Counsel’s comments in good faith. If there is a disagreement between the Parties over the contents of the Policy, the Policy will be submitted to United States

District Court Judge Mark R. Hornak or Magistrate Judge Robert C. Mitchell for resolution and implementation of the Policy shall be delayed until any disagreement is resolved.

7.5.2. Existing Cracker Barrel Stores. The Survey Form shall be completed whenever a FSPM conducts a Unit Assessment of a Parking Facility of any Existing Cracker Barrel Store that is not an Identified Store. At a minimum, a Unit Assessment will be conducted (and a Survey Form completed) at least once at each Existing non-Identified Store during the term of the Agreement. If the Survey Form indicates that the Parking Facility at an Existing Cracker Barrel Store does not comply with the 2010 Standards, then Cracker Barrel shall bring such Parking Facility into compliance with the 2010 Standards within two (2) years from the date of the Unit Assessment or within seven (7) years of the Effective Date, whichever is sooner, subject to any event of force majeure. Cracker Barrel shall have no obligation to remediate a Parking Facility at a Cracker Barrel Store that ceases operations during the term of this Agreement.

7.5.3. New Cracker Barrel Stores.

a. Cracker Barrel shall require in its design and construction contracts that the Parking Facilities of all New Cracker Barrel Stores be designed and constructed in compliance with the 2010 Standards.

b. Prior to the opening date of each New Cracker Barrel Store, Cracker Barrel obtain a certification from an independent licensed engineer with knowledge and experience in the 2010 Standards applicable to parking facilities, stating that the store's parking facility complies with the 2010 Standards.

c. A Unit Assessment will be conducted (and a Survey Form completed) by a FSPM at each New Cracker Barrel Store four (4) years after the Store's opening date. If the Survey Form indicates that the Parking Facility at a New Cracker Barrel Store does not comply with the 2010 Standards, then Cracker Barrel shall bring such Parking Facility into compliance with the 2010 Standards within two (2) years from the date of the survey, or within seven (7) years of the Effective Date, whichever is sooner, subject to any event of force majeure.

8. **Monitoring and Reporting Requirements.**

8.1. Thirty (30) days after the first, second, third, fourth, fifth, sixth and seventh anniversaries of the Effective Date, Cracker Barrel shall provide to Class Counsel a written report summarizing the actions it took in the preceding year to comply with this Agreement (“Annual Report”).

8.2. After receiving written notice from Cracker Barrel that it has implemented and completed the Remediation Plan set forth in Section 7.4 above for at least eleven (11) of the Identified Stores, Class Counsel will inspect eleven (11) Parking Facilities covered by the Remediation Plan to verify that the Remediation Plan has been properly remediated under the 2010 Standards. The cost of such inspections shall be borne solely by Class Counsel.

8.3. Class Counsel acknowledges that Cracker Barrel Stores in the United States display a sign in the entry vestibule or front entrance stating as follows:

In the spirit of pleasing people, we invite everyone regardless of race, color, disability or national origin to enjoy our restaurant and old country store. Since 1969, we have tried our best to provide food and service in ways that uphold our traditions of genuine quality. If you feel we have not delivered on this promise, please let us know. 1-800-333-9566 or crackerbarrel.com.

8.4. During the term of this Agreement, the Guest Relations Department of Cracker Barrel shall deliver all guest comments about the accessibility of Cracker Barrel’s Parking Facilities to Cracker Barrel’s Associate General Counsel. In its Annual Report, Cracker Barrel shall provide Class Counsel with a summary of all comments received about the Parking Facilities and indicate what action, if any, it took to respond to the complaint(s).

9. **Payment to Heinzl.**

9.1. Within ten (10) days after the Effective Date, Cracker Barrel shall make a payment of \$7,500.00 to Sarah Heinzl (“Class Representative Payment”).

9.2. Cracker Barrel shall issue an IRS Form 1099 to Heinzl for the Class Representative Payment. Heinzl shall be solely responsible for paying all applicable taxes relating to the Class Representative Payment and shall indemnify and hold harmless Cracker

Barrel from any claim or liability for taxes, penalties, or interest arising as a result of this Payment.

10. **Preliminary Approval, Notice to the Class, and Objections.**

10.1. Preliminary Approval. Promptly after execution of this Agreement, Plaintiff shall (1) file the Agreement, including the attached Exhibits, with the Court; (2) file a motion for preliminary approval of the Agreement with the Court; and (3) notify the Court of the filings and request entry by the Court, on the earliest date acceptable to the Court, of the Preliminary Approval and the Proposed Scheduling Order attached as **Exhibit A**.

10.2. Notice Procedures. No later than ten (10) days after the Court enters the Preliminary Approval and Scheduling Order, the parties will provide Notice to the Class, utilizing the Notices attached as **Exhibits B and C**, and in accordance with the plan described in the Proposed Order Granting Motion for Preliminary Approval of Class Settlement; Directing Issuance of Settlement Notice; and Scheduling Hearing on Final Approval attached as **Exhibit A**. Cracker Barrel shall be responsible for all Notice costs.

10.3. At least thirty (30) days before the Fairness Hearing, Class Counsel will provide a declaration to the Court, attesting that it disseminated notice consistent with this Agreement.

10.4. Objections. The Parties shall ask the Court to order the following procedures for objections: Any Class Member may object to the proposed Agreement by filing, within forty-five (45) days of the deadline set by the Court for Class Counsel and Counsel for Cracker Barrel to provide Notice to the Class in accordance with Section 10 herein, written objections with the Clerk of the Court. Only such objecting Class Members shall have the right, and only if they expressly seek it in their objection, to present objections orally at the Fairness Hearing. Responses by Cracker Barrel and Class Counsel to any timely-filed objections shall be made no less than fourteen (14) days before the Fairness Hearing.

11. **Dispute Resolution.** Any disputes relating to this Agreement shall be resolved according to the following procedure:

11.1. Meet and Confer. If any Party believes that a dispute exists relating to this Agreement, it shall notify the other Party. The Parties shall meet and confer in good faith, in an effort to reach agreement.

11.2. Voluntary Mediation. If the Parties are unable to resolve the dispute through the meet-and-confer process within thirty (30) days, they may consider mediation in an effort to reach agreement, but mediation is not required. The Parties shall make reasonably diligent efforts to utilize video conferencing or other cost-effective formats for mediation sessions held pursuant to this Section.

11.3. Submission to the Court. If the Parties are unable to resolve the dispute through the meet and confer process or, if selected, mediation within sixty (60) days after notification of the dispute in accordance with Section 10 herein, the sole manner for resolving the dispute is for a Party to present the dispute to the Honorable Mark R. Hornak, United States District Court Judge, or the Honorable Robert C. Mitchell, United States Magistrate Judge, who will retain jurisdiction over the enforcement of this Settlement. The Parties agree that Judge Hornak's and/or Judge Mitchell's ruling shall be final and non-appealable, and may not be objected to. Attorneys' fees and costs incurred in connection with bringing a dispute before the Court shall be awarded in accordance with applicable law.

12. Attorneys' Fees and Costs. Cracker Barrel agrees to pay attorneys' fees and costs to Class Counsel in the amount of \$830,000, inclusive of future fees for monitoring and inspections (the "Attorneys' Fees and Costs Payment"). The Attorneys' Fees and Costs Payment shall be made within ten (10) days of the Effective Date of this Agreement or as directed by the Court. Cracker Barrel shall issue an IRS Form 1099 to Class Counsel for the Attorneys' Fees and Costs Payment.

13. Continuing Jurisdiction. The Parties agree that the United States District Court for the Western District of Pennsylvania shall have continuing jurisdiction throughout the Term of this Agreement to interpret and enforce this Agreement as provided in Section 24 herein.

14. **Releases.**

14.1. **Release of Claims for Injunctive Relief by Heinzl and Class Members.**

14.1.1. Effective on the date of Final Approval, Heinzl and the Class Members and each of their executors, successors, heirs, assigns, administrators, agents, and representatives (the "Injunctive Releasing Parties"), in consideration of the relief set forth herein, fully and finally release Cracker Barrel and its present and former parents, subsidiaries, affiliates, and insurers, and each of their respective present, former, or future officers, directors, employees, shareholders, administrators, executors, affiliates, successors, and assigns from the Released Injunctive Claims as defined below.

14.1.2. The "Released Injunctive Claims" are any and all claims, rights, demands, charges, complaints, actions, suits, and causes of action for injunctive or declaratory relief arising through the date of Final Approval of this Agreement relating to the subject matter of the Lawsuit, including, but not limited to, any claims relating to the accessibility of Cracker Barrel's Parking Facilities in the United States and the adequacy of its ADA compliance policies and procedures to the extent they impact the provision of accessible parking facilities during the term of this Agreement. The "Released Injunctive Claims" also include all claims, rights, demands, charges, complaints, actions, suits, causes of action, or liabilities of any kind for injunctive or declaratory relief based on conduct that occurs after Final Approval of this Agreement and during the Term of this Agreement to the extent that such claims arise out of or relate to actions, omissions, or conduct that are being addressed under the terms of this Agreement. This release does not apply to any claims for monetary damages.

14.1.3. The release of the Released Injunctive Relief Claims by Heinzl and each Class Member also include a waiver of rights under California Civil Code Section 1542, which states: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her Settlement with the debtor." This release does not apply to any claims for monetary damages.

14.2. Release of Claims for Damages by Heinzl.

14.2.1. On the Effective Date or on the date of the Final Approval, whichever is later, Heinzl and each of her executors, successors, heirs, assigns, administrators, agents, and representatives, in consideration of the relief set forth herein fully and finally release Cracker Barrel and its present and former parents, subsidiaries, affiliates, and insurers, and each of their respective present, former, or future officers, directors, employees, shareholders, administrators, executors, affiliates, successors, and assigns from the Released Damages Claims as defined below.

14.2.2. The "Released Damages Claims" are any and all claims, rights, demands, charges, complaints, actions, suits, causes of action, and liabilities of any kind of damages relating to the subject matter of the Lawsuit arising through the date of Final Approval, including, but not limited to, any claims relating to the accessibility of Cracker Barrel's Parking Facilities in the United States and the adequacy of its ADA compliance policies and procedures to the extent they impact the provision of accessible parking facilities during the term of this Agreement. The "Released Injunctive Claims" also include all claims, rights, demands, charges, complaints, actions, suits, causes of action, or liabilities of any kind for damages based on conduct that occurs after Final Approval of this Agreement and during the Term of this Agreement to the extent that such claims arise out of or relate to actions, omissions, or conduct that are being addressed under the terms of this Agreement.

14.2.3. The "Released Damages Claims" also include a waiver of rights under California Civil Code Section 1542, which states: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her Settlement with the debtor."

15. **Entire Agreement.** This Agreement contains all the agreements, conditions, promises, and covenants among Cracker Barrel, Heinzl, Class Counsel, and the Class regarding matters set forth in it and supersedes all prior or contemporaneous agreements, drafts,

representations, or understandings, either written or oral, with respect to the subject matter of the present Agreement.

16. **Communications to Cracker Barrel and Class Counsel.** Unless otherwise indicated in the Agreement, all notices or communications required by this Agreement shall be in writing by email and U.S. Mail, or overnight delivery service addressed as follows:

16.1. To Heinzl, Class Counsel, or the Class: Benjamin J. Sweet, Carlson Lynch Sweet & Kilpela & Carpenter, LLP, 1133 Penn Avenue, 5th Floor, Pittsburgh, PA 15222, bsweet@carlsonlynch.com.

16.2. To Cracker Barrel: Minh N. Vu, Seyfarth Shaw LLP, 975 F St. NW, Washington, DC 20004, mvu@seyfarth.com and Legal Department, Cracker Barrel Old Country Store, Inc., 307 Hartmann Drive, Lebanon, TN 37087.

17. **Modification.** Prior to Final Approval, this Agreement can only be amended by written agreement of the Parties hereto. Following Final Approval, no modification of this Agreement shall be effective unless it is pursuant to Court Order.

18. **Drafting of this Agreement.** This Agreement was drafted by all Parties hereto, as a result of arm's length and in-person negotiations among the Parties. Whereas all Parties have contributed to the preparation of this Agreement, it shall not be construed more strictly against one Party than another.

19. **Execution by Facsimile and in Counterparts.** This Agreement may be executed by the Parties hereto by facsimile or PDF signatures and in separate counterparts, and all such counterparts taken together shall be deemed to constitute one and the same agreement.

20. **Duty to Support and Defend Agreement.** Heinzl, Class Counsel, and Cracker Barrel each agree to abide by all of the terms of this Agreement in good faith and to support it fully, and shall use their best efforts to defend this Agreement from any legal challenge, whether by appeal or collateral attack.

21. **Class Action Fairness Act.** Cracker Barrel will provide information concerning the Agreement in compliance with CAFA.

22. **Deadlines.** The Parties recognize that from time to time unforeseen events, including but not limited to, exigent business circumstances, labor disputes, natural disasters, personnel issues, and negotiations with third parties, cause delays in the accomplishment of objectives no matter how well-intentioned and diligent the Parties may be. Accordingly, with regard to the provisions of this Agreement that require that certain acts be taken within specified periods, the Parties understand and agree that Court approval shall not be required for reasonable extensions of deadlines. In the event that any Party determines that an action required by this Agreement cannot be taken within the specified time period that Party shall promptly notify the other Parties that it anticipates a delay, the reasons for the delay, and proposed alternative deadline. The Parties shall endeavor to cooperate in reasonably rescheduling such deadlines. However, if the other Party does not agree to the proposed delay, the Parties shall resolve the dispute using the procedures described in Section 11 herein.

23. **Parties' Authority.** The signatories hereto represent that they are fully authorized to bind the Parties to all the term of this Agreement. The Parties agree that it is impossible or impractical to have each Class Member execute this Agreement. This Agreement may be executed on behalf of Class Members by a Class Representative and by Class Counsel.

24. **Governing Law.** All terms of this Agreement shall be governed by and interpreted according to Pennsylvania law.

25. **Confidential Information.** Class Counsel will destroy all confidential documents and information provided by Cracker Barrel within sixty (60) calendar days after the Effective Date. Class Counsel further agree that none of the information provided by Cracker Barrel shall be used for any purpose other than prosecution of this Lawsuit.

26. **No Media Announcements or Other Undue Publicity.** No Party shall make any public statement to the news, print, electronic, or Internet media concerning this Agreement, and the Parties shall decline to respond to media inquiries concerning this Agreement. Class Counsel shall not publicize the settlement in their marketing materials, website, or other advertising media.

**IN WITNESS WHEREOF, the Parties hereto have caused the Agreement to be executed,**

DATED: \_\_\_\_\_, 2017

CRACKER BARREL OLD COUNTRY STORE,  
INC.

By: \_\_\_\_\_  
Sandy Cochran  
Chief Executive Offer, Cracker Barrel Old  
Country Store, Inc.

DATED: \_\_\_\_\_, 2017

SEYFARTH SHAW LLP

By: \_\_\_\_\_  
Minh N. Vu  
Attorneys for Defendant Cracker Barrel Old  
Country Store, Inc.

DATED: 05/11, 2017

SARAH HEINZL

 \_\_\_\_\_

DATED: \_\_\_\_\_, 2017

CARLSON LYNCH SWEET KILPELA &  
CARPENTER, LLP

By: \_\_\_\_\_  
Benjamin J. Sweet  
Edwin J. Kilpela, Jr.  
Lead Counsel for Plaintiff Sarah Heinzl and  
the Class

**IN WITNESS WHEREOF, the Parties hereto have caused the Agreement to be executed,**

DATED: \_\_\_\_\_, 2017 k

CRACKER BARREL OLD COUNTRY STORE,  
INC.

By: \_\_\_\_\_  
Sandy Cochran  
Chief Executive Offer, Cracker Barrel Old  
Country Store, Inc.

DATED: \_\_\_\_\_, 2017

SEYFARTH SHAW LLP

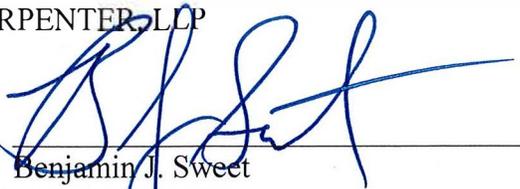
By: \_\_\_\_\_  
Minh N. Vu  
Attorneys for Defendant Cracker Barrel Old  
Country Store, Inc.

DATED: \_\_\_\_\_, 2017

SARAH HEINZL

DATED: May 12, 2017

CARLSON LYNCH SWEET KILPELA &  
CARPENTER, LLP

By:   
Benjamin J. Sweet  
Edwin J. Kilpela, Jr.  
Lead Counsel for Plaintiff Sarah Heinzl and  
the Class