



Rick Scott
Governor

State of Florida Florida Commission on Human Relations

An Equal Opportunity Employer • Affirmative Action Employer

4075 Esplanade Way • Room 110 • Tallahassee, Florida 32399
(850) 488-7082
<http://fchr.state.fl.us>



Gilbert Singer
Chair
Michelle Wilson
Executive-Director

FCHR No. 201401312
EEOC No.
Certified Receipt #: 9171999991703311491870

██████████
c/o Mr. Domenick Lazzara, Esquire
Dogali Law Group, P.A.
101 East Kennedy Boulevard
Suite 1100
Tampa, FL 33602

Complainant

Walt Disney Parks and Resorts US, Inc.
c/o Mr. Kerry A. Scanlon, Esquire
Kaye Scholer LLP
901 Fifteenth Street, Northwest
The McPherson Building
Washington, DC 20005

Respondent

NOTICE OF DETERMINATION: CAUSE

The Florida Commission on Human Relations, in the above-referenced complaint, has determined that there is reasonable cause to believe that a public accommodation violation occurred. A copy of the Determination is attached.

During the following 30 days, you are invited to join the Commission in an effort to reach a just resolution of this matter through conciliation. The 30-day conciliation period does not, however, toll (affect) the 35-day limitation period for filing a **Petition for Relief**.

The Complainant may request an administrative hearing by filing a **Petition for Relief** within 35 days of the date of this **Notice of Determination: Cause** or Complainant may file a civil action within one year of the date of this **Notice Of Determination: Cause**.

We have enclosed a Petition for Relief form with Complainant's notice. It may be beneficial for the Complainant to seek assistance from legal counsel prior to actually filing a Petition for Relief.

If the Complainant fails to request an administrative hearing within 35 days of the date of this notice, the administrative claim under the Florida Civil Rights Act of 1992, Chapter 760, will be dismissed with prejudice pursuant to section 760.11, Florida Statutes and the claim will be barred.

I HEREBY CERTIFY that a copy of the foregoing **NOTICE OF DETERMINATION: CAUSE** has been served upon the above-named addressees this 13 day of Feb., 2015, by U.S. mail.

By: Sammy Porter
Clerk of the Commission

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Jacksonville



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Complainant
[REDACTED]
c/o Mr. Domenick Lazzara, Esquire
Dogali Law Group, P.A.
101 East Kennedy Boulevard, Suite 1100
Tampa, FL 33602

Respondent
Walt Disney Parks and Resorts US, Inc.
c/o Mr. Kerry A. Scanlon, Esquire
Kaye Scholer LLP
901 Fifteenth Street, Northwest
The McPherson Building
Washington, DC 20005

DETERMINATION: CAUSE

Complainant filed a Complaint of Discrimination alleging that Respondent discriminated against him/her in violation of the Florida Civil Rights Act of 1992, as amended, Section 760.08, Florida Statutes. The Florida Commission on Human Relations has investigated this matter and has found the following:

Respondent is a public accommodation within the meaning of the Florida Civil Rights Act of 1992, and the timeliness and all jurisdictional requirements have been met;

Pursuant to Rule 60Y-5.004(1), Florida Administrative Code, the Office of Employment Investigations has submitted an Investigative Memorandum;

On the basis of the report and recommendation, pursuant to the authority delegated to me by Rules 60Y-2.004(2)(e) and 60Y-5.004, Florida Administrative Code, I have determined that reasonable cause exists to believe that an unlawful public accommodation practice occurred.

Michelle Wilson
Executive Director

Dated: February 12, 2015

Filed: Feb. 13, 2015

By: Jammy Barton
Clerk of the Commission

COMMISSIONERS

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Rebecca Steele
Jacksonville

INVESTIGATIVE MEMORANDUM

FCHR NO. 201401312

Date: February 6, 2015
To: Office of General Counsel
From: Jennifer Morrison
Investigation Specialist
Office of Employment Investigations

COMPLAINANT

██████████
c/o Mr. Domenick Lazzara, Esquire
Dogali Law Group
101 East Kennedy Blvd.
Tampa, FL 33602

v.

RESPONDENT

Walt Disney Parks and Resorts US, Inc.
c/o Mr. Kerry Scanlon, Esquire
Kaye Scholer LLP
901 Fifteenth Street, NW
Washington, DC 2005

DECLARATION OF JURISDICTION

Respondent is a public lodging and or food service establishment within the meaning of the Florida Statutes, Chapter 760, and jurisdictional requirements have been met.

FOCUS OF THE COMPLAINT

A charge of discrimination was filed by Complainant against Respondent on behalf of her twin sons, ██████████, alleging that they were denied accommodations for their disabilities.

BACKGROUND

Complainant visited Respondent's amusement park on November 5, 2013, for a 10-day trip.

COMPLAINANT'S ALLEGATIONS

Prior to October 2013, Respondent offered guests with disabilities a Guest Assistance Card (hereinafter "GAC"). On October 9, 2013, Respondent revoked the GAC and the associated policies and procedures associated with accommodating disabilities. It was replaced with the Disability Access Service (hereinafter "DAS"). The new system does not accommodate her child's disability and as a result, it has discriminated against him.

Both of Complainant's sons have been diagnosed with varying degrees of disabilities. [REDACTED] symptoms and stemming patterns include jumping in place and low groaning. Behavior meltdowns include loud verbal noises and screaming, jumping up and down and groaning loudly. Prior to October 9th, [REDACTED] disabilities were accommodated. They visited the theme park twice a year and purchased a timeshare resulting in an \$11,000 mortgage because time at the park was so special to them and due to the fact that [REDACTED] responded while at the theme parks.

Prior to their arrival, Complainant contacted Respondent multiple times to ensure that accommodations would be provided. She was reassured that accommodations were being provided on a case by case basis; however, that was not the case when they arrived. Instead, they were only offered the DAS.

Upon arrival at EPCOT, Complainant had to go into great detail about her sons' medical history. Complainant stated that the Cast Member acted as if she did not believe them. The DAS was ultimately provided, although the Cast Member seemed unwilling to even offer that. The Cast Member also acted as if she did not believe Complainant that she needed two passes for her sons. Sometimes, [REDACTED] does not want to ride the same ride as [REDACTED] and vice versa so a pass is needed to accommodate each child.

Complainant and her family tried the DAS at three of Respondent's four theme parks that day, but neither [REDACTED] nor [REDACTED] were able to adjust to not being able to ride the ride upon arrival and essentially being turned away until a later time. [REDACTED] had a meltdown when they had to leave Toy Story because he could not understand the concept of having to come back later. One of Respondent's Cast Members told them to split the family up so one parent could obtain a ride time while the other waited with the children which Complainant felt was inappropriate to ask. In addition, it made it difficult for one parent to watch the two sons at once.

The GAC eliminated the idle time of waiting for a ride. The DAS, however, required everything to be scheduled and mapped out ahead of time eliminating any spontaneity which is an important part of accommodating the twins. Often, [REDACTED] and [REDACTED] need to ride a ride over and over again, but the DAS does not accommodate this. There was also no back-up plan available. If the kids changed their mind about which park they wanted to go to or if it was raining, they would not be able to change their plans or the kids would miss out the ride entirely.

RESPONDENT'S POSITION

Respondent denied that it violated any applicable laws, codes or regulations or that it discriminated against Complainant. It has gone to great lengths to provide service to its disabled guests and prides itself on its accessibility through its facilities. Respondent has also established a dedicated department known as Services for Guests with Disabilities. The Department provides a full array of services ranging from guidebooks that assist guests with disabilities to policies and procedures that enhance their experience at the various theme parks and resorts. For example, Respondent developed and implemented a *Guide for Guests with Disabilities* and a *Guide for Guests with Cognitive Disabilities*. These guides explain and delineate services and accessible features at Respondent's theme parks.¹

¹ See Respondent's Position Statement, Exhibit 1 & 2.

On October 9, 2013, Respondent replaced its GAC program with the DAS card program. The new DAS card was primarily designed to accommodate guests who are not able to wait in a conventional queue due to disability. Specifically, it allows these guests to wait “virtually” and return to an attraction at the posted wait time minus 10 minutes. During this time, guests may visit other rides or attractions (with little or no wait times) or otherwise experience the park.

Complainants preferred the GAC program because, while Respondent was not legally required to do so, it generally provided its guests with disabilities and their families access to rides and attractions through alternative entrances, without them needing to wait in the standard ride or attraction lines or wait virtually and return to a ride or an attraction at a specified time. However, the GAC program resulted in abuse and fraudulent misuse, which was widespread and continuing.

Complainant has failed to show that the DAS card program has not accommodated their disability. It reasonably accommodates guests with disabilities who are not able to wait in a conventional queue environment and provides the level of accommodation required by law. Complainant admitted that a DAS card was received; therefore, there is no reasonable cause to believe that any discrimination occurred.

Respondent was provided the opportunity to respond to Complainant’s interview, but it did not provide a response.

COMPLAINANT’S REBUTTAL

Complainant’s charge form and interview answered the questions in response to the Position Statement and a formal rebuttal was not provided.

SUMMARY OF INVESTIGATIVE FINDINGS

Complainant alleged that her sons were denied the full enjoyment of the public accommodation and the findings of this investigation support that allegation. While an accommodation was offered, it was a blanket accommodation that did not take into account the nuances between various disabilities or the fact that Complainant’s sons’ disability required more assistance than other cognitive disabilities. The accommodations offered would not allow them to enjoy the park as it was intended to be enjoyed by all other patrons. In addition, there was no effort by Respondent to determine a suitable accommodation for her sons which would allow them to fully enjoy the park.

RECOMMENDATION

Accordingly, there is reason to believe Respondent denied Complainant’s son the full enjoyment of the establishment because of a disability and a cause finding is recommended.