

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

MAHALA AULT, STACIE RHEA and)
DAN WALLACE,)

Plaintiffs,)

v.)

Case No.: 6:07-CV-1785-GAP-KRS

WALT DISNEY WORLD CO.,)

Defendant.)

JOINT STIPULATION OF SETTLEMENT AND RELEASE

This Joint Stipulation of Settlement and Release (“Stipulation of Settlement”) is made and entered into by and between plaintiffs Mahala Ault, Stacie Rhea and Dan Wallace, individually and on behalf of all others similarly situated (“Plaintiffs”), and defendant Walt Disney World Co. (“Worldco”), and their respective counsel of record, subject to the terms and conditions hereof and the Court’s approval.

1. Plaintiffs and the Settlement Class (as defined below) and Worldco are collectively referred to as “the Parties.”

2. “Class Counsel” includes John A. Baker and J. Phillip Krajewski of the firm of Baker, Baker & Krajewski, LLC, Jason M. Medley of the firm of O’Donnell, Ferebee, Medley & Keiser, P.C., and Bernard H. Dempsey, Jr. of the firm of Dempsey & Associates, P.A. The “Named Plaintiffs” are Mahala Ault, Stacie Rhea and Dan Wallace.

3. On November 9, 2007, the Named Plaintiffs, residents of Illinois and Iowa who have mobility impairments, filed a putative class action Complaint in the United States District Court for the Middle District of Florida. On April 1, 2008, a First Amended Complaint

was filed, alleging that Worldco prohibits all guests at the Walt Disney World Resort (“WDW”) from using Segways in its theme parks and transportation systems in violation of Title III of the Americans With Disabilities Act (“ADA”). The First Amended Complaint sought an injunction directing Worldco to modify that practice. Worldco denied the allegations of the initial complaint and the first amended complaint. The parties have stipulated to allow Plaintiffs to file a Second Amended Complaint, so as to clearly include all of Worldco’s facilities at both the Walt Disney World Resort in Florida and the Disneyland Resort (“Disneyland”) in California (together, the “Disney Resorts”), and Worldco denies the material allegations therein as well.

4. Segways are two-wheeled, gyroscopically-balanced transportation devices. Worldco prohibits guest use of two-wheeled vehicles no matter the type or usage, and therefore guests are prohibited from using Segways within Worldco’s properties. There is one limited circumstance that is in the nature of a theme park attraction or service rather than mobility aid. As part of its display of innovative products at Epcot, Worldco offers a limited number of guests the opportunity to experience riding a Segway in the form of a strictly supervised closed course in the early morning before most guests have arrived in the park. Each person on the tour must first complete an instruction and training course on the Segway. Worldco maintains these Segways, which have a special speed limiting device.

5. The “Settlement Class” consists of all persons, including the Named Plaintiffs, who claim to have a mobility impairment or disability, and who have brought, intend to bring or may in the future bring a Segway or other two-wheeled vehicle into the Disney Resorts. Individual members of the Settlement Class are referred to herein as a “Settlement Class Member” or “Settlement Class Members.”

6. Worldco denies any liability or wrongdoing of any kind associated with the claims alleged in this case, and further denies that this case is appropriate for class treatment for any purpose other than this settlement. Worldco contends, among other things, that it has complied at all times with the ADA and that it provides a high level of access to all persons with mobility impairments or disabilities. The Named Plaintiffs believe that they have filed a meritorious action and that class certification is appropriate.

7. Worldco's position is that if this case were to be litigated, class certification would be inappropriate because individual issues predominate. For settlement purposes only, Worldco will stipulate that the class described herein may be certified. The Parties agree that certification for settlement purposes under the more lenient standard courts have applied to settlements is in no way an admission that class certification is proper under the more stringent standard applied for litigation purposes. The Parties further agree that evidence of this limited stipulation for settlement purposes only will not be deemed admissible in this or any other proceeding and that it would be unsupportable to contend otherwise.

8. In order to achieve a full and complete release of Worldco, the Parties desire to fully, finally, and forever settle, compromise, and discharge any and all disputes and claims arising from or related to any and all claims for injunctive or declaratory relief under federal, state and local disability rights laws, which release includes in its effect all present and former parent companies, subsidiaries, affiliates, shareholders, officers, directors, employees, partners, agents, representatives, attorneys, insurers and successors and assigns of Worldco ("Released Parties").

9. The release of claims includes claims which a Settlement Class Member does not know or suspect to exist in his or her favor against the Released Parties as of the date of

final court approval of this settlement. The Settlement Class, and each member thereof, and the Named Plaintiffs each waives all rights and benefits afforded by any statutory law as to unknown claims, and does so understanding the significance of that waiver.

10. Class Counsel has conducted a thorough investigation into the facts of this case, including formal discovery and exchange of information. Class Counsel is both knowledgeable about and has done extensive research with respect to the applicable law and potential defenses to the claims of the Settlement Class. Class Counsel has diligently pursued an investigation of the claims against Worldco. Based on the foregoing data and on its own independent investigation and evaluation, Class Counsel is of the opinion that the settlement with Worldco for the consideration and on the terms set forth in this Stipulation of Settlement is fair, reasonable, and adequate and is in the best interest of the Settlement Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, various defenses asserted by Worldco, and numerous potential appellate issues. Worldco and Worldco's counsel also agree that the settlement is fair and in the best interest of the Settlement Class Members.

11. The Parties agree to cooperate and take all steps necessary and appropriate to dismiss the action as amended through and including the Second Amended Complaint, with prejudice upon final approval of the settlement.

TERMS OF SETTLEMENT

12. The terms of the settlement are as follows:

(a) Worldco agrees to develop its own four-wheeled electrically-powered vehicle designed for operation while standing ("ESV") for use by guests who claim to have a mobility impairment or disability and need to use a stand-up mobility device. Worldco agrees to provide no less than fifteen (15) of these devices at the Disney Resorts. The ESVs will

be permitted within the Disney Resorts and will be available to qualified guests on the same rental terms as sit-down electric vehicles. Delivery of the devices to Worldco is expected to begin on April 1, 2009, with use beginning at a reasonably proximate date following delivery.

(b) Worldco agrees (i) to pay each Named Plaintiff the sum of four thousand dollars (\$4,000.00), which may be applied by them toward a one-week stay for a family of four at a Worldco hotel at WDW, and (ii) to provide each Named Plaintiff complimentary use of the new ESV during their next visit to WDW following deployment of the ESVs. The amount to be paid under subparagraph 12(b)(i) shall be paid within fourteen (14) days of the Effective Date of this settlement, which is defined as the date upon which judgment of approval of the settlement has been entered by the United States District Court for the Middle District of Florida, any and all appeals from that judgment have been exhausted, and the judgment is affirmed, or becomes final and non-appealable.

(c) The Parties agree that the firm of Baker, Baker & Krajewski, LLC, on behalf of plaintiff Dan Wallace, may request the Court to award up to the sum of fifty-five thousand dollars (\$55,000.00) in full payment of its attorneys' fees and costs in this case, including any attorneys' fees and costs incurred after the date of this Stipulation of Settlement. The Parties further agree that the firm of O'Donnell, Ferebee, Medley & Keiser, P.C., on behalf of plaintiff Stacie Rhea, may request total fees and costs of up to fifteen thousand dollars (\$15,000.00) in full payment of its attorneys' fees and costs in this case, including any attorneys' fees and costs incurred after the date of this Stipulation of Settlement. Worldco has agreed that it will not oppose a request from Mr. Baker's firm or from Mr. Medley's firm for attorneys' fees and costs of up to \$55,000 and \$15,000, respectively. These attorneys' fees and costs shall be paid within fourteen (14) days of the Effective Date of this settlement. Class Counsel will not be

entitled to and will not seek any additional payment for attorneys' fees or expenses with respect to plaintiffs Dan Wallace and Stacie Rhea and the law firms representing them.

(d) Counsel for Mahala Ault has not reached an agreement with Worldco and therefore may petition the Court for an award of attorneys' fees and costs. Worldco shall have ample time to file an opposition to any such request and plaintiffs agree to consent to any motion for an extension of two weeks beyond the normal time for responding to such motion. If the Court determines that Mahala Ault is entitled to a reasonable amount of attorneys' fees and costs, such amount shall be paid to Mahala Ault within fourteen (14) days of the Effective Date of the settlement.

(e) The Settlement Class agrees that the ESV satisfies their claims to the benefits which a Segway allegedly provides, while meeting Worldco's concern for the safety of all its guests.

(f) The Settlement Class agrees and understands that Worldco may continue to prohibit all guests from using two-wheeled vehicles including Segways at the Disney Resorts.

(g) The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the media, respond to any media inquiry or have any communications with the media about this case and/or the fact, amount or terms of the settlement. Any communication about the settlement to Settlement Class Members prior to the issuance of the Court-approved notice will be limited to a statement that a settlement has been reached and that the details will be communicated in a forthcoming Court-approved notice.

(h) The Parties agree that the agreement is fair and reasonable and will so represent to the Court.

RELEASE BY THE CLASS

13. Upon the final approval by the Court of this Stipulation of Settlement, and except as to such rights or claims as may be created by this Stipulation of Settlement, the Settlement Class and each member of the Settlement Class fully release and discharge Worldco, and any of its former and present parent companies, subsidiaries, affiliates, shareholders, officers, directors, employees, partners, agents, representatives, attorneys, insurers, and any other successors and assigns (“Released Parties”), from any and all past, present, and future claims, counter-claims, liabilities, obligations, demands, and actions of any and every kind or nature whatsoever that have arisen or might have arisen at any time up to and including the Effective Date of this Stipulation of Settlement (whether known or unknown, accrued or contingent, liquidated or unliquidated, and whether arising under common law, statutory law, or other source of law) that they now have, claim to have, or had against Worldco for injunctive or declaratory relief that relate to any issue ever raised in this case, including, without any limitation on the general nature of the foregoing release, any federal, state or local accessibility or disability rights claims for injunctive or declaratory relief with respect to Worldco prohibiting all guests from using Segways or other two-wheeled vehicles in the Disney Resorts; and any and all claims and causes of action arising out of or predicated upon allegations that Worldco’s actions or decisions relating to the use of Segways or other two-wheeled devices at the Disney Resorts do not comply with the ADA or any other federal, state or local law or similar disability rights statute or regulation (collectively, the “Released Claims”).

14. This release is intended to bind all Settlement Class Members and to preclude such members from asserting or initiating future claims for injunctive or declaratory relief, with respect to the issues in this case and/or the subject matter of this Stipulation of Settlement.

NOTICE OF SETTLEMENT AND HEARING

15. The Parties agree to propose to the Court that appropriate notice under Fed. R. Civ. P. 23(e) be given by emailing or sending a copy of the Notice of Class Action Settlement and Hearing attached hereto as Exhibit A (“Notice”) to each person known to counsel for any Party in this case who claims to have a mobility impairment or disability and expressed an interest in bringing a Segway to the Disney Resorts. The Parties will also provide the same notice to at least two organizations which have promoted the use of Segways as mobility aids by individuals with disabilities and which have urged the elimination or modification of rules in various places and facilities around the nation prohibiting the use of Segways.

16. Once the Court grants preliminary approval of class settlement, the Notice will proceed in accordance with paragraph 15, and the Parties will recommend to the Court that a final hearing be held for any objections to the settlement.

17. The failure of any Settlement Class Member to receive Notice shall not be a basis for invalidating this Stipulation of Settlement or any order entered pursuant thereto, and the settlement shall nevertheless be binding upon all Settlement Class Members.

18. In connection with the hearing on final approval of the settlement provided for in this Stipulation of Settlement, the Parties will submit a proposed final order:

(a) approving the settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;

(b) approving the two agreed amounts of attorneys’ fees and costs, and determining any unresolved fees issues; and

(c) dismissing this case on the merits and with prejudice and permanently barring all Settlement Class Members from prosecuting against Worldco or its present or former parent companies, subsidiaries, affiliates, shareholders, officers, directors,

employees, partners, agents, representatives, attorneys, insurers, and any other successors and assigns, any individual or class claims which were or could be asserted in this case, including without limitation any claims for declaratory or injunctive relief arising out of the acts, facts, transactions, occurrences, representation, or omissions set forth in the Complaint and subsequent amended complaints.

VOIDING THE AGREEMENT

19. Each party shall have the right to unilaterally render the entire Stipulation of Settlement voidable and unenforceable if the Court denies conditional class certification, does not approve the Stipulation of Settlement, or orders any material alteration of the terms of this Stipulation of Settlement. Such right to void this settlement shall permanently expire and be deemed waived unless the Party exercises its option by giving written notice to the Court and counsel for the opposing party within fifteen (15) calendar days of such order of the Court. If any Party timely voids this Stipulation of Settlement, then any certification of the Settlement Class shall be of no force or effect, and the Parties' rights and defenses shall be restored without prejudice as if this Stipulation of Settlement had never been executed.

20. In addition to the rights under paragraph 19, Worldco shall also have the right to unilaterally render the entire Stipulation of Settlement voidable and unenforceable if any federal, state or local regulatory or self-regulatory organization, other administrative body or government official objects to the terms of this Stipulation of Settlement, threatens to take any regulatory or legal action against Worldco based on the allegations in this case, or requires any material modification to this Stipulation of Settlement.

ADDITIONAL PROVISIONS

21. Nothing contained herein, nor the consummation of this Stipulation of Settlement, is to be construed or deemed an admission of liability, culpability, negligence, or

wrongdoing on the part of Worldco or any of the Released Parties. Each of the Parties hereto has entered into this Stipulation of Settlement with the intention of avoiding further disputes and litigation with the attendant inconvenience and expenses. This Stipulation of Settlement is a settlement document and shall, pursuant to Federal Rule of Evidence 408 and/or any other similar law, be inadmissible in evidence in any proceeding, except an action or proceeding to approve, interpret, or enforce this Stipulation of Settlement.

22. This Stipulation of Settlement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Stipulation of Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by all of the Parties hereto.

23. This Stipulation of Settlement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

24. This Stipulation of Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

25. This Stipulation of Settlement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be

deemed an original, and, when taken together with other signed counterparts, shall constitute one fully-signed Stipulation of Settlement, which shall be binding upon and effective as to all Parties.

DATED: December 5, 2008

BAKER, BAKER & KRAJEWSKI, LLC

By: /s/ John A. Baker

Attorney for Plaintiff Dan Wallace

DATED: December 5, 2008

BAKER, BAKER & KRAJEWSKI, LLC

By: /s/ J. Phillip Krajewski

Attorney for Plaintiff Dan Wallace

DATED: December 5, 2008

O'DONNELL, FEREBEE, MEDLEY & KEISER, P.C.

By: /s/ Jason M. Medley

Attorney for Plaintiff Stacie Rhea

DATED: December 5, 2008

DEMPSEY & ASSOCIATES, P.A.

By: /s/ Bernard H. Dempsey, Jr.

Attorney for Plaintiff Mahala Ault

DATED: December 5, 2008

KAYE SCHOLER LLP

By: /s/ Kerry Alan Scanlon

Attorney for Defendant Walt Disney World Co.