

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

GWENDA GAULT, KENNETH GIBSON,
and DANNY JOHNSON

Plaintiffs

v.

THE SEMINOLE INN

Defendant

§
§
§
§
§
§

CIVIL ACTION NO. _____

COMPLAINT

Plaintiffs Gwenda Gault, Kenneth Gibson, and Danny Johnson complain that The Seminole Inn denied them accommodation in Seminole, Texas on account of race and/or color, in violation of their rights under federal and state law.

JURISDICTION AND VENUE

1. The Court has jurisdiction to hear Plaintiffs' federal claims brought pursuant to 42 U.S.C. § 1981 and Title II of the Civil Rights Act of 1964, 42 U.S.C. ' 2000a, *et seq.* (APublic Accommodations Act) and under 28 U.S.C. ' 1343(3).

2. The Court is the proper venue because a substantial part of the events giving rise to the claim occurred in the district. 28 U.S.C. § 1291(a).

PLAINTIFFS

3. Gwenda Gault and Danny Johnson are African American, and are siblings. Kenneth Gibson is African American, and is the fiancé of Gwenda Gault. Ms. Gault and Mr. Gibson both live in Williamson County, Texas.

DEFENDANT

4. Defendant, The Seminole Inn, a registered corporation, is motel that is located in Seminole, Texas, at 2200 Hobbs Highway, Seminole, Texas 79360. The registered agent for the Seminole Inn is Lewis W. Wilkerson, 314 East 19th Street, Littlefield, Texas 79339.

STATEMENT OF FACTS

5. Every year, Ms. Gault and her relatives have a big family reunion. This reunion traditionally begins on Juneteenth, as a way for the family to celebrate and commemorate the announcement of the abolition of slavery in Texas. The reunion is a time for the entire family to spend a significant amount of time together and to celebrate their heritage as African American Texans. In 2008, the family planned for the reunion to happen in the town of Seagraves, Texas, where several of the family members live.

6. On or about May 11, 2008, Gwenda Gault made a phone call from her home in Williamson County to The Seminole Inn in order to arrange hotel reservations for the upcoming family reunion. She called the inn, in part, because it was the best option for her family within 15 miles of Seagraves, it was on the way to the destination, and because it advertised having a pool. Ms. Gault had seen the hotel's website, which published information stating it had a pool available for use and showed a picture of it.

7. Ms. Gault spoke to Defendant's employee, who informed her that the single room rate was \$69.00 per night, and that the double room rate was \$82.00 per night. She asked specifically if the Seminole Inn would have the pool available during the days in June she wanted to book the rooms. Defendant's employee told her that the pool would be available during those dates.

8. Ms. Gault then asked if she could reserve three single rooms and one double room for June 19, 20, and 21, 2008. Defendant informed Ms. Gault that the Seminole Inn had rooms available on these dates, and asked Ms. Gault to provide a credit card number. Ms. Gault provided the employee with credit card number to hold the room, and in return, the Defendant's employee gave her a confirmation number.

9. Two weeks later, on or about May 25, 2008, Ms. Gault phoned the Seminole Inn again to book an additional single room for the same dates. Defendant's employee told her that rooms remained available, and reserved an additional single room for Ms. Gault at The Seminole Inn.


10. On Thursday, June 19, 2008, Ms. Gault and ten family members departed from her home in Williamson County, Texas, and began to drive to Seminole, Texas. They drove for over eight hours. At approximately 11:30 a.m., Ms. Gault and her family finally arrived at the Seminole Inn. Tired and relieved to be finished with their long ride, they planned to check in to the hotel, eat some lunch, and then take the short drive to the reunion in Seagraves.

11. When they pulled up to the Seminole Inn, the family was disappointed to find that there was no pool available at the hotel. There was an empty concrete space that looked like a pool, but there was no water in it. It was empty, abandoned, and unusable.

12. As Ms. Gault and her family were about to exit the van, a man who had been gardening approached their vehicle. This man, on information and belief the owner of The Seminole Inn, began speaking to Ms. Gault and her family.

13. The family, if anything, expected a friendly welcome to their faraway destination. What Defendant gave them instead shocked them to their core.

14. Defendant told Ms. Gault and her whole family that they needed "to contact Michael Jordan" and ask him to "buy a farm for all the blacks, all the niggers, because farming is what you people know how to do."

15. Defendant went on to pontificate that "I don't have nothing against you, but you  would be better off if Michael Jordan bought a farm and put you on it, because you could party and drink as much as you want, where we don't have to deal with you."

16. Defendant then told the plaintiffs that they could not stay at "my motel," because "your kind of people bring in drugs, and drink too much, and don't know how to act."

17. Ms. Gault asked the man to move away from the van. Ms. Gault, Mr. Johnson, and another family member then walked into the motel office.

18. Once in the office, Ms. Gault explained that she had reservations, and told the hotel clerk what the man had said to her family outside. Although the family was hurt and offended by the man's racist comments, they just wanted to unload their luggage and get to the hotel rooms they had reserved. Ms. Gault provided her confirmation number, and the clerk began to look at her paperwork.

19. The owner of The Seminole Inn who had approached the van then entered the office, and made a comment to the hotel clerk.

20. Immediately, the clerk then apologized to Ms. Gault and explained told her that he could not rent any rooms to her family.

21. Stunned, Ms. Gault asked, "What?" The hotel clerk repeated that he was sorry, but he could not honor their reservation.

22. Seeking clarification, Ms. Gault explained that she had made reservations over a month earlier and that her family had been driving for eight hours. She asked, "You can't give me these rooms?" The hotel clerk said, "I'm sorry, I can't."

23. Ms. Gault asked the hotel clerk for the paperwork that had her credit card number on it. The clerk refused to return the paperwork, and said that he would not place any charges on Ms. Gault's credit card. Ms. Gault and her family were shocked and offended, but at this point wanted nothing more than to get out of the office and away from prejudice they were being forced to experience firsthand.

24. As Ms. Gault, Mr. Johnson, and Ms. Broussard left the office, Defendant's owner said, "I'm sorry, I can't rent these rooms to you." He offered no additional justification for his refusal to honor the family's reservation.

25. When Mr. Gault, Mr. Johnson, and Ms. Broussard returned to the van, the entire family was horrified, frustrated, and hurt. None had experienced such overt racial discrimination before, and the experience was shocking and deeply upsetting to all of the adults. The young children present were confused, and did not understand why Defendant had rejected their family. The adults did not know how to explain to the children that they were being rejected because of Defendant's racism.

26. The weary, sad family left the Seminole Inn and drove to Seagraves, Texas. Instead of beginning a happy reunion with their family, now they had to start a search for hotel accommodations in a town they did not know well. They could not find a hotel there.

27. The family then had to drive to Denver City, Texas. All the hotel rooms there were occupied, as well.

28. In the end, Defendant's refusal, based on race, to let Plaintiffs stay in the Seminole Inn eventually forced them to drive clear across the state of Texas. The family had to drive all the way to Hobbs, New Mexico, to find a hotel with available rooms.

FIRST CAUSE OF ACTION:
DENIAL OF RIGHT TO CONTRACT BASED ON RACE

29. Plaintiffs allege a cause of action pursuant to 42 U.S.C. ' 1981, which provides that all persons within the jurisdiction of the United States have the same rights as white citizens in the making, performance, and modification of contracts and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationships.

30. In refusing to accommodate Plaintiffs, who are members of a racial minority group, Defendant deliberately and consciously denied Plaintiffs the right to complete a contract for hotel service with the same benefits, privileges, terms, and conditions as enjoyed by white patrons, on the basis of Plaintiffs' race, color, and/or national origin.

SECOND CAUSE OF ACTION:
DISCRIMINATION IN PUBLIC ACCOMMODATION

31. The Seminole Inn is place of public accommodation within the meaning of 42 U.S.C. ' 2000a(b)(2) and its operations affect interstate commerce within the meaning of 42 U.S.C. ' 2000a(c)(1).

32. 42 U.S.C. ' 2000a, the Public Accommodation Act, provides that all persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation without discrimination or segregation on the ground of race, color, religion, or national origin.

33. By refusing to honor Plaintiffs' hotel reservations, who are all members of an ethnic minority group, Defendant deliberately and consciously denied them full and equal enjoyment of the goods, services, facilities and privileges of a public accommodation without discrimination on the ground of race or color, in violation of the Public Accommodation Act.

34. Plaintiffs are entitled to compensatory relief for the injury they suffered from Defendant's conduct in this case.

THIRD CAUSE OF ACTION:
VIOLATION OF TEXAS DECEPTIVE TRADE PRACTICES ACT

35. Defendant also violated the Deceptive Trade Practices Act by engaging in false, misleading, and/or deceptive acts or practices that were relied upon to the detriment of the Plaintiffs.

36. Specifically, Defendant represented and published on its website that it would have a fully available pool on the dates that Plaintiffs reserved a room, "an amenity no other hotel in town offers." The pool was pictured on the hotel website, as were dates of availability.

37. Further, on or about May 11, 2008, Ms. Gault called Defendant to check and see that a pool was available during the days in June her family would visit. She did not make a reservation until Defendant's employee assured her that the pool would be available to use.

38. Plaintiffs acted in reliance on the Defendant's false, misleading, or deceptive acts. Defendant's violations of DTPA were a producing cause of economic damages incurred by the Plaintiff.

39. Defendant's representations are false. Defendant violated the following provisions of the DTPA:

(a) Defendant violated Tex. Bus. & Com. Code ' 17.50(a)(1) by engaging in false, misleading, and/or deceptive acts or practices which were relied upon to the Plaintiff's detriment, to wit:

(1) Tex. Bus. & Com. Code ' 17.46(b)(2), Acausing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services;@

(2) Tex. Bus. & Com. Code ' 17.46(b)(5), Arepresenting that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he does not;@

(3) Tex. Bus. & Com. Code ' 17.46(b)(7), Arepresenting that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;@

(4) Tex. Bus. & Com. Code ' 17.46(b)(9), Aadvertising goods or services with intent not to sell them as advertised;" and

(5) Tex. Bus. & Com. Code ' 17.46(b)(24), Afailing to disclose information concerning goods or services which was known at the time of the transaction if such a failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed."

(b) Defendant violated Tex. Bus. & Com. Code ' 17.50(a)(3) by engaging in an unconscionable action or course of action which, to the detriment of the Plaintiffs, took advantage of the lack of knowledge, ability, experience, or capacity of the Plaintiffs to a grossly unfair degree.

40. Plaintiffs are consumers within the meaning of this statute. On November 17, 2008, Plaintiffs gave written notice to Defendant of their treatment at the Seminole Inn and their reliance on the false representations made by the Defendant=s employee, the amount of economic damages, and the amount of damages for mental anguish, as required by Tex. Bus. & Com. Code ' 17.505(a).

41. On information and belief, Defendant committed the DTPA violations knowingly and/or intentionally, causing the mental anguish damages suffered by Plaintiffs. Thus, pursuant to Tex. Bus. & Com. Code ' 17.50(b), Plaintiffs are entitled to damages for mental anguish as well as injunctive and declaratory relief.

42. Plaintiffs are also entitled to recover reasonable and necessary attorney=s fees under Tex. Bus. & Com. Code ' 17.50(d).

INJUNCTIVE RELIEF

43. As a proximate result of Defendant's actions, practices, policies, customs, and procedures, Plaintiffs have suffered, and will continue to suffer, irreparable injury in the denial of their civil rights.

44. Unless injunctive relief is granted, Plaintiffs will return to continue to suffer immediate and irreparable injury for which there is no remedy at law.

DECLARATORY RELIEF

45. This suit involves an actual controversy within the Court's jurisdiction, and the Court may declare the rights of Plaintiffs under the Constitutions and laws of the United States and grant such necessary and proper relief.

JURY DEMAND

46. Plaintiffs demand a trial by jury on all issues so triable.

ATTORNEYS' FEES

47. Plaintiffs are entitled to recover attorneys' fees and costs pursuant to 42 U.S.C. § 1988, 42 U.S.C. § 2000a-3, and the Texas Declaratory Judgments Act.

PRAYER FOR RELIEF

THEREFORE, Plaintiffs respectfully pray that this Court grant the following relief:

A. Enter declaratory judgment that Defendant deliberately and consciously discriminated against Plaintiffs on the basis of their race and/or color, in violation of 42 U.S.C. § 1981 and 42 U.S.C. § 2000a, *et seq.*;

B. Permanently enjoin Defendant from further discriminating against customers or prospective customers on the basis of race, color, and/or national origin and failing and refusing to provide proper training for its employees that would address problems including, but not exclusive to, denying accommodation based on discrimination;

C. Enter judgment on behalf of Plaintiffs Gwenda Gault, Kenneth Gibson, and Danny Johnson against Defendant for damages sufficient to compensate them for their injuries.

D. Award actual damages suffered by Plaintiffs, statutory penalties, and because the conduct described herein was willful, conscious, and clearly illegal, order Defendant to pay punitive damages in an appropriate sum;

E. Order Defendant to pay Plaintiffs' reasonable attorneys' fees and costs; and,

F. Grant all other and additional relief to which Plaintiffs may be entitled, at law or in equity.

JURY DEMANDED

Dated: February 2, 2009

Respectfully Submitted,

Wayne Krause
State Bar No. 24032644
James C. Harrington
State Bar No. 09048500

TEXAS CIVIL RIGHTS PROJECT
1405 Montopolis Drive
Austin, TX 78741-3438
(512) 474-5073 [phone]
(512) 474-0726 [fax]

ATTORNEYS FOR PLAINTIFFS