

FEDERAL COURT TOSSES OUT DISNEY SETTLEMENT

Judge Opens Door to a Remedy for Disabled

Disability Rights Advocates Vow to Pursue Open Policy for Segways

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ORLANDO, FL. – In a striking victory for the disabled, a federal District Court judge tossed out a proposed settlement which would have banned personal Segway use forever in all Disney properties in the United States.

“This is a victory for disability rights and we are heartened by the court’s findings,” said Jerry Kerr, President of Disability Rights Advocates for Technology (www.draft.org), the non-profit organization which organized opposition to the proposed ban. “But Disney’s policy on Segways still stands. We call on the Walt Disney Company to voluntarily change its policy and recognize the rights of disabled people to use the assistive device which best meets their needs.”

US District Judge Gregory A. Presnell tossed out the proposed settlement after four months of deliberation after holding a two-day fairness hearing on the proposed ban last June. DRAFT members and disabled war veterans were among those who testified against the settlement. In addition, the civil rights division of the U.S. Justice Department and 23 state Attorneys General filed friend of the court briefs objecting to the settlement.

DRAFT did not bring the original law suit against the Walt Disney Company. DRAFT got involved when the original three plaintiffs agreed to a settlement which would have banned all personal Segway use in perpetuity in all Disney properties. Disney uses Segways for its own employees and for paid Segway tours for park visitors but banned the use of private Segways ostensibly for safety reasons.

The Segway has found a loyal following among many disabled people. DRAFT has presented more than 350 Segways to military service members who suffered disabling injuries in Iraq and Afghanistan in the last three years. One of those recipients, Major Daniel Gade, a former member of the White House domestic policy staff who lost a leg in combat, testified at the fairness hearing.

Judge Presnell said the section of the federal Americans with Disabilities Act cited by the original plaintiffs was not sufficiently broad enough to expressly allow Segways but in his opinion he recognized that the important psychological advantages of a disabled person using a Segway which allows a user to stand upright instead of a wheelchair.

“This case is not about necessary accommodation,” said the ruling. “The real question, it seems, is the extent to which the ADA can (or should) promote equal treatment and human dignity by requiring acceptance of new technologies. As Major Gade and others testified, the Segway is quickly changing the way disabled Americans are perceived and treated in our society. The importance of this interest simply cannot be overlooked.”

Judge Presnell left open the possibility that another law suit or action by another branch of government might be sufficient to overturn the Disney ban. The Justice Department is working on regulations which are expected to classify the Segway as a legitimate assistive device when used by the disabled to improve their mobility.

David Ferleger, lead counsel for DRAFT and a legal advocate for the disabled for more than 35 years, said the original lawsuit contained fatal flaws which could be addressed in another legal action.

“It is gratifying to see the court recognize the tremendous importance of technology to people with disabilities and to recognize that federal law specifically protects the dignity of disabled people,” said Ferleger.

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