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Assigned for all Purposes

Judge Randall J. Sherman

CX-105

6 Attorneys for Plaintiff Jenale Nielsen &  
7 the Proposed Class

8 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF ORANGE

10 JENALE NIELSEN, individually and on behalf  
11 of others similarly situated,

12 Plaintiff,

13 vs.

14 WALT DISNEY PARKS AND RESORTS  
15 U.S., INC., a Florida Corporation, and DOES 1  
through 25, inclusive,

16 Defendants.

Case No.: 30-2021-01230857-CU-BT-CXC

CLASS ACTION

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

17  
18 Plaintiff Jenale Nielsen ("Ms. Nielsen") hereby brings this Action against Defendant Walt  
19 Disney Parks And Resorts U.S., Inc. ("Disney") and Does 1-25 (collectively referred to herein as  
20 "Defendants") for misleading consumers about the nature, benefits, and restrictions of the Dream  
21 Key Passes that Disney sold to Ms. Nielsen and others similarly situated. Ms. Nielsen alleges as  
22 follows:

23 PARTIES, JURISDICTION, AND VENUE

- 24 1. Ms. Nielsen is an individual who resides in Santa Clara County, California.
- 25 2. Walt Disney Parks And Resorts U.S., Inc. is a Florida Corporation whose principal
- 26 place of business is in Lake Buena Vista, Florida. Disney has, at all relevant times, engaged in
- 27 trade or commerce in California by advertising and offering theme park admission tickets to
- 28 California consumers.

10 | **GENERAL ALLEGATIONS**

13 6. Ms. Nielsen is a longtime Disney customer who enjoys visiting Disney's theme  
14 parks, including the parks located in Anaheim, California.

8. Ms. Nielsen learned that Disney offered several different types of Magic Keys, including each of the following: the Enchant Key pass, the Believe Key pass, and the Dream Key pass. Ms. Nielsen was immediately interested in the top tier Dream Key pass because, according to Disney, it was not subject to “blockout dates” and would provide her with the most opportunities to visit the theme parks.

-2-

Dream Key Pass  
No Blockout dates

Total  
\$1,399.<sup>00</sup>

- Reservation-based admission to one or both theme parks every day of the year
- Theme park reservations can be made up to 90 days in advance. This pass can hold up to 6 park reservations at a time on a rolling basis during any 90-day window, subject to restrictions.
- Park reservations are subject to availability and are not guaranteed for any specific dates or park
- Up to 15% off select dining
- Up to 20% off select merchandise in store
- Standard them park parking included\*

**No Blockout Dates**

Admission is not guaranteed and is subject to capacity and other closures.

10. The statements quoted in the above paragraph are taken from an advertisement that Ms. Nielsen reviewed on the Disney website and relied upon when she decided to purchase a Dream Key Pass. A true and correct copy of a printout of the Advertisement is attached hereto as Exhibit A. Collectively, the statements and Exhibit A are referred to herein as “the Advertisement.”

11. Disney also advertises the Enchant Pass and the Believe Pass. In its advertisements for those passes, Disney tells consumers that “Blockout dates apply.”

12. After reading the Advertisement, Ms. Nielsen decided to purchase a Dream Key Pass. She paid \$1,399.00 for the Dream Key Pass and finalized her purchase on September 23, 2021.

13. Shortly thereafter, Ms. Nielsen attempted to use her Magic Key to make reservations to visit Disneyland. She was, however, disappointed to learn that Disney had already



1 blocked out many days, including all weekend days in the month of November 2021. Specifically,  
2 on or about October 19, 2021, Ms. Nielsen attempted to use her Dream Key to obtain an  
3 admission ticket to Disneyland in November 2021. The Disney reservation website informed her  
4 that a total of seventeen days in November, including all weekend days, were unavailable to  
5 Dream Key pass holders. Given that Disney had advertised and promised that there would be no  
6 “blockouts” for Dream Key holders, Ms. Nielsen was surprised. As a frequent Disneyland visitor,  
7 Ms. Nielsen thought it unlikely that *all* tickets and/or reservations for both Disneyland and  
8 California Adventures had already been sold for seventeen of the 30 calendar days in November  
9 2021. Ms. Nielsen explored further. She navigated to the section of the Disney website where  
10 consumers can purchase single day passes to Disneyland and California Adventures. That portion  
11 of the website revealed that, in fact, as of October 19, 2021, neither park had sold all of its tickets  
12 and/or reservations for any single day in November 2021. In other words, Disney was happy to  
13 sell Ms. Nielsen and other consumers single day passes for either park (or for both parks) for any  
14 day in November 2021. The problem was not that Disney had reached its capacity and therefore  
15 could not provide reservations to its Dream Key pass holders, the problem was that Disney had  
16 decided to block out reservations so that they were only available to new purchases and were not  
17 available to Dream Key pass holders.

18 14. Ms. Nielsen’s experience with attempting to make a Dream Key reservation in  
19 October 2021 to visit the parks in November 2021 is completely at odds with the advertised  
20 features of the Dream Key pass and with Disney’s promises to Ms. Nielsen when she purchased  
21 her Dream Key. The Advertisement told Ms. Nielsen and her fellow consumers that a Dream Key  
22 would not be subject to blackout dates. Ms. Nielsen reasonably believed and relied upon Disney’s  
23 advertisement and promise to mean that, if Disney had capacity at its Anaheim parks, Ms. Nielsen  
24 and her fellow Dream Key pass holders would be allowed to make reservations and visit the park.

25 15. On information and belief, Disney appears to be limiting the number of  
26 reservations available to Dream Key pass holders on any given day in order to maximize the  
27 number of single day and other passes that Disney can sell. This practice directly contradicts  
28 Disney’s advertised promise that the Dream Key would not be subject to blackout dates.



1 Ms. Nielsen and others reasonably understood that, by advertising “no blackout dates,” Disney  
2 understood and expected consumers to believe that Disney would not artificially limit the capacity  
3 of its parks and/or limit the number of Dream Key pass holders that can visit the parks on any  
4 given day.

5 16. It is true that, at the time of purchase, Disney told Ms. Nielsen and others that  
6 “reservations are subject to availability and are not guaranteed for any specific dates or park.”  
7 Disney did not, however, tell Ms. Nielsen or other consumers that Disney planned to artificially  
8 limit the number of available reservations by only allowing a certain number of Dream Key passes  
9 to be used on each particular day. In fact, Disney told Ms. Nielsen and her fellow consumers the  
10 opposite: It told them there would be no blackout dates. Ms. Nielsen reasonably understood the  
11 Advertisement—and the terms and conditions accompanying it—to mean that she could use her  
12 Dream Key to reserve a ticket to a park so long as the park was not at capacity. Ms. Nielsen  
13 understood that she might not get a reservation for her preferred day or days for any number of  
14 reasons, including limited capacity as a result of all tickets to the park having already been  
15 purchased or due to a public health order that closed the park or reduced the numbers of guests  
16 that could visit the park. Ms. Nielsen did not know—and had no way of knowing—that the  
17 Dream Key was, essentially, a “second class” ticket with limited availability because Disney had  
18 reserved an unknown majority of the available reservations for single day or other full price ticket  
19 purchases. Ms. Nielsen understood that, by purchasing a Dream Key, she was paying a premium  
20 so that she would have the highest tier pass and no blackout dates. It was reasonable for  
21 Ms. Nielsen to believe that her Dream Key would entitle her to reserve a ticket to the theme parks  
22 whenever the parks were not at capacity.

23 17. Ms. Nielsen has commenced this lawsuit to stop Disney from engaging in the  
24 unlawful trade practices set forth more fully below in connection with its offer and sale of the  
25 Dream Key passes, including its practice of promising consumers that Dream Keys would have no  
26 blackout dates even though Disney restricts the use of Dream Keys so that, in fact, they cannot be  
27 used by Dream Key pass holders on multiple days each month. Ms. Nielsen seeks injunctive relief  
28 to prevent Disney from engaging in these and similar unlawful trade practices, civil penalties to

1 deter Disney and others similarly situated from engaging in these and similar unlawful trade  
2 practices, disgorgement of Disney's unlawfully obtained revenue and profit, and the payment of  
3 costs, attorney's fees, damages, and restitution based on the harm consumers have experienced due  
4 to Disney's conduct.

5 18. Ms. Nielsen was deceived by and relied upon the Advertisement. Ms. Nielsen  
6 purchased her Dream Key pass in reliance on the false and deceptive advertising and without  
7 knowledge of Disney's true practices regarding the reservation of park tickets with Dream Key  
8 passes. Ms. Nielsen, as a reasonable consumer, is not required to scrutinize advertisements to  
9 ferret out misleading facts and omissions. She is entitled to take a statement like "no blackout  
10 dates" at face value and conclude that Disney would not artificially reduce the number of ticket  
11 reservations available to Dream Key pass holders. Ms. Nielsen is lawfully entitled to rely on  
12 statements that Disney deliberately places on its websites.

13 19. Ms. Nielsen, and others similarly situated, have not received the benefits of the  
14 Dream Key passes that were promised to them. Instead of receiving a "no blackout date" pass that  
15 would allow them to reserve admission to the parks whenever the parks had capacity, Ms. Nielsen  
16 and her fellow Dream Key pass holders received a much more limited right to make reservations  
17 for a limited class of Dream Key tickets. This is a far cry from what Disney advertised to  
18 consumers and from what Disney sold to its customers.

19 20. Ms. Nielsen would not have purchased a Dream Key pass if she had known, or if  
20 Disney had told her, that the Dream Key pass would be limited such that many days in any given  
21 month (and all weekends) would be, essentially, unavailable to Dream Key pass holders. Had  
22 Disney not violated California law, Ms. Nielsen and her fellow Dream Key pass holders would not  
23 have been injured as they were.

24 21. Ms. Nielsen and the proposed class have lost money as a result of Disney's  
25 unlawful behavior. Ms. Nielsen and the proposed class altered their position to their detriment and  
26 suffered loss in an amount equal to, at least, the fee for the Dream Key pass. In fact, Ms. Nielsen  
27 decided to visit the parks in November 2021 and had to purchase a ticket even though she holds a  
28 Dream Key pass because Disney blocked out so many of the days in November for Dream Key

1 pass holders.

2 **CLASS ALLEGATIONS**

3 22. Ms. Nielsen brings this action individually and as a class action on behalf of all of  
4 other consumers who purchased Dream Key passes from Disney during the four years prior to the  
5 filing of this lawsuit up to the time class certification is granted.

6 23. Ms. Nielsen's claims are typical of the claims of the class because she purchased  
7 her Dream Key passes after having read and reviewed the Advertisement that was made available  
8 to all consumers who purchase Dream Key passes.

9 24. Ms. Nielsen is a representative party who will fully and adequately protect the  
10 interests of the class members because it is in her best interest to effectively prosecute the claims  
11 alleged herein to obtain the injunctive relief, restitution, damages, and/or penalties provided to her  
12 and her fellow consumers under California law. Ms. Nielsen has retained counsel who is  
13 competent in both class action and consumer protection litigation. Ms. Nielsen does not have an  
14 interest which is contrary to, or in conflict with, those of the class members which she seeks to  
15 represent.

16 25. The number of class members is believed to include thousands of people which  
17 makes it impracticable to bring all members of the class individually before the court, or to join  
18 hundreds of individual class members as parties. Furthermore, the identity of the members of the  
19 classes are determinable from the Defendants' records. In addition, the records pertaining to the  
20 Dream Key passes purchased by consumers, the reservations made available to Dream Key pass  
21 holders, and the reservations that Dream Key pass holders were blocked from making are  
22 maintained by the Defendants. A class action is, therefore, a reasonable and practical means of  
23 resolving the claims raised in this action.

24 26. A class action is superior to other available means for the fair and efficient  
25 adjudication of this lawsuit. Even if any class member could afford individual litigation against a  
26 large company like Disney, it would be unduly burdensome to the court system. Individual  
27 litigation would magnify the delay and expense to all parties. By contrast, a class action presents  
28 far fewer management difficulties and affords the benefits of uniform adjudication of the claims,



1 financial economy for the parties, and comprehensive supervision by a single court.

2 Concentrating this litigation in one forum will promote judicial economy and parity among the  
3 claims of individual class members and judicial consistency. Notice of the pendency and any  
4 resolution of this action can be provided to class members by mail, print, broadcast, internet,  
5 and/or multimedia publication.

6 27. This type of case is well-suited for class action treatment because Disney's  
7 advertising and practices with regard to Dream Key passes are uniform and were available and  
8 applicable to all proposed class members in the same way.

9 28. Many issues of law and/or fact are common to Ms. Nielsen and the class members.  
10 These issues predominate over any individual questions. These common issues and/or facts  
11 include:

- 12 a. Whether Disney falsely advertised its Dream Key passes when it told Ms. Nielsen  
13 and her fellow consumers that the Dream Key passes did not have blackout dates;
- 14 b. Whether Disney falsely advertised its Dream Key passes when it failed to tell  
15 Ms. Nielsen and her fellow consumers that reservation availability for Dream Key  
16 passes would be limited not by the capacity of the theme parks but by Disney's  
17 policy and practice of allocating only a certain amount of reservations on each day  
18 to Dream Key pass holders.
- 19 c. Whether reasonable consumers like Ms. Nielsen and the proposed class were  
20 misled by the statements contained in the Advertisement;
- 21 d. Whether Disney's practices constitute unfair business practices within the meaning  
22 of California Business & Professions Code §§ 17200 and 17203;
- 23 e. Whether Disney's practices constitute false or misleading advertising with the  
24 meaning of California Business & Professions Code § 17500.
- 25 f. Whether Disney's conduct violates California's Consumer Legal Remedies Act;
- 26 g. Whether Ms. Nielsen and the class members are entitled to compensatory damages  
27 and, if so, the means of measuring such damages;
- 28 h. Whether Ms. Nielsen and the class members are entitled to restitution;

- i. Whether Disney's conduct, as alleged, should be enjoined;
- j. Whether Disney is liable for attorneys' fees and costs.

**FIRST CAUSE OF ACTION**

**VIOLATIONS OF THE CONSUMERS LEGAL REMEDIES ACT**

**CAL. CIV. CODE §§ 1750 ET SEQ.**

29. Ms. Nielsen realleges and incorporates the allegations elsewhere in the Complaint as if set forth in full herein.

30. The Consumer Legal Remedies Act prohibits unfair or deceptive practices in connection the sale of goods or services to a consumer. The CLRA is meant to be "[c]onstrued liberally and applied to promote its underlying purposes, which are to protect consumers against unfair and deceptive business practices and to provide efficient and economical procedures to secure such protection." *See* Civil Code Section 1760.

31. The Dream Key passes that Disney sells to consumers are "Services" as defined by the CLRA.

32. Ms. Nielsen and the proposed class members are "Consumers" as defined by the CLRA.

33. Ms. Nielsen's purchase of a Dream Key pass from Disney, and the proposed class members' purchases of Dream Keys from Disney, were "Transactions" as defined by the CLRA.

34. Disney's false and misleading practices as alleged herein and other policies, acts, and practices described herein were designed to, and did, induce Ms. Nielsen and the proposed class members to purchase Dream Keys for personal, family, or household purposes, and violated, and continue to violate, at least the following sections of the CLRA:

- a. § 1770(a)(5): Representing 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 that the person does not have; and

- b. § 1770(a)(9): Advertising goods with intent not to sell them as advertised;

35. Disney violated Sections 1770(a)(5) and (9) by marketing and falsely representing

Dream Keys as having “no blackout dates” even though Disney has a practice of blocking Dream Key pass holders from making reservations even when Disney’s theme parks are not at capacity.

36. Disney never intended to sell Ms. Nielsen or the other proposed class members Dream Key passes that were not subject to blackout dates.

37. On information and belief, Disney’s violations of the CLRA discussed above were done with the actual knowledge, intent, and awareness that the conduct alleged was wrongful.

38. On information and belief, Disney committed these acts knowing it would harm Ms. Nielsen and the proposed class members.

39. Ms. Nielsen and the proposed class members were injured by Disney because they purchased Dream Key passes believing that the passes would not be subject to blackout dates only to learn, once they owned the passes, that, in fact, they were subject to extensive block outs as alleged herein.

40. Ms. Nielsen and the proposed class members were harmed as a direct and proximate result of Disney’s violations of the CLRA and are thus entitled to a declaration that Disney violated the CLRA.

41. Ms. Nielsen, on behalf of herself and the proposed class members, seeks injunctive relief under Civil Code § 1782(d).

## **SECOND CAUSE OF ACTION**

### **VIOLATIONS OF THE FALSE ADVERTISING LAW**

#### **CAL. BUS. & PROF. CODE §§ 17500 ET SEQ.**

42. Ms. Nielsen realleges and incorporates the allegations elsewhere in the Complaint as if set forth in full herein.

43. California’s False Advertising Law (“FAL”) provides that “[i]t is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services” to disseminate any statement “which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.” Cal. Bus. & Prof. Code § 17500.

44. As alleged herein, the Advertisement, policies, acts, and practices of Disney



1 relating to the sale of Dream Key passes mislead Ms. Nielsen and other consumers acting  
2 reasonably to purchase tickets and attempt to make reservations to visit Disney's theme parks in  
3 California.

4 45. Ms. Nielsen and the proposed class members suffered injury in fact as a result of  
5 Disney's actions as set forth herein because they purchased Dream Key passes based on Disney's  
6 false and misleading marketing claims that the Dream Key pass would not be subject to blackout  
7 dates.

8 46. Ms. Nielsen and the proposed class members suffered injury in fact as a result of  
9 Disney's actions as set forth herein because they purchased Dream Keys in reliance on Disney's  
10 false and misleading Advertising. Specifically, Ms. Nielsen and the proposed class members were  
11 injured by Disney because they purchased Dream Key passes believing that the passes would not  
12 be subject to blackout dates only to learn, once they owned the passes, that, in fact, they were  
13 subject to extensive block outs as alleged herein.

14 47. Disney's business practices as alleged herein constitute unfair, deceptive, untrue,  
15 and misleading advertising pursuant to the FAL because Disney advertised Dream Key passes in a  
16 manner that is untrue and misleading, which Disney knew or reasonably should have known.

17 48. Disney profited from its sales to unwary consumers of the falsely and deceptively  
18 advertised Dream Key passes.

19 49. As a result, pursuant to Cal. Bus. & Prof. Code § 17535, Ms. Nielsen and the  
20 proposed class members are entitled to injunctive and equitable relief and restitution.

### 21 THIRD CAUSE OF ACTION

### 22 VIOLATIONS OF THE UNFAIR COMPETITION LAW

### 23 CAL. BUS. & PROF. CODE §§ 17200 ET SEQ.

24 50. Ms. Nielsen realleges and incorporates the allegations elsewhere in the Complaint  
25 as if set forth in full herein.

26 51. The UCL prohibits any "unlawful, unfair or fraudulent business act or practice."  
27 Cal. Bus. & Prof. Code § 17200. The acts, omissions, misrepresentations, practices, and non-  
28 disclosures of Disney as alleged herein constitute business acts and practices.

1           52. A statement or practice is fraudulent under the UCL if it is likely to deceive the  
2 public, applying a reasonable consumer test. As set forth herein, Disney's statements relating to  
3 the sale of its Dream Key passes are likely to deceive reasonable consumers and the public.

4           53. The acts alleged herein are also "unlawful" under the UCL in that they violate at  
5 least the following laws: The False Advertising Law, Cal. Bus. & Prof. Code §§ 17500 *et seq.* and  
6 The Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750 *et seq.*

7           54. Disney's conduct with respect to the advertising and sale of its Dream Key passes  
8 was unfair because Disney's conduct was immoral, unethical, unscrupulous, or substantially  
9 injurious to consumers and the utility of its conduct, if any, does not outweigh the gravity of the  
10 harm to its victims.

11           55. Disney's conduct with respect to the advertising and sale of its Dream Key passes  
12 was also unfair because it violated public policy as declared by specific statutory or regulatory  
13 provisions, including but not limited to the False Advertising Law.

14           56. Disney's conduct with respect to the advertising and sale of its Dream Key passes  
15 was also unfair because the consumer injury was substantial, not outweighed by benefits to  
16 consumers or competition, and not one consumers themselves could reasonably have avoided.

17           57. Disney profited from the sale to unwary consumers of its falsely, deceptively, and  
18 unlawfully advertised Dream Key passes.

19           58. Ms. Nielsen and the proposed class members are likely to be damaged by Disney's  
20 deceptive trade practices, as Disney continues to disseminate, and is otherwise free to continue to  
21 disseminate misleading information. Thus, injunctive relief enjoining this deceptive practice is  
22 proper.

23           59. Disney's conduct caused and continues to cause substantial injury to Ms. Nielsen  
24 and the proposed class members, who have suffered injury in fact as a result of Disney's  
25 fraudulent, unlawful, and unfair conduct because Disney has, in fact, blocked out dates for Dream  
26 Key pass holders.

27           60. In accordance with Bus. & Prof. Code § 17203, Ms. Nielsen, on behalf of herself,  
28 the proposed class members, and the general public, seeks an order enjoining Disney from

1 continuing to conduct business through unlawful, unfair, and/or fraudulent acts and practices, and  
2 to commence a corrective advertising campaign.

3 61. Ms. Nielsen, on behalf of herself and the proposed class members, also seeks an  
4 order for the restitution of all monies from the sale of the Dream Key passes that Disney unjustly  
5 acquired through acts of unlawful competition.

6 **FOURTH CAUSE OF ACTION**

7 **BREACH OF CONTRACT**

8 62. Ms. Nielsen realleges and incorporates the allegations elsewhere in the Complaint  
9 as if set forth in full herein.

10 63. As alleged herein, Ms. Nielsen and the proposed class members entered into  
11 contracts with Disney whereby Disney agreed to sell Dream Key passes to Ms. Nielsen and the  
12 proposed class members in exchange for \$1,399.00 each. Ms. Nielsen and the class members  
13 specifically agreed with Disney that the Dream Key passes purchased by Ms. Nielsen and the class  
14 members would not be subject to blackout dates.

15 64. Ms. Nielsen and the proposed class members have performed their obligations  
16 pursuant to their contracts with Disney but paying Disney the agreed price for the Dream Key  
17 passes.

18 65. Disney has breached its contracts with Ms. Nielsen and the proposed class  
19 members by failing to provide Dream Key passes that are free from blackout dates.

20 66. As a result of Disney's breaches of the Agreements, Ms. Nielsen seeks monetary  
21 damages, on behalf of herself and others similarly situated, in excess of the jurisdictional limit in  
22 an amount to be proven at trial. Ms. Nielsen also seeks all appropriate equitable relief.

23 **FIFTH CAUSE OF ACTION**

24 **NEGLIGENT MISREPRESENTATION**

25 67. Ms. Nielsen realleges and incorporates the allegations elsewhere in the Complaint  
26 as if set forth in full herein.

27 68. Disney represented to Ms. Nielsen and other consumers that the Dream Key passes  
28 would not be subject to blackout dates. To communicate this representation and to convince



1 Ms. Nielsen and the proposed class members to purchase Dream Key passes, Disney supplied  
2 them with information, namely the Advertising found on Disney's website. Disney knew, or  
3 should have known, that the information contained in the Advertising was false and/or misleading  
4 to Ms. Nielsen and the proposed class members.

5 69. The misrepresentations concerned material facts about the Dream Key passes that  
6 influenced Ms. Nielsen and the proposed class members to purchase Dream Key passes.

7 70. At the time Disney made the misrepresentations, Disney knew or should have  
8 known that the misrepresentations were false or Disney made the misrepresentations without  
9 knowledge of their truth or veracity.

10 71. Ms. Nielsen and the proposed class members reasonably, justifiably, and  
11 detrimentally relied on the misrepresentations and, as a proximate result thereof, have and will  
12 continue to suffer damages in the form of lost money from the purchase price of the Dream Key  
13 passes.

14 **SIXTH CAUSE OF ACTION**

15 **CONCEALMENT/ NON-DISCLOSURE**

16 72. Ms. Nielsen realleges and incorporates the allegations elsewhere in the Complaint  
17 as if set forth in full herein.

18 73. Disney knew at the time of sale that it had falsely represented the fact that Dream  
19 Key passes would actually be subject to blackout dates. In addition, Disney knew that it was, in  
20 fact, concealing from Ms. Nielsen and the proposed class members that the Dream Key passes  
21 would be subject to arbitrary and artificial capacity limitations set by Disney that had nothing to  
22 do with the actual capacity of its theme parks but, instead, were designed to allow Disney to sell  
23 more single day passes rather than allow reservations for Dream Key pass holders.

24 74. Disney had exclusive knowledge of the Advertisement's falsity at the time of sale.  
25 The defect (the actual practice regarding blackout dates and capacity limitations) is latent and not  
26 something that Ms. Nielsen and the proposed class members, in the exercise of reasonable  
27 diligence, could have discovered independently prior to purchase. The defect would not be  
28 disclosed by careful, reasonable inspection by the purchaser.

1           75.     Disney had the capacity to, and did, deceive Ms. Nielsen and the proposed class  
2 members into believing that they would receive Dream Key passes that were not subject to  
3 blackout dates or artificially created limitations, when in reality, Ms. Nielsen and the proposed  
4 class members did not receive the Dream Key passes as advertised and promised.

5           76.     Disney undertook active and ongoing steps to conceal its actual practices with  
6 regarding to Dream Key passes and the use of them to reserve admission to Disney's theme parks.  
7 Ms. Nielsen is aware of nothing in Disney's advertising, publicity, or marketing materials that  
8 discloses the truth about the actual blackout dates and capacity limitations associated with the  
9 Dream Key passes despite the fact the Disney has known all along about such practices.

10          77.     The facts concealed and/or not disclosed by Disney to Ms. Nielsen and the  
11 proposed Class Members are material facts in that a reasonable person would have considered  
12 them important in deciding whether to purchase a Dream Key pass.

13          78.     Disney had a duty to disclose accurate information regarding the actual benefits  
14 associated with a Dream Key pass.

15          79.     Disney intentionally concealed and/or failed to disclose its actual practices with  
16 regard to Dream Key passes for the purpose of inducing Ms. Nielsen and the proposed class  
17 members to act thereon.

18          80.     Ms. Nielsen and the proposed class members justifiably acted or relied upon the  
19 concealed and/or non-disclosed facts to their detriment, as evidenced by their purchase of the  
20 Dream Key passes.

21          81.     Ms. Nielsen and the proposed class members suffered a loss of money as a result of  
22 Disney's false information because they would not have purchased the Dream Key passes if the  
23 truth concerning Disney's Advertisement and the Dream Key passes had been known.

24          82.     WHEREFORE, Ms. Nielsen prays for judgment against Defendants, and each of  
25 them, as set forth below.

26 ///

27 ///

28 ///

**PRAYER**

1. An Order declaring this action to be a proper class action, appointing Ms. Nielsen as class representative, and appointing her undersigned counsel as class counsel;

2. An Order requiring Disney to bear the cost of class notice;

3. An Order enjoining Disney from engaging in the unfair, unlawful, and deceptive business practices and false advertising complained of herein;

4. An Order compelling Disney to conduct a corrective advertising campaign;

5. An Order compelling Disney to recall and destroy all misleading and deceptive advertising materials;

6. An Order requiring Disney to disgorge all monies, revenues, and profits obtained by means of any wrongful act or practice;

7. An Order requiring Disney to pay restitution to restore all funds acquired by means of any act or practice declared by this Court to be an unlawful, unfair, or fraudulent business act or practice, untrue or misleading advertising, plus pre-and postjudgment interest thereon;

8. An Order requiring Disney to pay all actual and statutory damages permitted under the causes of action alleged herein;


9. An award of attorneys' fees and costs; and

10. Any other and further relief that Court deems necessary, just, or proper.

Dated: November 9, 2021

VENTURA HERSEY & MULLER LLP

By:



DANIEL J. MULLER

Attorneys for Plaintiff and the Proposed Class