



Rick Scott
Governor

State of Florida Florida Commission on Human Relations

An Equal Opportunity Employer • Affirmative Action Employer

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



Gilbert Singer
Chair
Michelle Wilson
Executive Director

FCHR No. 201401540

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

Complainant

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

Respondent

NOTICE OF DETERMINATION: CAUSE

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

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

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

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

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

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

By: Sammy Barton
Clerk of the Commission

COMMISSIONERS

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FCHR No. 201401540
Certified Receipt #: 9171999991703311491795

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

Complainant

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

Respondent

DETERMINATION: CAUSE

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

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

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

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

[Signature of Michelle Wilson]
Michelle Wilson
Executive Director

Dated: February 12, 2015

Filed: Feb. 13, 2015

By: [Signature of Sammy Barten]
Clerk of the Commission

COMMISSIONERS

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Jacksonville

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INVESTIGATIVE MEMORANDUM

FCHR NO. 201401540

To: Office of General Counsel

From: Pamella Dupree
Investigative Specialist
Office of Employment Investigations

COMPLAINANT

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

v.

RESPONDENT

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

DECLARATION OF JURISDICTION

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

FOCUS OF THE COMPLAINT

Complainant filed a charge of discrimination against Respondent alleging that her child was denied an accommodation for his disability.

BACKGROUND

Complainant visited Respondent's amusement park in June of 2014 with her disabled son.

COMPLAINANT'S ALLEGATIONS

Complainant alleged that around October 9, 2013, Respondent revoked its Guest Assistance Card (GAC) program and its related systems, policies and procedures for accommodating children with special needs. Respondent replaced the GAC program with a set of company-wide systems,

policies and procedures which were connected to the new Disability Access Service (DAS). Complainant contends that when she visited Respondent's amusement park in June of 2014 that her child received hostile/inferior service during the visit. Complainant insisted that her child was denied a reasonable accommodation and experienced harm as a result of the discrimination and lack of accommodation. Prior to October of 2013, Complainant insisted Respondent provided an adequate accommodation under the GAC system.

RESPONDENT'S POSITION

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

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

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

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

COMPLAINANT'S REBUTTAL

Complainant reiterated her previous allegations and insisted that she visited Respondent's park at least 50 times while the GAC was in place. Complainant contends under the DAS system, she would need to approach an attraction and would then be given a return time. During the wait, Complainant was not able to ride other attractions as only one attraction can be listed on the card. Therefore, Complainant and her child were required to wait idly for 40 minutes or longer. Complainant's child has a disability that calls for consistency, order, and routine. Additionally,

the child cannot comprehend having to wait idly. Having to wait idly causes Complainant's child to have a meltdown where he cries, screams and yells.

Complainant stated during her interview with this Investigator that during her visits to Respondent, prior to October 9, 2013, the accommodation offered by Respondent permitted her child to enjoy his experience at the park. Complainant's son had immediate access with short wait times. Complainant's son is a repeat rider on some rides, meaning he enjoys riding the same attraction multiple times. However, Complainant only permits her child to repeat a ride twice. Under Respondent's GAC system, Complainant's son was able to ride an attraction multiple times before moving to another attraction. Complainant stated that due to the new system, she, at times, would tell her child that the ride was broke to prevent the child from having a meltdown.

Complainant stated that prior to the DAS, she would visit Respondent's park twice per month, but that she now only visits a couple times per year. Complainant has been a pass holder for five years, but will not be renewing due to the new DAS system.

SUMMARY OF INVESTIGATIVE FINDINGS

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

RECOMMENDATION

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