

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civ. No. 09-29
)	
v.)	Jury Trial Demanded
)	
WALES WEST, LLC, d/b/a)	
WALES WEST RV RESORT and TRAIN and)	
GARDEN LOVERS FAMILY PARK,)	
)	
Defendant.)	
_____)	

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

The United States of America states and alleges, upon information and belief:

1. This action is brought by the United States to enforce the provisions of title III of the Americans with Disabilities Act of 1990 ("title III" and "ADA"), 42 U.S.C. §§ 12181 et seq., and its implementing regulations, 28 C.F.R. Part 36, against Wales West, LLC ("Wales West"), doing business as Wales West RV Resort and Train and Garden Lovers Family Park ("Wales West RV Resort" or "Resort"). The Attorney General has instituted this action based on reasonable

cause to believe that Wales West discriminated against a person or group of persons, in violation of title III, and that such discrimination raises issues of general public importance. 42 U.S.C. § 12188(b)(1)(B). The United States seeks declaratory and injunctive relief, damages, and a civil penalty against Wales West.

Jurisdiction and Venue

2. This Court has jurisdiction over this action pursuant to 42 U.S.C. § 12188(b)(1)(B) and 28 U.S.C. §§ 1331 and 1345. This Court may grant equitable relief, monetary damages, and a civil penalty pursuant to 42 U.S.C. § 12188(b)(2) and 28 U.S.C. §§ 2201 and 2202.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391, because a substantial part of the events or omissions giving rise to this claim occurred in this District.

Parties

4. The plaintiff is the United States of America.

5. The defendant is Wales West, LLC, a private, for-profit corporation.

Wales West operates Wales West RV Resort and Train and Garden Lovers Family Park, which is a resort, campground, and place of recreation in or near Silverhill,

Alabama. Wales West is a place of public accommodation within the meaning of title III of the ADA, 42 U.S.C. § 12181(7), and its implementing regulation, 28 C.F.R. § 36.104.

Facts

6. In July, 2007, Silvia and Charles Glover were residents of Saraland, Alabama, and foster parents to Caleb Glover, then two years old, for whom they have cared since infancy.

7. At approximately four months of age, Caleb was diagnosed with the Human Immunodeficiency Virus (“HIV”). Caleb is an individual with a disability within the meaning of the ADA. 42 U.S.C. § 12102(2).

8. In the summer of 2006, Mr. and Mrs. Glover formally initiated proceedings to adopt Caleb. The adoption was finalized on December 14, 2007.

9. In the spring of 2007, the Glovers reserved an RV campsite at Wales West RV Resort for the month of July 2007. Wales West RV Resort is a family resort that has, among other attractions, a lake, an indoor swimming pool, and a Welsh Victorian steam train that circles the park.

10. On July 1, 2007, Mr. and Mrs. Glover, Caleb, and a second foster child then living with the Glovers arrived at Wales West RV Resort. With the help of two of the Glovers' adult sons, the Glovers set up a campsite.

11. Several hours after the Glovers arrived, Mrs. Glover mentioned in conversation to the office clerk that Caleb has HIV.

12. Shortly thereafter, the Resort manager informed Mr. Glover that the owner of Wales West RV Resort, Kenneth Zadnichek, would not allow Caleb to use the common facilities at the park, including the pool and showers, because of Caleb's HIV.

13. Over the subsequent few hours, Mr. and Mrs. Glover attempted to explain to the Resort manager, and through him to Mr. Zadnichek, that there was no legitimate basis for excluding Caleb from the Resort's facilities.

14. Mr. Zadnichek was on the premises on July 1, 2007, but he declined to meet with or speak to the Glovers at any point that day.

15. Because Caleb could not use the common facilities, the Glovers were forced to leave Wales West RV Resort. Mrs. Glover requested permission to stay until the following morning because Mr. Glover was too weak to disassemble the

campsite that day due to recent hospitalizations and ongoing treatment for non-Hodgkins lymphoma.

16. On the morning of July 2, 2007, Mr. and Mrs. Glover disassembled the campsite and left Wales West RV Resort. After searching for much of the day, the Glovers found and settled at another campground, Rainbow Plantation, in Summerdale, Alabama. Rainbow Plantation has neither a lake nor a steam train, two of the main attractions at Wales West RV Resort. Rainbow Plantation has an outdoor pool for recreation, but the Glovers' campsite was too far away from the pool for Mr. Glover to regularly accompany Caleb.

17. The Glovers shortened their planned month-long RV vacation to approximately ten days.

18. Due to Mr. Glover's health status, the United States petitioned this Court on May 13, 2008, for a deposition to perpetuate testimony pursuant to Rule 27 of the Federal Rules of Civil Procedure. This Court granted the petition on May 14, 2008. The plaintiff and defendant deposed Mr. Glover on May 20, 2008. Mr. Glover died on May 25, 2008.

19. As a result of Wales West's discrimination, Mr. and Mrs. Glover and Caleb suffered injuries, including but not limited to emotional and physical distress.

Causes of Action

Title III of the Americans with Disabilities Act

20. The allegations of paragraphs 1 through 19 of the Complaint are hereby re-alleged and incorporated by reference as if fully stated herein.

21. Wales West discriminated against Caleb, Silvia, and Charles Glover on the basis of disability in the full and equal enjoyment of its services, facilities, privileges, advantages, and accommodations, in violation of 42 U.S.C. § 12182, and its implementing regulations at 28 C.F.R. Part 36. Wales West's violations of title III include, but are not necessarily limited to:

(a) Denying, on the basis of disability, the opportunity of an individual or class of individuals to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of Wales West, in violation of 42 U.S.C. § 12182(b)(1)(A)(i), and its implementing regulation, 28 C.F.R. § 36.202(a);

(b) Failing to afford an individual or class of individuals, on the basis of disability, with the opportunity to participate in or benefit from the services, facilities, privileges, advantages, or accommodations of Wales West that is equal to that afforded to other individuals, in violation of 42 U.S.C.

§ 12182(b)(1)(A)(ii), and its implementing regulation, 28 C.F.R. § 36.202(b);

(c) Providing an individual or class of individuals, on the basis of disability, with a good, service, facility, privilege, advantage, or accommodation at Wales West that is different or separate from that afforded to others, in violation of 42 U.S.C. § 12182(b)(1)(A)(iii), and its implementing regulation, 28 C.F.R.

§ 36.202(c);

(d) Utilizing standards or criteria of methods of administration that have the effect of discriminating on the basis of disability, in violation of 42 U.S.C. § 12182(b)(1)(D)(i), and its implementing regulation, 28 C.F.R. § 36.204;

(e) Imposing or applying eligibility criteria that screen out or tend to screen out an individual or class of individuals with a disability from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations of Wales West, in violation of 42 U.S.C. § 12182(b)(2)(A)(i),

and its implementing regulation, 28 C.F.R. § 36.301(a);

(f) Failing to make reasonable modifications in policies, practices, and procedures when the modifications are necessary to avoid discrimination on the basis of disability, in violation of 42 U.S.C. § 12182(b)(2)(A)(iii), and its implementing regulation, 28 C.F.R. § 36.302; and

(g) Excluding or otherwise denying equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to Mr. and Mrs. Glover because of their relationship with Caleb, an individual with a known disability, in violation of 42 U.S.C. § 12182(b)(1)(E) and its implementing regulation, 28 C.F.R. § 36.205.

Prayer for Relief

WHEREFORE, the United States prays that this Court:

(a) Grant judgment in favor of the United States and declare that the defendant violated title III of the ADA, 42 U.S.C. §§ 12181 *et seq.*, and its implementing regulations, 28 C.F.R. Part 36;

(b) Enjoin the defendant, its officers, agents, employees, and all other persons in active concert and participation with the defendant, from engaging in

discriminatory policies and practices against individuals on the basis of their disabilities, and on the basis of relationships or associations with individuals with disabilities, and specifically from failing or refusing to take appropriate steps to ensure compliance with the requirements of title III of the ADA, 42 U.S.C.

§§ 12181 et seq., and its implementing regulations, 28 C.F.R. Part 36;

(c) Award monetary damages in an appropriate amount to persons discriminated against by the defendant, including damages for pain and suffering;

(d) Assess a civil penalty against the defendant as authorized by 42 U.S.C. § 12188(b)(2)(C), to vindicate the public interest; and


(e) Order such other appropriate relief as the interests of justice require.


Jury Demand

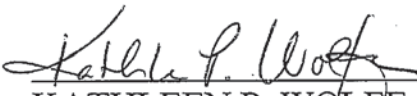
The United States demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

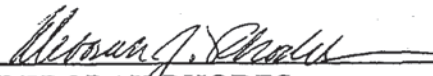
Respectfully submitted this 16th day of January, 2009.

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Certificate of Service

I hereby certify that on January 16, 2009, I electronically filed the foregoing Complaint, in United States v. Wales West LLC, with the Clerk of the Court using the Electronic Case Management System. I further certify that on January 16, 2009, the United States Department of Justice sent notification of such filing, with a copy of the Complaint, and two copies of the request for waiver of service of summons to Defendant Wales West LLC, by and through its attorney, Francis A. Poggi Jr., by common carrier Federal Express, as follows:

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