UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA ORLANDO DIVISION

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

Plaintiffs,

Case No. 6:14-cv-1544-Orl-22GJK

v.

WALT DISNEY PARKS AND RESORTS US, INC.

Defendant.
_____/

PLAINTIFF, A.L.'S, OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT [D159]

Plaintiffs, A.L. by and through D.L., as Next Friend, Parent and Natural Guardian, and D.L., Individually, (collectively, the "Plaintiffs"), offer the following arguments in opposition to Defendant's motion for summary judgment (Doc. 159).

Disney's "Preliminary Statement"

This portion of Defendant's motion is an effort to re-write the Plaintiffs' complaint and to misstate the known facts to create a case the Defendant finds easier to oppose than the case which is actually pleaded and proved by Plaintiffs. A clear example of the erected straw man against which Disney chooses to argue is "what plaintiffs really want is for Disney to accommodate A.L.'s specific, immediate, and unpredictable personal preference for instant and unrestricted access to the rides of his choice." These Plaintiffs do not pray for such relief. Nor are they aware of any other plaintiff, anywhere, who prays for such relief. Plaintiffs' Complaint and Plaintiffs' pending dispositive motion, are very clear in their pursuit of access to Disney's Fastpass lines or to some other accommodation or modification that will permit Plaintiff A.L. a reasonably short wait, such as ten to fifteen minutes.

In any event, the "preliminary statement" is not contemplated by Local Rule 3.01(a), and is neither a statement of facts nor an argument with authorities. It is simply a superfluous speech added to the motion for no apparent purpose, undeserving of response.

Disney's "Factual Background"

Omitting Disney's internal citations, Disney says:

> To experience the attractions, guests generally stand in a line, called the stand-by line, and wait until they move to the front of the line to enter the attraction. The majority of attractions also have a separate line -- the so-called "FastPass" line -- which typically has a very short wait. *Id.* This line is available to guests who take advantage of the FastPass system, whereby guests receive a designated return time from a ride location, essentially saving their place in line without having to stand in an actual line. At the return time, guests can enter the FastPass line.

This appears to be an accurate description of Disney's Fastpass system. It is also an accurate description of Disney's DAS; if one substitutes "DAS" for "Fastpass" in the quoted language, an accurate description of the DAS appears. The DAS is indistinguishable from the Fastpass system; every park guest receives three Fastpasses; with the DAS, Disney simply hands a fourth Fastpass to Disney's disabled guests.

But giving an extra Fastpass to Plaintiffs is no accommodation at all. Just as Disney refuses to argue against Plaintiffs' actual requested modification, which is for a reasonably short wait time and *not* for immediate and unfettered access to all attractions, Disney refuses to address the special need that actually exists for this Plaintiff and many others like him; it is not to be relieved of standing *in line*. It is to be relieved of idle waits for extended periods of time. Just after Disney's above-quoted definition of its Fastpass system, Disney states: "This [Fastpass] system was designed to reduce wait times, improve, and reduce the "unproductive time" guests spend physically standing in line waiting for their turn to enter the attraction." The DAS, being no different than the Fastpass system, is designed to achieve the same thing: reduction of the time guests spend *in line*.

At the Walt Disney World resort, Disney's former system, Disney's GAC, generally enabled Plaintiff to enter Disney's attractions through each attraction's Fastpass line. The Fastpass lines frequently require a "short wait," just as Disney's above-quoted definition of its Fastpass system states. Contrary to the assertion in Disney's motion, the GAC was *never* "an unlimited front-of-the-line pass" to every attraction. Just as a single Fastpass is not "an unlimited front-of-the-line pass," neither was the GAC. Similarly, Disney makes regular reference to the former system's attribute of permitting access through either Disney's "shorter Fastpass lines" or through alternate "back door" entrances. (Disney mot. p. 5; exh. 3 par. 16, 44; exh. 6 p. 46: "The immediate back door entry use of the GAC, which the GAC had become.") While the availability of "shorter Fastpass lines" (Disney mot. p. 4, 7; exh. 3 p.ar. 16) is at issue here, in that access to those lines is proposed as a reasonable modification of the DAS which would accommodate Plaintiff A.L.'s special need, the concept of "back door" or "alternate entry" access is not at issue here. Alternate entry doors and back doors exist at a number of attractions at the Disneyland resort, but they are not a condition which exists at the Walt Disney World resort. Disney's references to back doors and alternate entries is misplaced here, and is another example of Disney arguing against an allegation that has not been made.

Disney asserts that its prior GAC, which permitted access similar to that sought by Plaintiffs, became the subject of "abuse" "[b]ecause Disney is not allowed to ask about a guest's disability." Disney cites no ADA authority or regulation for this asserted prohibition; rather, Disney cites only Alison Armor, Disney's own in-house industrial engineer who chaired the group of industrial engineers and operations executives who conjured up the DAS. While inquiry into a disability can be inappropriate in several contexts, such as in relation to employment applications, see, e.g. *Leonel v. Am. Airlines, Inc.*, 400 F.3d 702 (9th Cir. 2005) opinion amended, 2005 WL 976985 (9th Cir. 2005), and in relation to service animals, see, e.g.

Thompson v. Dover Downs, Inc., 887 A.2d 458, 465 (Del. 2005) ("inquiry into the dog's training was legally permitted"), Disney cites no authority establishing such a prohibition here. It is clear that no universal prohibition exists against asking questions or engaging in a dialogue. See, e.g., *Doe v. Judicial Nominating Comm'n for Fifteenth Judicial Circuit of Florida*, 906 F. Supp. 1534, 1542 (S.D. Fla. 1995) (in connection with JNC application, "'the ADA does not preclude a licensing body from any inquiry and investigation related to mental illness, instead allowing for such inquiry and investigation when they are necessary to protect the integrity of the service provided and the public.'"), quoting *Applicants v. Texas State Bd. of Law Examiners*, 1994 WL 923404, at *8 (W.D. Tex. 1994); *McCready v. Illinois Bd. of Admissions to Bar*, 1995 WL 29609, *7 (N.D. Ill. 1995) ("The ADA does not prohibit reasonable inquiry concerning the mental disabilities or addictions of applicants for admission to the bar;" *Bloch v. Rockwell Lime Co.*, 2007 WL 4287275, *6 (E.D. Wis. 2007) ("the ADA does not prohibit all forms of inquiry into employee medical information").

More importantly, Disney cites no basis for its suggestion that when a disabled person *volunteers* information about their disability or about their special need for the express purpose of requesting a reasonable modification, Disney has no choice but to refuse to listen. This is exactly what occurred here, D.L. explained A.L.'s situation and that the DAS would "not accommodate A.L.'s need to visit the attraction in a precise order." D.L. Aff. ¶18. The Disney employee simply responded that the DAS is "all Disney can offer" to a guest like A.L. D.L. Aff. ¶21. Disney adopts the same systemic approach to similarly situated Plaintiffs. Disney employees are trained never to request medical information and are "not equipped or expected to interpret medical documentation." Armor Dep. 122:11-125:8; The Eleventh Circuit has expressly held that ADA provisions relating to information gained by inquiry simply do not apply to information voluntarily provided by the disabled person. *Cash v. Smith*, 231 F.3d 1301, 1307

(11th Cir. 2000) ("The statute and regulation cited by Cash do not govern voluntary disclosures initiated by the employee"); *Bennett v. Dominguez*, 196 F. App'x 785 (11th Cir. 2006).

The Department of Justice's ADA Title III Technical Assistance Manual specifically addresses this situation, in two contexts. First, the Manual provides that:

> **III-4.1300 Unnecessary inquiries.** The ADA prohibits unnecessary inquiries into the existence of a disability.
>
> ILLUSTRATION 1: A private summer camp requires parents to fill out a questionnaire and to submit medical documentation regarding their children's ability to participate in various camp activities. The questionnaire is acceptable if the summer camp can demonstrate that each piece of information requested is needed to ensure safe participation in camp activities. The camp, however, may not use this information to screen out children with disabilities from admittance to the camp.

http://www.ada.gov/taman3.html. Disney has pointed to no information which might support a distinction between an amusement park and a summer camp. Nor has Disney demonstrated that limited inquiry about a guest's special need or disability would be "unnecessary."

Second, the Manual addresses inquiries into whether a particular disabled person may constitute a "direct threat" to the safety of others. Any public accommodation which might exclude a person because he or she constitutes a "direct threat" is required to ask questions about the person and his or her disability, because a "direct threat" determination cannot be based upon generalizations or stereotypes but must be based upon an "individualized assessment."[1] *Id.*

1The entire text is thus:

> **III-3.8000 Direct threat.** A public accommodation may exclude an individual with a disability from participation in an activity, if that individual's participation would result in a direct threat to the health or safety of others. The public accommodation must determine that there is a significant risk to others that cannot be eliminated or reduced to an acceptable level by reasonable modifications to the public accommodation's policies, practices, or procedures or by the provision of appropriate auxiliary aids or services. The determination that a person poses a direct threat to the health or safety of others may not be based on generalizations or stereotypes about the effects of a particular disability; it must be based on an individual assessment that considers the particular activity and the actual abilities and disabilities of the individual.
>
> The individual assessment must be based on reasonable judgment that relies on current medical evidence, or on the best available objective evidence, to determine --
>
> 1) The nature, duration, and severity of the risk;

In an apparent effort to show that "abuse" of Disney's prior system was crippling Disney's ability to accommodate its disabled guests, Disney states: "Guests using GAC made up approximately [redacted] percent of all guests in the park," citing Ms. Armor's testimony at p. 100. This is absolutely not Ms. Armor's testimony, nor is it a fact. Her cited figure [redacted] "[A]pproximately [redacted]% of the overall Attendance at WDW is issued GACs each day". See Plaintiff's Memorandum of Authorities in Support of A.L's Motion for Summary Judgment or Alternatively for Partial Summary Judgment ("A.L. Mot."), Ex. 2, p1016074.

Even if Disney were accurate in stating that [redacted] percent of its guests were GAC users, Disney offers no evidence whatsoever to show what portion of this [redacted] percent were GAC abusers. Disney does not even offer evidence to support the proposition that [redacted] percent is an abnormally or inexplicably high figure. That is, why does Disney assume that less than [redacted] percent of its guests are "really" disabled, so that some meaningful portion of the [redacted] percent of guests who used Disney's GAC must not have been bona fide? And if some portion of the users were in fact abusers, how many is it?

Disney's "abuse" tale, while unsubstantiated as to extent, is also a strangely convenient excuse for its non-compliance with ADA, because Disney did not abandon its GAC in favor of the DAS because of "abuse" by a minute percentage of GAC users, who in turn constituted, even

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2) The probability that the potential injury will actually occur; and
3) Whether reasonable modifications of policies, practices, or procedures will mitigate or eliminate the risk.

Such an inquiry is essential to protect individuals with disabilities from discrimination based on prejudice, stereotypes, or unfounded fear, while giving appropriate weight to legitimate concerns, such as the need to avoid exposing others to significant health and safety risks. Making this assessment will not usually require the services of a physician. Sources for medical knowledge include public health authorities, such as the U.S. Public Health Service, the Centers for Disease Control, and the National Institutes of Health, including the National Institute of Mental Health.

http://www.ada.gov/taman3.html.

by Disney's exaggeration, [redacted] percent of guests. Disney initially formed its committee to study the GAC because Disney was experiencing rapid growth of electronic convenience vehicles (ECVs) in the Disneyland Resort. A.L. Mot., Ex. 1 - 2. Due to the close proximity of the enormous population of visitors in southern California, the proportion of guests who are local visitors is much higher than is true for Walt Disney World. Disneyland is convenient for nearby residents to attend on a frequent basis, while Walt Disney World is much more of a destination location. As a result, Disneyland was seeing enormous growth in frequently-visiting guests using ECVs.

Disney also sought to eliminate a then-growing phenomenon of outside tour guides who could compete with Disney's own escort services. A.L. Mot., Ex. 26; Riggs Dep. 25:18-27:24; Armor Dep. 54-57. When the news broke in May of 2013 that some persons were abusing the GAC in a particularly outrageous manner, Disney had a ready-made public excuse for shutting down its accommodations for persons with cognitive impairments.

Disney appears to place profound importance on its industrial engineers' [redacted] measured nothing more than the impact of disabled visitors, not the number of fraudulent visitors.

Disney acknowledges that [redacted] is "one of the most popular attractions at WDW." Disney Mot. at fn. 5. Even if [redacted] actually showed that disabled persons are enjoying [redacted] to a disproportionate extent, Disney offers no explanation as to why this "fact" supports Disney's refusal to provide reasonable modifications to its DAS at *each and every attraction in the park*.

Disney asks the Court to accept as fact that Disney's "[DAS development] team spent many months analyzing the abuses of GAC (including the results of the IE [redacted])." Yet Disney offers no evidence – *none* – about the findings of this so-called analysis. [redacted]

[redacted] absolutely did not study "abuses of GAC." See Armor Dep., p. 58, 18-22 (Q: "Did Disney ever perform an analysis of the economic cost of GAC abuse?" A: "We looked at… *the operating impact of the GAC as a whole, as a system*") (emphasis added). Even if Disney's [redacted] were accurate and even if the study constituted a valid statistical sample, it established only *how many guests riding the rides carried GACs – not whether they were doing so fraudulently*.

While Disney appears to take pride in its ability to count guests by every conceivable variable, it offers no information, no data, no statistics, and no "analysis" of *abusive* GAC usage. Disney offers nothing regarding the number of persons who were in fact carrying out any kind of abuse, at any time, or at any park, or on any attraction.

Disney boasts about its DAS thus: "While guests are waiting virtually for their return time to arrive, they can avail of the many other attractions throughout the park -- the concerts, characters, and stores." Again, this is precisely the same result Disney achieved through its Fastpass program, establishing that the DAS adds no benefit which is specific to disability accommodation. Perhaps more importantly here, Disney boasts about providing a benefit to DAS users – the same benefit it provides to all its guests through the Fastpass program – which is of utterly no relevance to Plaintiff, or to his disability, or to his special need, or to his requested modification. A.L. does not ask to be relieved of waiting in line so that he can whimsically explore the park; in fact, D.L. has consistently advised Disney that this is precisely what A.L. cannot do. That is, each time D.L. advises Disney that A.L's disability manifests itself in his inability to whimsically explore the park, Disney insists upon accommodating him by giving him a license to whimsically explore the park – by allowing him to do precisely that which he cannot do. Disney cannot possibly be so dense as to fail to see this illogic. Perhaps Disney's real breakdown rests in its refusal to actually *listen* to its disabled guests.

Disney next boasts about its DAS by pointing out that [redacted] DASs were issued from October of 2013 through April of 2015. Disney does not explain why this figure is significant. During the cited 18-month period, about 150 *million* persons visited the parks at Walt Disney World, or about [redacted] times the number of DAS cards issued.

Disney's insistence that it is qualified to give to an autism parent "advice about the best route to follow" was outrageous at the time of D.L.'s and A.L.'s visit, and remains outrageous today. An autism parent leads a life which is entirely committed to a constant effort to manage the behaviors of his or her child with autism. The mere suggestion that Disney can teach an autism parent how to change the routine behaviors of a person with moderate to severe autism demonstrates Disney's unflinching refusal to listen to and acknowledge the pleas of its guests with special needs.[2]

Disney advises the Court that "[s]ometimes DAS guests and each member of their party also may receive re-admission passes ("re-ads"), which allow them to immediately enter the shorter Fastpass line at any attraction on any given day without requiring them to stand and wait in a line or even to wait virtually." The relevance of this assertion is unclear. Re-ads are given to guests for all kinds of reasons, and they are regularly given to persons who are ***not*** disabled. But the many reasons that Disney may give extra re-ads do not include disability accommodation. Disney has repeatedly insisted that any extra "re-ads" which are given to anyone ***are expressly not given as a disability accommodation***. Hale Dep. 56:15-57:10; Armor Dep. 116:6-15; Riggs Dep. 73:5-76:8 (re-ads are recovery tools; Fastpasses and re-admits once granted are "never automatic" on a repeat visit; the guest must go through the same process on each visit).

[2] Ms. Armor, testifying as Disney's corporate representative, cited as one of the reasons for Disney's refusal to listen to guests' individualized descriptions of disability or to look at guests' voluntarily offered substantiating information is that "legally, we never want to say we need to see a doctor's notice." Armor Dep. 124:6-7." Disney does not explain the obvious incongruity; while Disney's employees are not qualified to understand records relating to autism, they apparently ***are*** qualified to educate guests as to how to manipulate the ingrained behaviors of persons with autism.

By outlining the existence and availability of re-admission passes, Disney offers for discussion a specific modification of the DAS which Disney *could* provide, and one which might be reasonable. Disney *could* give extra re-admission passes to its guests with cognitive impairments, thus allowing them to visit a predictable number of attractions, in a predictable order or routine, with predictable wait times. Disney *could* choose a fixed number of passes, or *could* perhaps determine the number based upon the other factors, such as the number of attractions which a non-disabled guest might reasonably expect to visit on the same day as the disabled guest. But despite the fact that Disney can do this for its disabled guests, Disney refuses to do so, *even though Disney admits that the monetary cost of doing so, assuming it is more than zero, is impossible to determine*. Armor Dep. 49:4-6, 51:9-1, 121:24-122:24. Using Disney's figure of [redacted] DASs (which is considerably less than [redacted]% of Walt Disney World visitors since the DAS was unleashed), [redacted] times zero is zero.

Disney demonstrates great audacity by even mentioning Autism Speaks in its motion (Disney mot, p. 8). Autism Speaks indeed assisted Disney with creation of the cited *Guidebook*. But Autism Speaks did not assist with or support the DAS. Even so, Disney has routinely cited Autism Speaks in the context of the DAS. Disney's own records demonstrate that Disney manipulatively constructed an ability to falsely cite Autism Speaks as a supporter of the DAS, and not just the *Guidebook.* Comp. Ex.1; www.youtube.com/watch?v=n6ZEauVUXqY.[3]

Disney's Statement of Undisputed Facts

Plaintiff does not know why Disney suggests to the Court that numerous "facts" are "undisputed" when Disney knows, in fact, they are.

1. The Disney working group "spent many months analyzing ways to reduce the

[3] Interview with Matt Asner, Exec. Dir., Autism Speaks Southern California: "The notion that we designed this program, this new program to replace the GAC, is completely asinine. We didn't have anything to do with it."

fraud and abuse under the GAC" is disputed, because it is a false statement. As discussed above, the record establishes that the group studied GAC issuance trends, and ECV usage, and many other issues, but it never actually analyzed the prevalence of fraud and abuse. Also, indicating that Disney studied the possibility of reducing fraud "under the GAC" is false because the working group expected from the outset to *replace* the GAC and not to improve any process "under" it. See A.L. Mot. Ex. 2, AL1016077, the working group's initial agenda:

> Attraction Access Objectives
>
> - Readdress the current GAC Card process and how Guests traveling in Wheelchairs or Mobility Scooters are handled at all Attractions at the US Based Parks.
> - Create a new Processes (sic) to address the accessibility issues while not granting preferential wait time. Equal wait time for all Guests.
> - Where applicable leverage the FASTPASS systems.

2. The DAS does as this paragraph alleges. Just as the Fastpass does. The benefit the DAS is said to provide is meaningless to A.L. as it is to most other guests with moderate to severe autism.

3. The record establishes that a disabled guest receives the posted time less 10 minutes, *not* 15 minutes. Of course, Plaintiffs do not seek a remedy for waits of less than 10 to 15 minutes. Instead, this is precisely the condition for which they pray, because A.L. can often endure a wait of this duration.

7. Disney's description of the "facts" is disputed and inaccurate. Deviation from routine as described by Disney will lead to one outcome, which is a horrible one. Plaintiffs do not understand why Disney offers as its defense that Plaintiff can experience its attractions with joyful spontaneity. In short, Disney proposes that because A.L. "can" visit the attractions in an unpredictable order dictated by Disney's wait times, he is accommodated. To Disney, it does not matter that, if forced around the park in this fashion, A.L. will unavoidably have a horrible

experience until the visit ends in disaster.

11. False. See Plaintiff's Motion to Terminate Deposition of D.L. (filed under seal pursuant to Doc. 134), at 6, in which Plaintiff describes: 1) Disney's insistence upon cross-examining D.L. about these untrue "facts," and 2) Disney's unfair use of these untrue "facts" which allegedly relate to data which was never previously produced and which, even if it had been produced, could not have been reviewed by D.L. prior to the deposition, due to Disney's insistence on ridiculously overbroad designations of information as "highly confidential," even for information which is subject to no legally cognizable privilege.

In addition, the so-called "wait time report" does not recite the attributed wait times. Disney's wait time data includes a baseline of data running the wait times, for each and every attraction – even for rides designed for little children – all the way to midnight, so that Disney can include scores of 5-minute wait times in its "average" times. And Disney's table of wait times includes attractions such as the railroad, which have a wait time of zero.

12. "There were various forms of documented abuse of the GAC system" is a false statement. Jones Dep. 23-24. Disney has alluded to isolated observed instances of assumed abuse, such as the ***one*** example Disney cites in its motion. And Disney has cited other conditions which it deems anomalous and which, for unknown reasons, Disney simply attributes to abuse, such as when the "exaggeration or fabrication of need for GAC reached a point where a ride sometimes had more guests in the GAC line than in the stand-by line." Disney offers no reason to assume that the large number of GAC users were GAC abusers. For another example, Disney refers to "documented" instances of "unauthorized 'tours' of WDW" but cites no authority for the proposition that any such "tours" were unauthorized. It is true that Disney wanted to eliminate the GAC because outside tour guides could use it to their advantage, but Disney has not shown that any such tour guide was acting improperly or fraudulently. That is, there exists no

reason to believe that any tour guide who used a GAC at any time was not genuinely disabled. Disney cites no authority for the proposition that a disabled person who validly held a GAC, and who gave tours while using it, was acting in any way unlawfully or fraudulently.

15. False. Whether this is an accurate general rule for non-disabled guests is unknown. But for guests with cognitive impairments like A.L., the statement is false or irrelevant. Relief from waiting "in line" is nothing, and does not encourage guests like A.L. to return to the park. If Disney's point is that accommodating disabled persons impacts its ability to give the utmost level of fun for its non-disabled guests, the point is meaningless. Every operator of a facility with disabled seating would say the same, as would any operator of a parking lot with handicapped parking spaces.

16. "A recent study shows that guests with DAS can experience rides significantly faster and, if they choose, in greater number than guests without DAS." This so-called "undisputed fact" is preposterous. It seems plausible that guests who are highly intelligent and emotionally and psychologically mature might deem possession of a DAS to be better than nothing, especially since they can "choose" how they use it. But those persons are not A.L.

17. Disney's assertion that "Plaintiffs do not intend to visit Magic Kingdom in the future" is simply petty. Disney omits that portion of the Amended Complaint which continues… "due to their expectation that the experience will again be a supremely un-accommodating one." Am. Comp. par. 83.

Disney's Argument that A.L.'s Requested Modification is Unnecessary

Disney compares the present situation to the one which was presented to Judge Presnell in *Ault v. Walt Disney World Co.,* 2009 WL 3242028, (M.D. Fla. 2009) vacated, 405 F. App'x 401 (11th Cir. 2010). *Ault* involved mobility-challenged park guests who wished to use Segway devices in the parks. Ms. Ault had expressly testified that she could, and in fact had, successfully

navigated the park using devices other than her preferred Segway. *Id*. at *2. Does Disney *really* compare A.L.'s inability to experience the parks in the order that Disney's employees would "teach" him to experience them to mobility-challenged guests' "preference" to use one type of mobility-assistive device rather than another? A.L. does not "prefer" anything; his need to follow an ingrained routine is "more than a preference, actually. It is a biologically driven mechanism." James Dep. 111:12-16.

If the Court determines that Disney has offered anything in the nature of credible record evidence, summary judgment as to Disney's "necessary" argument is still inappropriate, because "the reasonableness of proposed modifications is generally a fact question not amenable to summary determination." *Heather K. by Anita K. v. City of Mallard, Iowa*, 946 F. Supp. 1373, 1389 (N.D. Iowa 1996), citing *Crowder v. Kitagawa*, 81 F.3d 1430, 1485–87 (9th Cir. 1996); *Staron v. McDonald's Corp.* 51 F.3d 353, 356 (2d Cir. 1995); *Easley v. Snider*, 36 F.3d 297, 305 (3d Cir. 1994). Accord, *Powers v. MJB Acquisition Corp.*, 993 F. Supp. 861, 868 (D. Wyo. 1998) ("in most circumstances, the determination of what constitutes a reasonable modification or accommodation is a fact-intensive question ill-suited for resolution at the summary judgment stage"); *Haschmann v. Time Warner Entm't Co.*, 151 F.3d 591, 601 (7th Cir. 1998) ("The reasonableness of a requested accommodation is a question of fact"); *Palmer Coll. of Chiropractic v. Davenport Civil Rights Comm'n*, 850 N.W.2d 326, 342 (Iowa 2014), and cases cited therein ("Numerous courts have explained determinations of reasonable accommodation and fundamental alteration within the meaning of the ADA generally require flexible, fact-specific inquiries and are typically resolved as questions of fact"); *Vande Zande v. Wisconsin*, 851 F.Supp. 353 (W.D. Wis. 1994) ("Whether a defendant has made a reasonable accommodation to an individual with a disability is ordinarily a question of fact"), citing *McWright v. Alexander*, 982 F.2d 222 (7th Cir.1992); *Torcasio v. Murray*, 862 F. Supp. 1482,

1492 (E.D. Va. 1994) aff'd in part, rev'd in part, 57 F.3d 1340 (4th Cir. 1995).

Disney argues that A.L.'s asserted inability to deviate from routine is fabricated; that he is a malingerer. Disney's argument is an affront to the human consciousness. Disney apparently disregards all known science and evidence in relation to persons with moderate to severe autism, and attributes all sorts of self-determination and self-awareness to A.L. which is simply non-existent. Disney would treat him as if he is a person choosing between a wheelchair and a Segway, as if he has the capacity to make any such choice. To Disney, A.L. is the same as a blind plaintiff who needs no accommodation because he can really see, or a deaf plaintiff who needs no accommodation because she can really hear. Disney asserts that A.L. needs no accommodation because he is actually capable of reasoning. If the Court finds Disney's argument to be anything other than revolting and desperate, so that any modicum of respect must be given to it, the argument does nothing more than create a question of fact. *Heather K.*, supra; *Crowder*, supra,*; Kitagawa*, supra; *Staron*, supra; *Powers*, supra. A.L. has the capacity of child five to seven years old. D.L. Aff. ¶5. If there is a question about his ability to deviate from a predictable routine without risk of debilitating meltdowns and involuntary behaviors, the question must be tried.

Disney's Argument that Accommodating A.L. Would Increase Wait Times for All Other Guests and Fundamentally Alter Disney's Business

Disney suggests that "it is unreasonable to require Disney to adopt a policy that would cause the large-scale fraud and abuse that existed under GAC." As demonstrated above, Disney has offered no admissible or credible evidence that "large-scale fraud and abuse" existed at any time. Nothing. And Disney offers no explanation as to why this "large-scale fraud and abuse" persisted for decades, during which Disney was consistently able to admirably accommodate its disabled guests. During the entire time that Disney was a helpless victim of widespread fraud,

the Disney parks seem to have prospered quite well.

In the present case, Disney suggests that it is ***still*** a victim, in the post-GAC world. This is true because Disney alleges that A.L. is just another fraud, another "abuser," fabricating his disability, taking advantage of the helpless waif that is the Walt Disney Company. Unquestionably, Disney bears the burden of proof on the fundamental alteration defense. *Access Now, Inc. v. S. Florida Stadium Corp.,* 161 F. Supp. 2d 1357, 1363 (S.D. Fla. 2001); *Haddad v. Arnold*, 784 F. Supp. 2d 1284 (M.D. Fla. 2010) (defendant health officials failed to carry burden of proof that providing in-home health care would fundamentally alter their program, where officials presented no evidence that patient was ineligible for service, that in-home services cost more than placement in nursing home, or that providing in-home services for plaintiff would require services for others to be discontinued); *Cruz v. Dudek*, 2010 WL 4284955, *14 (S.D. Fla. 2010) (defendants failed to carry proof as to fundamental alteration where they produced no evidence that placing plaintiffs in health services program would reduce the availability of services to individuals ahead of plaintiffs on program waiting list, or to individuals already in the program).

Here, Disney has not only failed to carry any burden sufficient to support summary judgment, it has failed to offer any credible, admissible evidence. Disney does not know the cost of providing Fastpass line access to autistic persons generally (Armor Dep. 47:14-49:14), or to A.L. specifically (Armor Dep. 49:16-18). Nor does Disney know the cost of providing re-admit passes to any person with autism (Armor Dep. 120:24-121:21).

Disney illogically compares the cost of accommodating A.L. to the need to prevent widespread abuse across Disney's myriad parks and companies in multiple states. Disney creates a whole new concept; that in order to accommodate a single customer, A.L., it cannot reasonably modify its system but must instead adopt an entirely new one. But even if the cost of creating a

modification for A.L. would extend beyond A.L. himself, Disney has offered no data, information or evidence regarding the cost of implementing any such modification.

In *Johnson v. Gambrinus Co./Spoetzl Brewery*, 116 F.3d 1052, 1059-60 (5th Cir. 1997), widely cited as to ADA burdens of proof, the court noted that once a disabled plaintiff shows he or she requested a reasonable modification:

> …the defendant must make the requested modification unless the defendant pleads and meets its burden of proving that the requested modification would fundamentally alter the nature of the public accommodation. The type of evidence that satisfies this burden focuses on the specifics of the plaintiff's or defendant's circumstances and not on the general nature of the accommodation. Under the statutory framework, such evidence is relevant only to a fundamental alteration defense and not relevant to the plaintiff's burden to show that the requested modification is reasonable in the run of cases.

Applying *Johnson*, Disney cannot establish its fundamental alteration defense by simply standing on its assertions of a company-wide impact flowing from the requested modification; Disney must instead focus on the "specifics of [A.L.'s] circumstances." And, importantly, those same assertions of impact are not relevant in connection with the Plaintiff's showing of reasonableness.

Disney's suggestion that the cost of accommodating A.L. necessarily imposes burdens that will impact all of Disney's customers is disingenuous, because Disney knew, before it implemented the DAS, that it would disproportionately impact one group of disabled persons – guests with moderate to severe autism. Disney fully expected the system to accommodate guests with other disabilities, and Disney continues to insist that it does so. But the impact upon this ***distinct group*** was fully known and expected by Disney as the DAS was created. See A.L. Mot. Ex. 8 AL1003954; AL1015954; AL1034771; AL1039820-21. Disney now suggests that making exceptions or reasonable modifications to the DAS will necessarily impact ***everyone***. Specifically, Disney says that [redacted] percent of its guests will suffer if Disney is forced to reinstate

an old program, or create an entirely new one, for the benefit of [redacted] percent. But this [redacted] percent represents *the entire universe of disabled persons* who previously visited the Disney parks. That is, all the persons who received GACs. The persons now using the DAS represent a fraction of the prior [redacted] percent, especially since the DAS does not encompass, as the GAC did, mobility-challenged guests. Disney's company policy, the DAS, is generally no longer available to guests with mobility challenges, because Disney advises it has rendered the lines of all of its Walt Disney World attractions wheelchair-accessible. Disney reports that [redacted] DASs were issued in 18 months, which is several magnitudes less than [redacted] percent of its customer base.[4] And Disney has failed to offer any evidence – in fact, it has admitted that it possesses none – to show how many of these [redacted] guests received a DAS because they suffer from a cognitive impairment or have a developmental disorder such as autism. Jones Dep. 24:6-9. If Disney strives for logic in making this comparative cost argument, it needs to offer the initial baseline information which would be necessary for comparison – the cost of creating a modification for the group of persons which Disney always intended would be disproportionately impacted. Disney has not and cannot do so. Armor Dep. 49:16-18; Armor Dep. 120:24-121:21.

If the Court finds any question to exist about these issues, the issues must be tried. *Robinson v. Care All. Health Servs.*, 2015 WL 4040505, *14 (D. S.C. 2015) ("with respect to the Defendant's argument… that it was not required to provide Plaintiff with his proposed modification because it would "alter the fundamental nature of St. Francis' business" and would pose a direct threat to the health of St. Francis' patients… whether allowing Plaintiff his requested accommodation would pose a danger to patient health and safety is a question of fact that this Court cannot determine on summary judgment").

Courts have found that whether the requested relief constitutes a "fundamental

[4] [redacted] percent of the 150,000,000 guests who visit Walt Disney World in 18 months would be [redacted].

> alteration" is a "complex[,] fact-intensive" inquiry particularly inappropriate for summary judgment... [L]ower courts evaluating the fundamental alteration defense have focused on the costs of the requested relief in light of a state's obligations to other individuals with mental disabilities. Lower courts have thus required states to provide a "specific factual analysis" in order to demonstrate that the requested relief would constitute a "fundamental alteration."

Disability Advocates, Inc. v. Paterson, 598 F. Supp. 2d 289, 335 (E.D.N.Y. 2009) (internal citations omitted). One decision relied upon in Paterson, *Fisher v. Oklahoma Health Care Auth.*, 335 F.3d 1175 (10th Cir. 2003), is helpful here. In *Fisher*, the Tenth Circuit ruled, in reversing a summary judgment for a defendant, that the fundamental alteration defense requires a defendant to offer specific evidence that the costs of providing the requested relief would "in fact, compel cutbacks in services to other Medicaid recipients" or be inequitable to others with disabilities. *Id*. at 1183. In so finding, the court observed that:

> In passing the ADA, Congress was clearly aware that "[w]hile the integration of people with disabilities will sometimes involve substantial short-term burdens, both financial and administrative, the long-range effects of integration will benefit society as a whole." If every alteration in a program or service that required the outlay of funds were tantamount to a fundamental alteration, the ADA's integration mandate would be hollow indeed.

Fisher, 335 F.3d at 1183 (internal citations omitted). Accord, *Hampe v. Hamos*, 917 F. Supp. 2d 805, 822 (N.D. Ill. 2013) (substantially increased costs or budget constraints are insufficient to establish fundamental alteration defense), citing *Pa. Prot. & Advocacy, Inc. v. Pa. Dep't of Pub. Welfare*, 402 F.3d 374, 380 (3d Cir. 2005); *Radaszewski ex rel. Radaszewski v. Maram*, 383 F.3d 599, 614 (7th Cir. 2004); *Townsend v. Quasim*, 328 F.3d 511, 520 (9th Cir. 2003).

Disney's Argument that A.L. Lacks Standing

This portion of Disney's brief is incomprehensible. Disney cites the first half of one sentence of Plaintiffs' Amended Complaint as an admission that A.L. will never again visit Walt Disney World. The entire sentence says: "[Plaintiffs] will not attend the Parks in the future *due to their expectation that the experience will again be a supremely un-accommodating one*." Am.

Comp. par. 83. Disney similarly ignores other express allegations by Plaintiffs which likewise assert that the DAS and Disney's implementation of the DAS are deterring Plaintiffs from visiting the Disney parks. See Am. Comp par. 31, 49, 50, 51, 57, 59, 60.

After D.L.'s fruitless initial effort in Guest Relations to obtain a reasonable modification, D.L. took A.L. into the park and visited one of the Magic Kingdom attractions. Having seen precisely how the system would operate, and having studied the issue in detail including through direct communications with Disney's Manager of Services for Guests with Disabilities, she concluded that there was no way to predict whether A.L. would be able to experience the park pursuant to any predictable or particular routine. The risk that he would not be able to do so was too great, so she removed him from the situation and cut their visit short. Disney alleges that when D.L. decided not to place A.L. at risk of a meltdown, and when she protected him from that risk by removing him from the situation, she deprived her son of any standing to bring an ADA claim.

Disney's assertion makes no sense because D.L. and A.L. *need not have visited the park at all in order to have standing*. Knowledge of how the system would work, and of how it will fail to accommodate A.L.'s special need, deters Plaintiffs from visiting the Magic Kingdom. Deterrence, unaccompanied by any other discernible injury, is sufficient "injury in fact" to create standing. *Houston v. 7-Eleven, Inc.*, 2014 WL 5488805, *6 (M.D. Fla. 2014), citing *Friends of the Earth v. Laidlaw Environmental Services*, 528 U.S. 167, 120 S.Ct. 693, (2000).

Conclusion

Defendant Disney's Motion for Summary Judgment must be denied. The Court should find the motion to be utterly devoid of support in law, logic, and humanity. Alternatively, the Court should find the motion to raise issues that are infused with questions of fact inappropriate for determination on summary judgment, and that trial must be had as to each such issue.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via Electronic Mail this 16th day of November, 2015 to:

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Attorneys for Plaintiffs

To: 'Matt Asner'[matt.asner@autismspeaks.org]
From: Jones, Mark
Sent: Wed 10/2/2013 12:41:46 PM
Importance: **Normal**
Subject: Update

Good morning to you Matt. Just an FYI that Cathi and I have had 2 conversations over the past few days with Michael Rosen and Lisa Goring about how Disney will be proceeding with communication surrounding the new DAS program which also includes a mention of the new Cognitive Guide that has been developed. We hope to provide Michael with the communication later today so he has a chance to see it in advance of communication to a larger audience (there is no mention of Autism Speaks in it by the way). Related, Michael has asked that we remove all mentions of Autism Speaks in the Guides, so I'll be doing that immediately. Thought you'd want to know sir. Let me know if we need to chat about this or anything else.

I appreciate it!

Mark

Composite Exhibit 1

Cel: [redacted]

On Sep 30, 2013, at 9:29 AM, "Jones, Mark" <Mark.Jones@disney.com> wrote:

> Morning to you Matt! Any preference on when we chat today? Sometime between 10:30-2:30 perhaps? Let me know sir.
>
> Thanks!
>
> Mark Jones
> Sent from my iPhone
>
> On Sep 29, 2013, at 4:40 PM, "Matt Asner" <matt.asner@autismspeaks.org> wrote:
>
> > Yes. Let's.
> >
> > I want to chat more about these other groups too. I have had an earful all weekend from many people and I am more concerned now than ever that these groups are positioning themselves with Disney solely for the purpose of discrediting AS.
> >
> > Matthew Asner
> > Autism Speaks
> >
> > Executive Director of Southern California
> >
> > **6330 San Vicente Blvd., Ste 401 -NEW**
> >
> > **Los Angeles, CA 90048**
> >
> > Tel: 323-297-4720
> >
> > Cel: [redacted]
> >
> > On Sep 29, 2013, at 8:52 AM, "Jones, Mark" <Mark.Jones@disney.com> wrote:

To: Hale, Greg[Greg.Hale@disney.com]
From: Jones, Mark
Sent: Sat 9/28/2013 9:15:55 PM
Importance: Normal
Subject: Re: URGENT: Autism Speaks Interview About DAS

Very sad sir. We haven't done them any favors though in the past week I'm afraid.

Mark Jones
Sent from my iPhone

On Sep 28, 2013, at 5:38 PM, "Hale, Greg" <Greg.Hale@disney.com> wrote:

> Very disappointing. Not a single positive word about Disney - even when he brought up the guide. Just distancing himself. I understand distancing himself from a policy he hasn't seen or had any control of but he could have been more positive about our "partnership" at least on the guide
>
> Thanks,
> Greg
>
> Sent from my iPhone
>
> On Sep 28, 2013, at 6:34 PM, "Jones, Mark" <Mark.Jones@disney.com> wrote:
>
> > Happy Saturday Jacquee, Suzi, Cathi and Greg. Are any of you aware of this recent interview with Matt Asner? I talked with him on Thursday and he didn't mention it. Concerning on many fronts and probably important to share with your larger teams as well...
> >
> > http://m.youtube.com/watch?v=n6ZEauVUXqY&desktop_uri=%2Fwatch%3Fv%3Dn6ZEauVUXqY
> >
> > Thanks,
> >
> > Mark Jones
> > Sent from my iPhone

To: Jones, Mark[Mark.Jones@disney.com]
Cc: Minnick, Bob[Bob.Minnick@disney.com]; Brown, Suzi[Suzi.Brown@disney.com]; Prunty, Kim[Kim.Prunty@disney.com]; Wahler, Jacquee M. (Polak)[Jacquee.M.Wahler@disney.com]; Prihoda, Kathleen[Kathleen.Prihoda@disney.com]
From: Hale, Greg
Sent: Fri 9/27/2013 7:48:37 AM
Importance: Normal
Subject: RE: Plz acknowledge u have seen this eMl: Disney

Mark – I don't like the tone and threats coming from their PA person (although I understand why he is concerned – he is not handling it well). I think it is very important that we continue the great relationship and communication directly with the East and West coast leadership so Michael isn't our communication funnel to the organizational leadership and they help keep him in check and on-board with our "partnership".
If he makes the call from a PA prospective to distance themselves from us publically, then it will force us to find other partners and distance ourselves from them behind-the-scenes as well – which would be very unfortunate.

Jackie and the PA team – Please let us know if you see Michael continuing down this path of threats and anything we can do to help keep them on board.

Greg

From: Metz, Winnie
Sent: Thursday, September 26, 2013 2:41 PM
To: Minnick, Bob; Hale, Greg
Subject: Plz acknowledge u have seen this eMl: Disney
Importance: High

From: Wahler, Jacquee M. (Polak)
Sent: Thursday, September 26, 2013 2:12 PM
To: Jones, Mark; Prihoda, Kathleen; Brown, Suzi
Cc: Hale, Greg; Minnick, Bob; Prunty, Kim
Subject: Re: Disney

Mark,
I called Leslie Smith to see if they are directing calls to AS and they are not. She is circling back with the team to make sure this does not happen. I sent a note to Michael addressing this.
Jacquee

From: <Jones>, Mark <Mark.Jones@disney.com>
Date: Thursday, September 26, 2013 1:45 PM
To: Jacquee Wahler <jacquee.m.wahler@disney.com>, Kathleen Prihoda <Kathleen.Prihoda@disney.com>, Suzi Brown <SUZI.BROWN@DISNEY.COM>
Cc: Greg Hale <Greg.Hale@disney.com>, "Minnick, Bob" <Bob.Minnick@disney.com>
Subject: FW: Disney

Jacquee and team, are you on this one? I know this came up yesterday in our chat as well.

Mark

From: Michael Rosen [mailto:Michael.Rosen@autismspeaks.org]
Sent: Thursday, September 26, 2013 10:43 AM
To: Wahler, Jacquee M. (Polak); Jones, Mark; Prihoda, Kathleen
Cc: Matt Asner
Subject: RE: Disney

Who is handling this with urgency, as in immediately?
It would see that your team might have worked on their talking points by now as we discussed. This is a Disney policy not an Autism Speaks policy.
These talking points need to be changed immediately before we really start to distance ourselves from our "partners"

Michael Rosen
Executive Vice President, Strategic Communications
Autism Speaks
1 East 33rd. Street, 4th. Floor
New York, NY 10016
(646) 385-8525
Michael.rosen@autismspeaks.org
@MichaelRosenAS

Description: AUTISMSPEAKSRIGHT

Description: Support Autism Speaks

From: Patty Tapia
Sent: Thursday, September 26, 2013 1:29 PM
To: Michael Rosen
Subject: Disney

Michael,

I just started getting phone calls about the Disney policy. It seems that Disney is having them call us to speak to someone and Mike Rosen is the name they are giving out. I didn't want to start forwarding calls to you without a) letting you know about it or b)giving me someone else to take these calls.

Let me know.

Patty

p.s. I can forward you the emails also if you like.

A. Patty Tapia
Director, Field Services
Autism Speaks
1060 State Road, 2nd Floor
Princeton, NJ 08540
(609) 228-7316
ptapia@autismspeaks.org

Description:

AUTISMSPEAKSRIGHT

To: Jones, Mark[Mark.Jones@disney.com]; Mike Wuebben[mike.wuebben@autismspeaks.org]; Matt Asner[matt.asner@autismspeaks.org]; Katy Formella[katy.formella@autismspeaks.org]; Denise Bianchi[dbianchi@autismspeaks.org]; Karen Thompson[kgthompson@cfl.rr.com]
Cc: Wahler, Jacquee M. (Polak)[Jacquee.M.Wahler@disney.com]; Prihoda, Kathleen[Kathleen.Prihoda@disney.com]; Brown, Suzi[Suzi.Brown@disney.com]; Hale, Greg[Greg.Hale@disney.com]; Minnick, Bob[Bob.Minnick@disney.com]
From: Michael Rosen
Sent: Wed 9/25/2013 9:14:04 AM
Importance: Normal
Subject: RE: Latest Versions of DLR & WDW Guides for Guests w/Cognitive Disabilities

My thoughts and comments revolve around the huge number of our families who are calling Disney and saying the staff is unprepared to answer their questions. That and the degree to which Autism Speaks has been used as cover for this policy change.

Michael Rosen

Executive Vice President, Strategic Communications

Autism Speaks
1 East 33rd. Street, 4th. Floor

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Michael.rosen@autismspeaks.org

@MichaelRosenAS

AUTISM SPEAKS
It's time to listen.
www.AutismSpeak

WALK NOW FOR AUTISM SPEAKS
It's time to listen.
CLICK HERE TO FIND A WALK NEAR YOU!

From: Jones, Mark [mailto:Mark.Jones@disney.com]
Sent: Tuesday, September 24, 2013 8:47 PM
To: Michael Rosen; Mike Wuebben; Matt Asner; Katy Formella; Denise Bianchi; Karen Thompson
Cc: Wahler, Jacquee M. (Polak); Prihoda, Kathleen; Brown, Suzi; Hale, Greg; Minnick, Bob
Subject: Latest Versions of DLR & WDW Guides for Guests w/Cognitive Disabilities

Greetings again Autism Speaks partners. Below, as a link, are the latest drafts of the "Disneyland Resort Guide for Guests with Cognitive Disabilities"(Draft 11) and the "Walt Disney World Resort Guide for Guests with Disabilities" (Draft 2). We are still targeting 10/9 as the "go live" date for these booklets on our respective Disney Guest-facing websites (www.disneyland.com and www.disneyworld.com) and there are still some minor edits we need to make leading up to this date.

Thanks and do let me know if you have any thoughts, comments, or feedback and we look to finalize these booklets.

Mark

Mark Jones, CT
Manager, Domestic Services for Guests with Disabilities

Disneyland Resort & Walt Disney World Resort

WALT DISNEY Parks & Resorts

CA Office: (714) 781-1384

FL Office: (407) 827-5600

From: Relay File Transfer [mailto:Relay@RelayIt.net] **On Behalf Of** Mark.Jones@disney.com
Sent: Tuesday, September 24, 2013 5:32 PM
To: Jones, Mark
Subject: Relay Delivery: Latest Versions of DLR & WDW Guides for Guests w/Cognitive Disabilities

Hello from Relay,
You have been sent 2 files for pickup.

From: mark.jones@disney.com [more about this address]
Subject: Latest Versions of DLR & WDW Guides for Guests w/Cognitive Disabilities
Files: DRAFT 11-DLR Cognitive Guide 9_23_13.pdf (1.95 MB)
Draft 2-WDW Cognitive Guide 9_23_13.pdf (3.2 MB)
Expires In: 7 days
Download: Click Here to Download Your Files

Can't click the link above? Just copy and paste the link below into your browser's address bar:
[redacted]

Notice: The download link provided is specific to this e-mail address and can be traced if forwarded.

Thanks for using Relay!
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To: Appleton, Betty[Betty.Appleton@disney.com]
Cc: Jones, Mark[Mark.Jones@disney.com]; Wahler, Jacquee M. (Polak)[Jacquee.M.Wahler@disney.com]; Minnick, Bob[Bob.Minnick@disney.com]
From: Brown, Suzi
Sent: Tue 9/24/2013 1:31:38 AM
Importance: Normal
Subject: Re: DLR Nightly Report 09.23.13

When I was talking to a reporter yesterday, he asked if we've worked with any other groups. I told him that we are in the process of informing many of the nonprofit partners with whom we work of the changes. Other than that, I don't want to make it sound like we've done more. And frankly at this point, all the stories are focused on the Autism community.

From: <Appleton>, Betty <Betty.Appleton@disney.com>
Date: Monday, September 23, 2013 10:26 PM
To: Suzi Brown <suzi.brown@disney.com>
Cc: "Jones, Mark" <Mark.Jones@disney.com>, "Wahler, Jacquee M. (Polak)" <Jacquee.M.Wahler@disney.com>, "Minnick, Bob" <Bob.Minnick@disney.com>
Subject: Re: DLR Nightly Report 09.23.13

Thanks Suzi, I agree with Mark.

I still don't know what I should be providing
Goodwill to support the informational meeting from last week. Do you have any recommendations?

Betty

Sent from my iPhone

On Sep 23, 2013, at 10:16 PM, "Brown, Suzi" <Suzi.Brown@disney.com> wrote:

> Thanks for the feedback, Mark. I'm looping in Jacquee, as she's been speaking with Michael and WDW has been taking the lead in crafting our statements.
>
> From: <Jones>, Mark <Mark.Jones@disney.com>
> Date: Monday, September 23, 2013 10:11 PM
> To: Suzi Brown <suzi.brown@disney.com>
> Cc: "Appleton, Betty" <Betty.Appleton@disney.com>, "Minnick, Bob" <Bob.Minnick@disney.com>
> Subject: Re: DLR Nightly Report 09.23.13

Thanks Suzi. I'm concerned that we're still saying we "engaged Autism Speaks to develop this new process" which could lead a reporter to believe Autism Speaks fully supports all facets of the new program which is not exactly true. Both Matt Asner and Michael Rosen from the organization have already, from the quotes I've seen, stated they are aware of what we are doing and understand why, but have yet to see them say they fully support/helped develop what we're doing. Since Autism Speaks is my relationship, I'm also concerned they may get a sense we're throwing them under the bus which would reflect poorly on us (and, selfishly, me). Can we slightly modify what we're saying to include something about the development of the Cognitive Guide which is where Autism Speaks really contributed?

Mark Jones
Sent from my iPhone

On Sep 23, 2013, at 10:00 PM, "Brown, Suzi" <Suzi.Brown@disney.com> wrote:

Media
LA Times

CNN online
KNBC
Today Show (not sure they will report)
The Hollywood Reporter
KPCC – NPR
KFI News Radio
NBC Network
CBS News Radio
Desert Sun (Palm Springs)

Topic

We continued to field call regarding the transition from the GAC to the DAS program. We backgrounded reporters on the process and provided them with a high-level overview of the changes. We provided the following quote:"We have an unwavering commitments to making our parks

accessible to all Guests. Given the increasing volume of requests we receive for special access to our attractions, we are changing our process to create a more consistent experience for all our guests while providing accommodations for guests with disabilities. We engaged disability groups, such as Autism Speaks, to develop this new process, which is in line with the rest of our industry." (Suzi)

?Timing
Today and tomorrow

Suzi Brown
Director, Media Relations and External Communications
Disneyland Resort
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suzi.brown@disney.com
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