



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. 201401469



Complainant

c/o Mr. Dominick Lazzara, Esquire
Dogali Law Group, P.A.
101 East Kennedy Boulevard, Suite 110
Tampa, FL 33602

Respondent

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

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: Jammy Barton
Clerk of the Commission

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FCHR No. 201401469
Certified Receipt #: 9171999991703311491818

██████████
c/o Mr. Dominick Lazzara, Esquire
Dogali Law Group, P.A.
101 East Kennedy Boulevard, Suite 110
Tampa, FL 33602

Complainant

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

Michelle Wilson
Executive Director

Dated: February 12, 2015

Filed: Feb. 13, 2015

By: Jammy Barton
Clerk of the Commission

COMMISSIONERS

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Jacksonville

INVESTIGATIVE MEMORANDUM

FCHR NO. 201401469

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

COMPLAINANT

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

v.

RESPONDENT

Walt Disney Parks and Resorts US, Inc.
c/o Mr. Kerry Scanlon, Esquire
Kaye Scholer
901 Fifteenth Street, NW
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 jurisdictional requirements have been met.

FOCUS OF THE COMPLAINT

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

BACKGROUND

Complainant visited Respondent's amusement park in December 18, 2013, with her son ██████████

COMPLAINANT'S ALLEGATIONS

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

During their visit, they requested the DAS and a wheelchair. It took 45 minutes to obtain a DAS card, but it was finally provided. A wheelchair never became available for their use and they had to push █████ around in a toddler sized stroller just so he would have somewhere to sit at all times. Complainant stated that the new system does not take into consideration that every child or adult with a cognitive disability handles things differently. Having to wait the exact same time of the regular line is not accommodating. Not receiving more than one timestamp at a time was difficult because as the day wears on, █████ sensory issues are exacerbated by events of the day. For example, the more people that bump into him, the more frustrated he becomes but due to his difficulties with communication, he cannot express his frustration. There would be issues maneuvering him through oncoming traffic and then getting to the line only to wait an additional 45 minutes.

The DAS was also not accepted at certain attractions, such as meeting characters. In most instances, the wait times to see the characters were 45 minutes long. This resulted in █████ only meeting one character. In addition, there was not a lot of seating or shade to wait while the allotted DAS time passed, thus another need for the stroller. Complainant stated that it was embarrassing to be pushing around a 10-year old in a toddler-sized stroller.

Because of the lack of accommodations, they were only able to ride four rides during the length of their visit. On one ride █████ waited almost two hours because the Cast Member operating the ride was not well trained in the DAS procedures and put █████ in the regular line for 45 minutes after he had already waited 45 minutes. Once he was put in the regular line, he was unable to get out. Because of this incident, they decided to end their visit.

RESPONDENT'S POSITION

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

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

On October 9, 2013, Respondent replaced its GAC program with the DAS card program. The new DAS card was primarily designed to accommodate guests who are not able to wait in a conventional queue due to 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.

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

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

COMPLAINANT’S REBUTTAL

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

SUMMARY OF INVESTIGATIVE FINDINGS

Complainant alleged that her 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.