

Disney Discriminates Against the Disabled

Disability rights group objects to proposed national Segway settlement as unfair

March 31, 2009 Federal Court hearing to be attended by many Segway users

Contact: Chris Black
Tel: 202 333 3853
Mobile: 202 302 4748
christine_black@msn.com

ORLANDO, FL — In a case expected to set a national precedent under the Americans with Disabilities Act, the disability rights organization responsible for donating more than 250 Segways to military service members injured in Iraq and Afghanistan is vigorously opposing a proposed legal settlement which would permanently ban the use of personal Segways nation-wide in all Walt Disney theme parks.

With the vigorous input of a friend of the court brief filed by the Obama Administration's Department of Justice, and in the presence of many objectors in court with their Segways, the Federal Court in Orlando, Florida will hold a hearing on March 31, 2008 to consider whether to accept the controversial agreement reached between Disney and several individuals which would totally ban Segways from all Walt Disney parks.

Members of Disability Rights Advocates for Technology (DRAFT), a private non-profit disability rights organization ranked as one of America's top charities, denounced the proposed class action settlement as "unfair, inadequate and unreasonable" in a brief filed with the United States District Court Middle District of Florida Orlando Division this month. The Civil Rights Division of the US Department of Justice has also filed an amicus brief in a rare objection strongly opposing the proposed settlement as "fundamentally unfair" to people with disabilities.

"Banning Segway use by the disabled at Disney theme parks violates the Americans with Disability Act," said Jerry Kerr, president of DRAFT. "Disabled people are entitled to use whatever assistive device works for them to stay independent. As disabled people who use Segways, we are deeply offended by this perverse proposal."

Prepared by a national team of lawyers specializing in disability law, the legal brief filed by the organization says that the proposed settlement benefits Walt Disney Co. rather than people with disabilities and is at odds with other legal decisions and with pending federal regulations. Although Disney claims it opposes Segway use as a safety issue, Segways have been routinely used by Disney employees in its theme parks for more than four years and several of the parks offer Segway tours to patrons for a fee.

"Incredibly, those who control Tomorrow Land would like to keep people with disabilities in yesterday," says the brief.

"The settlement is onerous and repugnant," DRAFT argues in the brief. "People who use wheelchairs may bring them into the park at no expense, but disabled patrons who use Segways would have to surrender the mobility device that is now second nature to them, then attempt to rent a device that may not be in stock." The organization argues that this settlement would effectively bar from the parks disabled persons who use Segways in violation of the ADA.

The brief argues that the Segway, a personal mobility device intended to be a recreational vehicle but which has developed a loyal following among many disabled people, is a "necessity" for medical and psychological reasons for the disabled who rely upon it. Disabled Segway users benefit physically from standing in an upright position and benefit psychologically by being eye to eye with others while on the Segway.

DRAFT members did not initiate the law suit filed against Walt Disney World Co. in November 2007 by three individuals who were not allowed to use Segways at Disney theme parks in Florida and were not consulted on the terms of a proposed settlement reached in January 2009. The proposed settlement would allow Disney to ban personal Segway use in perpetuity at all of its parks in the United States, forbid any subsequent law suits by other Segway users, and require Disney to make available a Disney-owned four wheeled electric stand up vehicle which it would rent to disabled users. The DRAFT members say that it is unfair for them to be forced to pay to rent for an unfamiliar mobility device. Moreover, none of them would have had any experience using the Disney-owned device raising safety and comfort issues for users. DRAFT is an all volunteer organization and receives no funding or financial support from the Segway Corp.

DRAFT is represented by Santa Monica, California attorney David Geffen with wide experience since 1987 in representing people with disabilities. He is president of the Paralysis Project of America, and has been a board member and officer of the Disability Rights Legal Center and the Westside Center for Independent Living. <http://www.davidgeffenlaw.com>. David Ferleger, based in Philadelphia, PA, and a legal advocate since 1972, has argued disability cases five times before the Supreme Court of the United States, litigated landmark class actions in the field, and served a federal court nine years as its special master overseeing a disability suit filed by the United States. <http://www.ferleger.com>. Aaron Bates is a well-known attorney in Orlando, Florida, focusing his practice on civil rights for the disabled. Mr. Bates has also advocated before the Florida Governor, Florida legislature, and Federal government for disability rights and reform of the Florida Medicaid system, most recently pursuing and securing the passing of the landmark Florida Personal Care Attendant Program, Florida Statutes § 413.402. <http://www.batesmokwa.com>.

DRAFT is dedicated to promoting the concept of universal design and technology to enhance the quality of life for people with disabilities. The group includes a number of disabled members who refuse to be defined by their disabilities. Many of the members use Segways as a primary assistive device and have modified the vehicles for personal use.

In the past two years, DRAFT has donated Segways to more than 250 military service members who sustained crippling injuries in Iraq and Afghanistan. A majority of the recipients lost one or both legs in combat. The Segs4Vets program received a blanket waiver from the Pentagon allowing service members to receive a gift worth more than \$1,000. The veterans who have received Segways are using the personal mobility devices to attend college classes, work, stay on active duty, participate in recreational activities with family members and do other every day activities which involve mobility. In applications to DRAFT, half of the recipients mentioned going to an amusement park with their children as a reason for wanting the Segway.

Recipients include Tammy Duckworth, the recently appointed assistant Secretary of the US Department of Veterans Affairs. Major Duckworth, a helicopter pilot in the Illinois National Guard, lost both legs and partial use of one arm in a rocket propelled grenade attack in Iraq in 2004. She uses her Segway to improve her mobility at work.

DRAFT members will be testifying at a fairness hearing on this settlement at the federal courthouse in Orlando on March 31. DRAFT members, Segway recipients and legal counsel are available for interviews. For more information on the organization and its Segs4vets project go to www.Segs4vets.org. DRAFT can also provide copies of its brief and the Justice Department amicus brief to interested reporters.