

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CARI SHIELDS, et al.,  
Plaintiffs,  
  
v.  
  
WALT DISNEY PARKS AND  
RESORTS U.S., INC., et al.,  
Defendants.

Case No.: 10-cv-05810 DMG (FMOx)

~~PROPOSED~~ ORDER GRANTING  
PRELIMINARY APPROVAL TO  
CLASS ACTION SETTLEMENT,  
GRANTING LEAVE TO FILE  
SECOND AMENDED COMPLAINT,  
CONDITIONALLY CERTIFYING  
SETTLEMENT CLASSES, AND  
MANDATING NOTICE TO CLASS  
OF FINAL APPROVAL AND  
FAIRNESS HEARING

This matter is before the Court on the joint motions for preliminary approval of the settlement, leave to file a Second Amended Complaint and for conditional certification of the settlement classes (the “Motions”) of plaintiffs Cari Shields and Amber Boggs (collectively, “Named Plaintiffs”) and defendants Walt Disney Parks and Resorts U.S., Inc. and Disney Online (collectively, “Defendants”). The Motions seek, among other things, the Court’s preliminary approval of the Class Action Settlement Agreement And Release (the “Settlement Agreement”) entered into between Named Plaintiffs, on the one hand, and Defendants and Walt Disney Parks and Resorts Online (collectively, “Disney”), on the other hand.

1 Having considered the Motions as presented in the supporting briefs and  
2 papers and at oral argument, the absence of opposition to the Motions, and the  
3 Court having found that the proposed resolution of this matter set forth in the  
4 Settlement Agreement, taken as a whole, is fundamentally fair, adequate, and  
5 reasonable to all concerned, and for other good cause shown, the Court hereby  
6 Orders as follows:

7 1. Conditioned on the Court's final approval of the proposed settlement,  
8 the following classes shall be certified as settlement classes under Rules 23(a) and  
9 23(b)(2) of the Federal Rules of Civil Procedure:

10 a. The Website Class: All individuals with visual impairments  
11 who (a) have a disability, as that term is defined in 42 U.S.C. §12102, and (b) have  
12 been or will be unable to gain equal access to or enjoyment of one or more of the  
13 websites owned or operated by Disney such as www.disney.go.com ,  
14 www.disneyland.com, www.disneyworld.com, and www.disneycruise.com as a  
15 result of their visual disability.

16 b. The Effective Communication Class: All individuals with  
17 visual impairments who (a) have a disability , as that term is defined in 42 U.S.C.  
18 §12102, and (b) have been or will be denied equal access to or enjoyment of the  
19 Disney Parks because of (i) the absence of maps in an alternative format, or (ii) the  
20 absence of menus in an alternative format , or (ii i) the absence of schedules of  
21 events at the Disney Parks in an alternative format, or (iv) inadequate or  
22 inconsistent operation of the audio description service on the Handheld Device, or  
23 (v) Disney's refusal to provide a free or discounted pass to the ir sighted  
24 companions, or (vi) the failure to be read , in full, the menus, maps or schedules of  
25 events at the Disney Parks.

26 c. The Service Animal Class: All individuals with visual  
27 impairments who (a) have a disability, as that term is defined in 42 U.S.C. §12102,  
28 and (b) have been or will be denied equal access to or enjoyment of the Disney

1 Parks because of (i) the fee charged for the use of a kennel for their service animal,  
2 or (ii) the absence of reasonably-designated service animal relief areas, or (iii) the  
3 absence of a location to kennel their service animal at attractions that do not allow  
4 service animals, or (iv) the lack of equal interaction with Disney employees who  
5 portray Disney characters because the individuals with visual impairments are  
6 accompanied by service animals.

7 d. The Infrastructure Class: All individuals with visual  
8 impairments who (a) have a disability, as that term is defined in 42 U.S.C. §12102,  
9 and (b) have been or will be denied equal access to or enjoyment of the Disney  
10 Parks because of (i) physical barriers to access, or (ii) the lack of reasonable  
11 modifications to Disney's policies and practices to permit such equal access or  
12 enjoyment. Among other things, the members of this class have been or will be  
13 denied equal access to or enjoyment of the parade viewing areas at the Disneyland  
14 Resort and the Walt Disney World Resort, and to public lockers or parking lots at  
15 the Disneyland Resort.

16 2. The Proposed Second Amended Complaint, which is attached as  
17 Exhibit D to the Settlement Agreement, shall be manually filed pursuant to General  
18 Order 10-07 and Local Rule 3-2 within five days of the date of this Order, and the  
19 deadline for Disney's response to that complaint shall be 20 days after the Court's  
20 ruling at the final approval hearing set forth in Paragraph 5 below. If the Court  
21 does not issue an order of final approval of the Settlement Agreement, the Second  
22 Amended Complaint shall have no force and effect, and the lawsuit will continue  
23 pursuant to the First Amended Complaint.

24 3. Conditioned on the Court's final approval of the proposed settlement,  
25 Andy Dogali of Forizs & Dogali, PA, and Eugene Feldman, of Eugene Feldman,  
26 Attorney at Law, APC, are appointed as Class Counsel of the conditionally-  
27 certified classes under Rule 23(g) of the Federal Rules of Civil Procedure.  
28

1           4.     Conditioned on the Court's final approval of the proposed Settlement  
2 Agreement, the Court hereby grants preliminary approval to the proposed  
3 settlement and compromise contained in the Settlement Agreement as it finds that,  
4 taken as a whole, the proposed settlement is fundamentally fair, adequate, and  
5 reasonable to all concerned.

6           5.     A final hearing on the approval of the Settlement Agreement will be  
7 held by this Court on **August 3, 2012 at 9:30 a.m.**

8           6.     No later than fourteen days after entry of this Order, Notice of the  
9 Final Approval and Fairness Hearing (in the form appended to this Order as Exhibit  
10 A), shall be provided in the following manner:

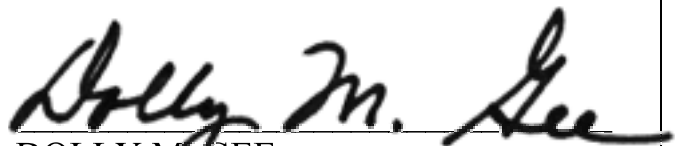
11           a.     Class Counsel shall email or mail a copy of the Notice to each  
12 individual known to Class Counsel to have a visual disability and to have expressed  
13 any concerns similar to those which Named Plaintiffs have alleged in the Action.

14           b.     Defendants will make reasonable efforts, and will bear the costs,  
15 to publish the Notice in the next edition of any regularly-circulating, written  
16 publication of the National Federation of the Blind, the American Council of the  
17 Blind, The American Foundation for the Blind and the Los Angeles Radio Reader  
18 Service, and, if appropriate, the Braille Institute of America and the Junior Blind of  
19 America.

20           7.     All other proceedings and pretrial and trial deadlines in this matter are  
21 hereby stayed pending the Court's ruling on final approval of the Settlement  
22 Agreement.

23 IT IS SO ORDERED.

24 DATED: May 4, 2012

25   
26 DOLLY M. GEE  
27 U.S. DISTRICT JUDGE  
28