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**UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA**

A.L., by and through D.L., et al.,)	
)	Case No.: 14-cv-3327
Plaintiffs,)	
)	PLAINTIFFS' OPPOSITION
v.)	TO DISNEY'S MOTION
)	TO TRANSFER VENUE
WALT DISNEY PARKS AND RESORTS)	
U.S., INC.,)	Hearing: September 15, 2014
)	Time: 10:00 a.m.
Defendant.)	Place: Courtroom 8
)	312 N. Spring St.
)	Los Angeles, CA

Hon. Manuel L. Real

Plaintiffs A.L. and others, through undersigned counsel and pursuant to the Federal Rules of Civil Procedure, the Local Rules of this Court, and

1 applicable law, provide the following memorandum in opposition to
2 Defendant Walt Disney Parks and Resorts US, Inc.'s Motion to Transfer
3 Venue (Doc. 42).

4 **I. BACKGROUND**

5 Plaintiffs bring an extensive complaint which generally asserts that
6 in October of 2013 Defendant Walt Disney Parks and Resorts US, Inc.
7 ("Disney") implemented a new system ostensibly for the purpose of
8 accommodating disabled persons in its theme parks. Plaintiffs allege that
9 while the system, known as Disney's Disability Access Service ("DAS")
10 might adequately accommodate persons with certain disabilities, it does
11 entirely the opposite for persons with cognitive impairments, such as
12 persons with autism and similar disorders. For persons with cognitive
13 impairments, the DAS has not only made the Disney Parks experience less
14 than equal, it has made it downright awful. The Complaint includes 26
15 Plaintiffs, encompassing 14 families. Specifically, the Plaintiffs include 16
16 disabled individuals through their guardians, and 10 of the guardians also
17 seek relief in their individual capacities. Nine of the Guardian Plaintiffs
18 are mothers of the Disabled Plaintiffs; one is a grandmother. One of the
19 Guardian Plaintiffs comes to this Court having already been appointed by
20 another court as the plenary legal guardian for her disabled child. For the
21 others, this Court has granted their motions to act as guardian ad litem
22 (Doc. 17-19, 21-29, 30-32).

23 **II. ARGUMENT**

24 **1. Plaintiff's Choice of Forum is Entitled to Great Deference**

25 As one court recently noted, while some jurisdictions may place only
26 "some" weight on a plaintiff's choice of forum, the Ninth Circuit does more:
27
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1 The Supreme Court has indicated that “[t]he Court must also
 2 give some weight to the plaintiffs’ choice of forum.” (quoting
 3 *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 241 n.6 (1981)). The
 4 Ninth Circuit has gone further, holding that “[t]he defendant
 5 must make a strong showing of inconvenience to warrant
 6 upsetting the plaintiff’s choice of forum.” *Decker Coal Co. v.*
Commonwealth Edison Co., 805 F.2d 834, 843 (9th Cir.1986).

7 *Westby v. Lincoln Property Company*, 2014 WL 2769068, *3 (N.D. Cal. June
 8 18, 2014). Similarly, “[t]he Ninth Circuit has held that “unless the balance
 9 of factors is strongly in favor of the defendants, the plaintiff’s choice of
 10 forum should rarely be disturbed.” *Wellens v. Daiichi Sankyo Co., Inc.* 2013
 11 WL 3242294, *3 (N.D. Cal. 2013), quoting *Sec. Investor Protection Corp. v.*
 12 *Vigman*, 764 F.2d 1309, 1317 (9th Cir.1985).

13 **2. Five of the Plaintiffs, Not Two, Bring California-Based Claims**

14 To the extent Disney attempts to create an inference that only two
 15 Plaintiffs, in one family, bring an action in relation to the Disneyland
 16 Resort in California, this is simply not true. A total of five Plaintiffs bring
 17 actions arising specifically from actual or threatened discrimination at
 18 Disneyland. It is true that only two plaintiffs – T.P. and his mother, S.P. –
 19 bring actions under California law for money damages arising from their
 20 past experiences at Disneyland. But three additional Plaintiffs, including
 21 J.K. (Count 27), C.M.J. (Count 47), and D.M.J. (Count 48), bring actions
 22 under the Americans with Disabilities Act for injunctive relief associated
 23 with both Walt Disney World and Disneyland. Each has actively
 24 experienced the 10-month-old discriminatory DAS policy in Florida, and
 25 each alleges that the experience is deterring them from returning to Walt
 26 Disney World and is deterring them from visiting Disneyland. Specifically,
 27 they allege as follows:
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Despite this deep parental fear, R.K. is conflicted because she knows J.K. has adored Disney since he first saw Cinderella's Castle, and the adoration never abated during the time Disney, through its Guest Assistance Card system, actually accommodated persons with cognitive impairments. She has seen J.K. regularly spend hours in his bedroom, staring at maps of Walt Disney World and studying YouTube videos of Disney's California Adventure. J.K.'s love of Disney is so strong, his greatest wish is to visit Disneyland and finally see Mickey's Fun Wheel in California. R.K. knows she cannot take him there because she knows J.K. will be discriminated against, just as is the case at Walt Disney World.

J.K. by and through R.K., Complaint, par. 347.

D.L.J. would be inclined to visit Disneyland and Walt Disney World Parks with C.M.J., had Disney not abandoned its past policy of accommodating the special needs of persons with cognitive impairments. Their interest in attending Disneyland and Walt Disney World Parks is substantially reduced. D.L.J. reasonably feels they should avoid attending the Parks in the future due to the expectation that the experience will be an un-magical, and overall, un-fulfilling one, and especially due to the risk that the experience will be destructive for C.M.J.

C.M.J., by and through D.L.J., Complaint, par. 521. C.M.J.'s brother D.M.J. makes the same allegation:

D.L.J. would be inclined to visit Disneyland and Walt Disney World Parks with D.M.J., had Disney not abandoned its past policy of accommodating the special needs of persons with cognitive impairments. Their interest in attending Disneyland and Walt Disney World Parks is substantially reduced. D.L.J. reasonably feels they should avoid attending the Parks in the future due to the expectation that the experience will be an un-magical, and overall, un-fulfilling one, and especially due to the risk that the experience will be destructive for D.M.J.

1 D.M.J., by and through D.L.J., Complaint, par. 542.

2 Disney's DAS is a published policy which is being applied in all six of
3 Disney's Theme Parks. Notwithstanding the fact that Disney is creating
4 perhaps hundreds of victims of discrimination every day, there is no end
5 in sight to the DAS. As a consequence, visitors are reasonably deterred
6 from returning, and would-be visitors are deterred from visiting in the
7 first instance. Because deterrence is a concrete, particularized injury,
8 *Pickern v. Holiday Quality Foods Inc.*, 293 F.3d 1133, 1137-38 (9th Cir.
9 2002) ("We hold that in stating that [plaintiff] is currently deterred from
10 attempting to gain access to the [store, Plaintiff] has stated sufficient facts
11 to show concrete, particularized injury"), there can be no question that
12 J.K., C.M.J., and D.M.J. have standing to seek the injunctive relief they
13 request, as they have suffered an injury from Disney's existing
14 discrimination, and such experience is now deterring them from visiting
15 the Disney Parks. *Fortyune v. American Multi-Cinema, Inc.*, 364 F.3d 1075
16 (9th Cir. 2004); *Chapman v. Pier One Imports, Inc.*, 631 F.3d 939 (9th Cir.
17 2010).

18 **3. Plaintiffs' Amended Complaint Will Moot Disney's Argument**

19 Plaintiffs have advised Disney of their intention to file a motion
20 seeking leave to amend the Complaint. Plaintiffs received confirmation
21 that Disney opposes an order granting the motion on the day before filing
22 this Opposition, so the motion will now be filed within the next few days.

23 The proposed amendment to the Complaint would revise the current
24 pleading by adding approximately 64 plaintiffs among 29 families.
25 Without regard for any plaintiffs which might claim injunctive relief as to
26 both Disneyland and Walt Disney World, as is the case with J.K., C.M.J. and
27 D.M.J., 11 of the families have visited Disneyland and 19 of the families
28 have visited Walt Disney World. Declaration of Andy Dogali in Support of

1 Opposition to Motion to Transfer Venue, par. 4 (“Dogali Declaration”).
 2 Clearly there is no distant outreach or abuse going on here of the kind
 3 which is addressed in the cases cited by Disney, such as the *Adachi*
 4 decision in which only one of 239 plaintiffs had local contact. *Adachi v.*
 5 *Carlyle/Galaxy San Pedro L.P.*, 595 F.Supp.2d 1147 (S.D. Cal. 2009).

6 **4. Important Witnesses Exist Who are Not Disney Employees**

7 Disney suggests that the universe of important witnesses in this
 8 matter reside in Florida, apparently because only people employed by
 9 Disney can be important. Surely Disney gives its guests some level of
 10 importance.

11 a. Thousands of Victims – Each of Whom is a Potential Similar
 12 Act Witness – Visited Disneyland or Reside in California

13 The office of undersigned counsel has communicated with no less
 14 than 280 families who profess to be victims of discrimination under
 15 Disney’s new DAS. Dogali Declaration, par. 5, Exh. 1. Plaintiffs have
 16 produced a spreadsheet, entitled “Disney DAS – Similarly Situated Victim
 17 Witnesses,” to Disney as part of their initial Rule 26 disclosures. The
 18 compilation establishes, incontrovertibly, that victims of Disney’s
 19 discrimination are scattered far and wide. Just this sample includes all
 20 regions of the United States, as well as Canada and the United Kingdom. Of
 21 those 280 witnesses, 94 visited Walt Disney World, 44 visited Disneyland,
 22 four visited both resorts, and 138 remain undetermined. Obviously more
 23 of this sample visited Walt Disney World, but is the disparity so great as to
 24 overcome the presumption or deference in favor of plaintiffs’ choice of
 25 forum? Obviously not.
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1 b. Potential Victim Witnesses are Disproportionately Located
2 in California

3 Even without counsel's sample of 280 families, certain demographic
4 factors weigh in favor of this Court giving further deference to Plaintiffs'
5 choice of forum, and to respecting the public interest consideration which
6 might favor this Court as the adjudicator of Plaintiffs' claims. A large
7 proportion of cognitively-impaired persons who visit theme parks reside
8 within driving distance, or within "day trip" distance of the Disney resorts,
9 and they buy season passes to the Disney Parks. Because the Los Angeles
10 metropolitan area is at least six times the size of the Orlando metropolitan
11 area, far more actual and potential victims of Disney's discrimination,
12 particularly repeat victims, reside in California. See U.S. Census Bureau
13 Estimate of Metropolitan Statistical Areas, July 1, 2013. (L.A. metro area:
14 no. 2, 13.131 million residents; Orlando metro area: no 26, 2.268 million
15 residents). Dogali Declaration, par. 6, Exh. 2. One authoritative resource
16 estimates California's autism population at 72,000, which outdistances
17 any comparable number of Floridians. See Autism Society of California
18 2012 Survey: "California continues to lead the nation in the highest
19 number of individuals with [Autism Spectrum Disorder]. We estimate
20 there are at least 72,000 individuals living in California with a form of
21 ASD. The California Department of Education reports there are 65,908
22 students as of December 2010 identified with ASD." Dogali Declaration,
23 par. 7, Exh. 3, p. 7.

24 By asking the Court to limit the witness pool for the instant venue
25 analysis to Disney's own self-interested personnel, Disney asks the Court
26 to ignore the fact that thousands of witnesses, in the form of similarly-
27 situated victims, reside all across the country, with a disproportionate
28 number residing in California.

1 c. Disney Inaccurately Paints the DAS a Purely East Coast
 2 Phenomenon

3 1) *Disney's Florida-Based Personnel are Not Wholly to Blame for the*
 4 *DAS Debacle*

5 Disney would have the Court believe that Disney's Florida-based
 6 employees rolled out a complete disability package and thrust it upon a
 7 subservient resort in California. Obviously, the parties have not yet
 8 engaged in discovery in this matter, since Disney filed its Motion to
 9 Transfer Venue before the parties were even permitted to engage in
 10 discovery.¹ But some facts and inferences are available which should form
 11 a part of considerable discovery in the action. For example, when the DAS
 12 was rolled out, journalistic sources reported that "It should be noted that
 13 the work implementing DAS, *which has had lots of executive involvement from*
 14 *both coasts*, has now generated serious discussion in TDA [Team Disney
 15 Anaheim] on creating a five-year plan of capital expenditure to go in to those
 16 older rides and retrofit them..." "MiceAge Disneyland Update: Parties,
 17 Parking, and Planned Projects", MiceAge, September 17, 2013,
 18 <http://micechat.com/42628-miceage-disneyland-update> (emphasis added)
 19 Dogali Declaration, par. 8, Exh. 4.

20 Disney's Rule 26 Disclosures identify witnesses who are strangely
 21 missing from Disney's declaration regarding important witnesses. Dogali
 22 Declaration, par. 9, Exh. 5. Chief among these is Mark Jones, who is Disney's
 23 Manager of Domestic Services for Guests with Disabilities. It cannot be
 24 questioned that he played a central role in the development and rollout of the
 25 DAS, that his activities are expressly placed at issue in the Complaint, that he
 26 has personally interacted with Plaintiffs in this case (see Complaint, Par. 36,

27 _____
 28 ¹ The parties' early meeting of counsel occurred August 8, 2014. The report of
 that meeting is being filed the same date as this opposition.

1 76, 77, 81, 461), and that at material times he has resided in and operated
2 from California. Dogali Declaration, par. 10, 11, Exh. 6.

3 Similarly, Disney's Rule 26 disclosures accurately identify Greg Hale,
4 who is Disney's Chief Safety Officer and Vice President of Worldwide
5 Standards and Auditing. He is admitted to possess knowledge about all
6 aspects of the DAS. Though he lives in Florida, it is beyond dispute that his
7 responsibilities include *both* Disneyland and Walt Disney World.

8 Disney has a significant corporate presence in California, with overall
9 headquarters at 500 South Buena Vista Street, Burbank, CA 91521.
10 Executives at corporate headquarters who played a role in the rollout of
11 the DAS include:

- 12 • Suzie Brown, Director and spokesperson for Disneyland and Disney
13 itself, whose office is located in Anaheim, CA, has spoken out about the
14 DAS, saying "we are changing our process to create a more consistent
15 experience for all our guests while providing accommodations for guest
16 with disabilities."² The accuracy and veracity of Disney's public
17 communications regarding the DAS are specifically placed in issue by
18 the Complaint. (See Complaint, Par. 43, 44, 47 through 52.)
- 19 • Thomas Staggs, Chairman, Walt Disney Parks and Resorts,
20 headquartered in Burbank, California and recipient of petitions to stop
21 changes to the Guest Assistance Card program.³

22 2) *Even if Disney Constructed Much of its Discriminatory Scheme in*
23 *Florida, Disney Subjected Guests to the Scheme in California*

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25
26 ² See <http://www.cinemablend.com/pop/Disney-Parks-Changing-Disabled-Access-Policy-Users-Cheat-System-59340.html>. Dogali Declaration, par. 12, Exh. 7.

27 ³ See <http://www.change.org/p/stop-changes-to-disney-world-and-disneyland-s-guest-assistance-card-program>. Dogali Declaration, par. 13, Exh. 8.
28

1 Disney suggests that liability issues in this case will be centered
2 wherever Disney chose to design its DAS system prior to wreaking havoc
3 with it in California. Assuming a company as innovative as Disney actually
4 designs anything in a single physical location rather than virtually and
5 electronically doing so across many states, countries and continents,
6 Plaintiffs are thankful Disney did not choose to design the DAS in another
7 country, as Disney's choice would apparently have left Plaintiffs with no
8 convenient forum at all.

9 Without doubt, Plaintiffs will demonstrate that Disney's DAS was so
10 flawed from the outset that Disney anticipated the horrendous impact it
11 would have on the autism community. But Plaintiffs' claims do not sound
12 entirely in the design of the DAS as a policy, because regardless of where
13 Disney may have chosen to design its discriminatory system, much of the
14 discrimination which harmed Plaintiffs in fact occurred later, at the
15 physical location of the public accommodation, which is Disneyland. The
16 discrimination happened when Disney personnel refused to consider
17 individualized accommodations for any of the Plaintiffs, choosing instead
18 to robotically treat all persons with cognitive impairments the same, or to
19 treat them as if they were deserving of no accommodation at all.

20 One of the ADA's "specific prohibitions" is the:

21 ...failure to make reasonable modifications in policies, practices,
22 or procedures, when such modifications are necessary to afford
23 such goods, services, facilities, privileges, advantages, or
24 accommodations to individuals with disabilities.

25 42 U.S.C. §12182(b)(2)(A)(ii).

26 Under this aspect of ADA, the unlawful conduct lies less in the
27 crafting of the policy but in the refusal to bend from it even in the face of
28

1 obvious proof that the policy is performing abysmally when applied to
2 certain disabled persons.

3 The Ninth Circuit has expressly ruled, in a case directly involving
4 accessibility of the Disney theme parks, that rigidly adhering to an
5 accessibility policy is in direct contravention of the requirement to make
6 “reasonable modifications,” as quoted above. In *Baughman v. Walt Disney*
7 *World Co.*, 685 F.3d 1131 (9th Cir. 2012), the court considered a Disney
8 policy which permitted certain mobility-assistive devices in its theme
9 parks – wheelchairs and scooters. The plaintiff alleged that she had
10 difficulty using wheelchairs and scooters and proposed to use a different
11 type of mobility assistive device, which Disney inflexibly refused to
12 consider. Disney argued that because the plaintiff could use a wheelchair
13 – that doing so was merely difficult, but not impossible – Disney’s policy
14 constituted an adequate accommodation. The Ninth Circuit disagreed,
15 stating:

16 The district court held that Disney is not required to
17 modify its policy because it permits motorized wheelchairs or
18 scooters. Disney argues vigorously in support of the district
19 court's judgment that “necessary” means only one thing: can't do
20 without. Because *Baughman can* access Disneyland by using a
21 wheelchair or scooter, a Segway isn't “necessary” for her to use
the park. QED.

22 Read as Disney suggests, the ADA would require very few
23 accommodations indeed. After all, a paraplegic *can* enter a
24 courthouse by dragging himself up the front steps, so lifts and
25 ramps would not be “necessary” under Disney's reading of the
26 term. And no facility would be required to provide wheelchair-
27 accessible doors or bathrooms, because disabled individuals
28 could be carried in litters or on the backs of their friends. That's
not the world we live in, and we are disappointed to see such a

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retrograde position taken by a company whose reputation is built on service to the public.

* * *

Disney simply takes the position that, even if Baughman's access is made "uncomfortable or difficult" by its policies, any discomfort or difficulty she may suffer is too darn bad. Disney is obviously mistaken. If it can make Baughman's experience less onerous and more akin to that enjoyed by its able-bodied patrons, it must take reasonable steps to do so.

Baughman, 685 F.3d at 1134-36 (internal citations omitted).

The Complaint is replete with allegations that Disney has adopted a policy, the DAS, which it consistently refuses to modify to suit a guest's particularized need. Limiting the discussion, for current purposes, only to allegations made by the Disneyland-related Plaintiffs, the Complaint includes the following:

...under the new DAS, anything resembling an accommodation beyond the baseline DAS, such as a single Fastpass, is a "one-time only" accommodation, and it is only provided to those who push back against Disney in the futile effort to make Disney's employees, who have been trained not to listen, understand that the DAS does not accommodate persons with cognitive impairments. For this reason, the disabled guest must report to Guest Relations *every day* upon entry into one of the Parks. The disabled guest must then repeat the first day's one-hour wait in the Guest Relations line, all for the privilege of repeating the prior day's complaints in vain, hoping that someone will listen or that someone will provide something in addition to the DAS which, standing alone, is nothing. [*Par. 41, incorporated into all claims*]

At Count 32, T.P., by and through his mother S.P., makes the following allegations:

1 Shortly after S.P.'s and T.P.'s October 20, 2013 visit to
2 Disneyland, S.P. wrote an email to Disney explaining the
3 hardship the newly implemented DAS causes her and T.P.
4 Disney refused or failed to reasonably modify the policy for the
5 needs of T.P. and others like him. S.P. has contacted Disney
6 Guest Relations and certain Disney employees, including Mark
7 Jones, expressing her frustration and need for an individual
8 accommodation. Their only response was to reiterate the need
9 to "try it out."

10 * * *

11 Notwithstanding Disney's highly sophisticated knowledge of the
12 needs of persons with cognitive impairments, and
13 notwithstanding Disney's historic ability to accommodate T.P.'s
14 special needs, Disney personnel have failed to conduct an
15 individualized assessment of T.P.'s capacity to utilize the DAS, and
16 to modify the DAS to allow T.P. to enjoy the same benefits and
17 privileges as non-disabled patrons. *[Par. 463-64, claim of T.P.]*

18 C.M.J., by and through his mother D.L.J., alleges that a family
19 vacation is presently scheduled but that Disney refuses to discuss
20 with a guest, prior to the guest's arrival at the Parks, any possible
21 modification of the DAS. Absent such information, D.L.J. is forced to
22 consider canceling the trip:

23 ...The experiences of other families within the autism
24 community are uniformly awful. Those experiences establish
25 that when D.L.J. arrives at the Parks, any effort to engage in
26 individualized discussion, with the hope Disney might modify
27 its procedures to accommodate her children, will be ignored.
28 Instead, they will receive as their "accommodation" the DAS -
 nothing more, nothing less. The only "individualized" exception
 will be that if D.L.J. should begin her vacation by diluting the
 Magic and complaining loud enough in Guest Relations, she
 might be thrown a few Fastpasses to shut her up.

1 A Disney employee told D.L.J. that she could get no more
 2 information in advance; she can only come to the Parks, explain
 3 her concerns, and try out the DAS. That employee did not
 4 explain why explaining her concerns was a part of the process
 5 at all, since the same solution and accommodation would be
 6 imposed regardless of whatever concerns D.L.J. might raise:
 7 “try out” the unsuitable DAS. [*Par. 515-16, claim of C.M.J.*]

8 **5. Disney’s Resources Greatly Exceed those of Plaintiffs**

9 When evaluating a motion to transfer, in addition to giving the
 10 plaintiffs choice of forum great deference, a court may also consider the
 11 private factor of the relative physical and financial condition of the parties.
 12 *Jumara v. State Farm Ins. Co.*, 55 F.3d 873, 879 (3d Cir. 1995).

13 In *Magolon v. Walt Disney Parks & Resorts, LLC*, 2010 WL 5464805,
 14 *3 (E.D. Pa. 2010) the court framed the issue before it as follows:

15 Disney Destinations essentially argues that we should
 16 transfer the case to the Middle District of Florida because
 17 Plaintiff's claims arose there, Disney Destinations prefers that
 18 venue, Florida has a greater interest in the subject matter of the
 19 case, and Florida law will likely apply. However, we will not
 20 disturb Plaintiff's choice of forum based on these
 21 considerations alone, when other factors weigh in favor of
 22 keeping the case in the Eastern District of Pennsylvania... As
 23 Plaintiff notes, she, her fiancé (who was a witness to the alleged
 24 assault), and her treating doctors are all located in
 25 Pennsylvania. Moreover, Disney Destinations' resources greatly
 26 exceed those of Plaintiff, making it more feasible for Disney
 27 Destinations to litigate this case in Pennsylvania than it would
 28 be for Plaintiff to litigate her claims in Florida.

Disney’s resources in the case at bar greatly exceed those of
 Plaintiffs, making litigation in California more feasible than it would be in
 Florida. For example, C.M.J. and D.M.J. claim as follows: “D.L.J. and her

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1 family are a family of very modest means. They will get few opportunities
2 to experience the Parks.” [Claims of C.M.J. and D.M.J., by and through D.L.J.,
3 Complaint, Par. 510 and 530]

4 Similarly, note the claim of S.J.K. by and through S.L.K.:

5 Over the years S.L.K and her husband remained enamored with
6 Disney in every way, and they always hoped to return to the Park.
7 It was simply beyond their means to do so. For many years, S.L.K.
8 and her family planned and saved for their return to Walt Disney
9 World. None of the family visited Walt Disney World again until
10 the family was able to take their long-awaited vacation there in
11 October of 2013, after S.J.K. was 18. If only they had waited 15.5
years instead of 16, it would have been the vacation they had
always dreamed about. Instead, it ended up a horrible experience.

12 [Claim of S.J.K. by and through S.L.K., Complaint, Par. 121]

13 This is especially pertinent given the addition of 27 plaintiffs who
14 have visited Disneyland, should the amendment to plaintiffs’ complaint be
15 allowed.

16 **6. Disney has Failed to Establish any Record from Which the**
17 **Court Might Evaluate Disney’s Alleged Forum Selection**
18 **Clauses**

19 Through the declaration of a Walt Disney World executive, Disney
20 simply offers a document it calls “a standard RFID ticket for WDW” and
21 another document it calls “an annual pass for WDW”. She provides no
22 discussion of these tickets or terms, and definitely does not claim that
23 these are exemplars of the tickets actually purchased and used by these
24 Plaintiffs. Disney stores an astonishing amount of information about the
25 persons who enter its turnstiles; Disney could easily tie particular tickets
26 to particular guests. Instead, Disney chooses to dump two photocopies
27 into the record through a summary declaration and to then assert in the
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1 motion that these tickets establish the contract between the parties.

2 If Disney plans to enforce these so-called tickets, a greater showing
3 will need to be made. For example, Disney frames one issue in its own
4 words: "24 of the 26 plaintiffs either visited or attempted to visit WDW in
5 Florida..." Motion, p. 10, line 11. Disney then cites the language of its own
6 alleged ticket: "all claims for injury or loss arising incident to presence on
7 [WDW] property..." Motion, p.10, line 15-16. For at least some of the
8 Plaintiffs, Disney fails to explain how it is possible those Plaintiffs
9 "attempted to visit" the Parks but were also "present on [WDW] property."

10 Also, Disney does not explain how this ticket might be enforced
11 against the disabled guests who received the DAS, since they are, by
12 definition, *incompetent to enter into a contract*.

13 Should Disney seek to enforce an alleged forum selection clause,
14 presumably after at least establishing the predicate fact that these
15 Plaintiffs bought one, numerous other issues will confront the parties.
16 Such issues will include:

- 17 • Delivery of the tickets on the eve of a visit to the Parks;
- 18 • Whether the Plaintiffs physically possessed the tickets;
- 19 • Whether the Plaintiff used Magic Bands in lieu of tickets (see
20 Complaint, Par. 128: "Upon check-in, the Disney employee at the
21 desk handed them their "Magic Bands," but told them very little
22 about the Magic Bands. They were told only that the Magic Bands
23 would be their hotel room key, purchasing card, *and park*
24 *admission ticket* (emphasis added);
- 25 • Whether Disney should be estopped from enforcing the ticket's
26 language, where it faces no special inconvenience in litigating in
27 California, as is patently established by the fact that it apparently
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1 issues tickets with California-sited forum selection clauses to its
2 Disneyland guests;

- 3 • Whether Disney should be estopped from enforcing the ticket's
4 language, where it refused to share accessibility information with
5 the ticketed guest until the guest physically traveled to the Park,
6 thereby inducing the guest to pass a point of no return in
7 redeeming the ticket.

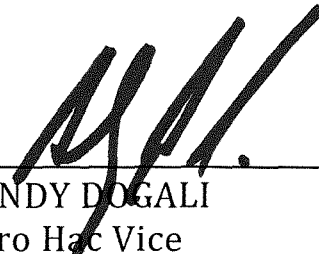
8 These issues will all be before the Court, because the Court will be
9 called upon to examine the forum selection clause on the ticket to
10 determine if the clause as it appear on the ticket is unreasonable or
11 fundamentally unfair. See Chan v. Society Expeditions, Inc., 123 F.3d 1287
12 (9th Cir. 1997). At present, Disney has given neither the Plaintiffs nor the
13 Court any predicate information from which to even begin to address
14 issues which might be presented by the forum selection clause, if it even
15 appears on the tickets which were actually purchased and used by the
16 Plaintiffs.

17 **III. CONCLUSION**

18 Defendant has failed to demonstrate that a change of venue to the
19 Middle District of Florida will result in substantial inconvenience to
20 witnesses to this action or even to itself. The Central District of California
21 is home to Disneyland. It is the site of the devastating impact that the DAS
22 policy has inflicted upon Plaintiffs with autism and their families. Disney's
23 theme parks are nationwide destinations so it cannot be asserted that
24 there will be any particularized benefit in terms of efficiency in case
25 management or inconvenience to the parties or witnesses. Plaintiffs
26 respectfully request the court deny defendant's motion to change venue.
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