

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION

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SOUTHERN DISTRICT
OF INDIANA
LAURA E. BRIGGS
CLERK

PETER WANG, KIMBERLY ANN)
BOWERS WANG ON BEHALF OF)
DRAKE WANG AND KATELYN WANG)
HER MINOR CHILDREN AND)
CHARLES WANG AND CECILIA)
WANG ON THEIR OWN BEHALF)
AND ON THE BEHALF OF THOSE)
SIMILARLY SITUATED)

Plaintiffs,)

vs.)

CHUCK E CHEESE and)
KEN MCGILL)

Defendants.)

1 : 09 -cv- 0 158 SEB -DML

COMPLAINT

I.
PRELIMINARY STATEMENT

1. This action is a class action and seeks declaratory, injunctive and equitable relief including attorney fees and costs for public accommodation and intentional infliction of emotional distress based on race and gender suffered by Plaintiffs while dining at Defendant Chuck E Cheese, managed by Ken McGill.

II.
JURISDICTION

2. Jurisdiction is invoked pursuant to 42 U.S.C. Sec. 2000e et seq. the common law of the State of Indiana, which prohibits discrimination or segregation in places of public accommodation.

III.
CLASS ACTION ALLEGATIONS

3. Plaintiffs brings this action on their own behalf and on behalf of a class of those similarly situated pursuant to Trial Rule 23.

4. That class is defined as:

All people ("Plaintiffs") who have been denied public accommodations.

5. The requirements of Trial Rule 23(A) of the Indiana Rules of Trial Procedure are met with regard to the putative class, specifically:

- a. Judgment Plaintiffs are numerous, thus making joinder impractical;
- b. The question of whether Chuck E Cheese may refuse to allow people of color to have the full and equal enjoyment of their facility;
- c. The claim of representative party is typical of those of the class;
- d.. The representative party will fairly and adequately protect the interests of the class in this litigation.

6. Further, the requirements of Rule 23(B)(I) are satisfied as the members of the identified class adjudicating these matters individually would create the possibility of inconsistent interpretation and varying adjudications of the factual and legal questions raised.

7. The requirements of Rule 23(B)(3) are satisfied as the questions of law or fact common to members of the class predominate over matters affecting only individual members of the class.

IV.
PARTIES

8. All of the Plaintiffs are United States citizens of Chinese descent and live in Carmel,

Indiana and were denied the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodations without discrimination or segregation on the ground of race, color, religion, or national origin as provided by 42 U.S.C. Sec. 2000e et seq. in the Southern District of Indiana.

V.
FACTS

9. On Friday January 10, 2009, Plaintiff along with his children were given a toy for points earned.

10. At home, the toy was discovered to be defective and was returned on January 16, 2009.

11. Ken McGill, the restaurant's manager, was rude and insolent and told the Plaintiffs that they had to speak to corporate.

12. Plaintiff called corporate and was told that the manager had been rude and destructive.

13. While talking to corporate, the manager gawked and gave Plaintiff dirty looks.

VI.
CIVIL RIGHTS VIOLATION

14. While playing football with his son, the manager ordered Plaintiff out of the store.

15. While doing so Plaintiff was subjected to racial slurs and insults and called a rice picker, yellow man, a farmer from China, and was told to go back to China.

VII.
FALSE IMPRISONMENT

16. Upon leaving the store, Plaintiffs were unlawfully detained by Ken McGill blocking

the door and stating that “you can leave only when I allow you to leave.

17. That such unlawful detention was a violation of Plaintiffs’ personal liberty and constituted false imprisonment.

18. That Plaintiffs and each of them have been damaged by Defendant Ken McGill’s false imprisonment.

VIII.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

19. That the Defendants’ acts of racially derogatory comments, falsely accusing the Plaintiffs, and unlawfully detaining them was heinous and beyond the standards of civilized decency and were intentionally and recklessly done.

20. That Plaintiffs were in shock and the minor children were hysterical.

21. That such acts resulted in the negligent infliction of emotional distress because Ken McGill was negligent and as a proximate result thereof, Plaintiffs were damaged.

22. That such acts were intentional and as a result thereof Plaintiffs were damaged because of severe emotional distress as a result of Defendant’s conduct.

IX.

NEGLIGENT HIRING RETENTION AND SUPERVISION OF KEN MCGILL

23. On information and belief, Ken McGill has offended other patrons to the restaurant and discriminated against Afro-Americans, and elderly people.

24. That Defendant Chuck E Cheese has been negligent in hiring, retaining, and supervising Ken McGill as will be shown at trial.

25. That defendant Chuck E Cheese should be held liable for the harm caused by Ken McGill.

26. That defendant Chuck E Cheese should be held responsible since it knew that Ken McGill had tendencies to cause harm or tendencies that would have been discovered by reasonable investigation.

27. That Chuck E Cheese had a duty to protect Plaintiffs from harm inflicted by employees.


28. That Chuck E Cheese failed to exercise reasonable care.

X.
PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand injunctive relief, a trial by jury of all issues properly so triable, damages, including punitive, in an amount, for purposes of pleading, estimated to be Five Million Dollars (\$5,000,000), costs, attorney fees, and for all other just and proper relief in the premises.

Respectfully submitted,

ROBERTS & BISHOP



Kenneth T. Roberts, Ind. Atty. No. 6099-49
Paul K. Ogden, Ind. Atty. No. 13737-49

Kenneth T. Roberts
Paul K. Ogden
ROBERTS & BISHOP
118 North Delaware Street
Indianapolis, IN 46204
Telephone: (317) 631-0172
Facsimile: (317) 631-0178