

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

A.L., by and through D.L., as Next
Friend, Parent and Natural Guardian,
and D.L., Individually,

Plaintiffs,

Case No. 6:14-cv-1544-ACC-GJK

v.

WALT DISNEY PARKS AND RESORTS
US, INC.

Defendant.

**PLAINTIFF A.L.'S MOTION FOR SUMMARY JUDGMENT OR
ALTERNATIVELY FOR PARTIAL SUMMARY JUDGMENT**

Plaintiff A.L. by and through D.L. as Next Friend, Parent and Natural Guardian, through undersigned counsel and pursuant to the Federal Rules of Civil Procedure and the Local Rules of this Court, moves this Court for summary judgment, or alternatively for partial summary judgment as to certain discrete issues in dispute. In support of the motion Plaintiff states:

1. Disney's theme parks are public accommodations under 42 U.S.C. §12181(7)(B).
2. Plaintiff A.L. is a person with a disability under 42 U.S.C. §12102(1)(A).
3. The ADA requires that when a disabled guest asks a public accommodation to modify its disability policy to accommodate the guest's disability, the public accommodation must perform an individualized assessment of the special needs of the disabled guest and the reasonableness of the guest's requested modification.
4. When Plaintiff visited Disney's Magic Kingdom on December 19, 2013, D.L. advised Disney, on A.L.'s behalf, that its disability policy, the DAS, would not accommodate A.L., and asked that the policy be modified to allow him to enter the attractions through Disney's

Fastpass lines, as Disney had permitted him to do for the first twenty years of his life. Disney refused.

5. The ADA does not permit blanket, one-size-fits-all disability policies, for the specific reason that ADA requires individualized assessments and reasonable modifications in appropriate circumstances.

6. Disney's DAS is an impermissible blanket, one-size-fits-all disability policy.

7. Disney is not performing bona fide individualized assessments of guests' requests for modifications of the DAS.

8. Disney did not perform a bona fide individualized assessment of A.L. and his request for modification of Disney's DAS.

9. Disney cannot show that A.L.'s requested modification would be cost-prohibitive or would require a fundamental alteration of Disney's services, goods or products.

10. Additional reasons and authorities exist to support non-enforcement of the DAS, which are supported by documents designated by Disney as confidential and which will be filed under seal.

11. A.L. would again visit Disney's theme parks, including Magic Kingdom, but for Disney's continuously, clearly stated intention to again discriminate against him if he should do so in the future.

12. Should A.L. again visit the Disney theme parks, particularly the Magic Kingdom at the Walt Disney World Resort, Disney's disability policy will undoubtedly discriminate against him on account of his disability.

13. In support of this Motion Plaintiff submits a further Memorandum of Authorities, and many exhibits, which are the subject of the parties' Joint Motion to File Under Seal, as follows:

- a. Plaintiff previously filed a Motion with incorporated memorandum, and included that document along with its exhibits in the parties' Joint Motion to File Under Seal (Doc. 143). As to the motion itself, the Court rejected the attempted sealed filing, and issued no order in relation to the remaining exhibits (Doc. 146). Plaintiff attempts to cure the prior filing with this Motion.
- b. Plaintiff files contemporaneously with this motion, subject to the Court's consent and approval:
 - 1) A Memorandum of Authorities in support of this motion, which will contain purely the arguments set forth in the combined motion and incorporated memorandum which Plaintiff attempted to file as part of Doc. 143; and
 - 2) An Amended Joint Motion to File Under Seal, which will encompass the exhibits which were filed as part of the previous Doc. 143, along with two others which were previously publicly filed as part of Doc. 144, and the new Memorandum of Authorities.

14. In light of the above, the Memorandum of Authorities, the supportive exhibits, and all other materials in the record before the Court, Plaintiff A.L. asks the Court:

- a. To enter summary judgment and injunctive relief in his favor, requiring on future visits that Disney permit him access to Disney's rides and attractions through Disney's Fastpass lines; or
- b. Alternatively, if the Court determines that an evidentiary hearing is needed to adjudicate the nature and scope of the precise injunctive relief to be entered in Plaintiff's favor, to enter partial summary judgment in his favor and to schedule an evidentiary hearing for such purpose; and
- c. To award Plaintiff such other relief as may be just and equitable; and

- d. To retain jurisdiction to award to Plaintiff his litigation costs and attorneys' fees.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via

Electronic Mail this 10th day of November, 2015 to:

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