

1 DAVID C. MARCUS (CA Bar No. 158704)
2 (Email: david.marcus@wilmerhale.com)
3 WILMER CUTLER PICKERING
4 HALE AND DORR LLP
5 350 South Grand Avenue, Suite 2400
6 Los Angeles, California 90071
7 Telephone: (213) 443-5312
8 Facsimile: (213) 443-5400

9 *Attorneys for Defendant*
10 *Walt Disney Parks and Resorts U.S., Inc.*

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 JENALE NIELSEN, individually and
14 on behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 WALT DISNEY PARKS AND
18 RESORTS U.S., INC., a Florida
19 Corporation, and DOES 1 through 25,
20 inclusive,

21 Defendants.

Case No. 8:21-cv-02055

NOTICE OF REMOVAL

State Court Docket:
Superior Court of California
County of Orange
Case No. 30-2021-01230857-CU-BT-
CXC
Complaint Filed: November 9, 2021

NOTICE OF REMOVAL

Nielsen v. Walt Disney Parks and Resorts U.S., Inc., Case No. 8:21-cv-02055

1 **TO THE CLERK OF THE ABOVE-TITLED COURT:**

2 PLEASE TAKE NOTICE THAT, for the reasons stated below, Defendant
3 Walt Disney Parks and Resorts U.S., Inc. (“WDPR”) hereby removes the above-
4 captioned action from the Superior Court of California for the County of Orange to
5 the United States District Court for the Central District of California.

6 As grounds for removal, WDPR states as follows:

7 **SUMMARY**

8 1. A defendant may remove an action from state court pursuant to 28
9 U.S.C. § 1441(a) if the federal district court has original jurisdiction over the
10 action.

11 2. This Court has original jurisdiction over this action as an alleged class
12 action in which “any member of a class of plaintiffs is a citizen of a State different
13 from any defendant” and in which “the matter in controversy exceeds the sum or
14 value of \$5,000,000, exclusive of interest and costs.” 28 U.S.C. § 1332(d)(2).
15 Such actions may be removed from state court pursuant to 28 U.S.C. § 1453(b).

16 **PROCEDURAL HISTORY AND BACKGROUND**

17 3. On November 9, 2021, plaintiff Jenale Nielsen filed a putative class
18 action complaint captioned *Jenale Nielsen v. Walt Disney Parks and Resorts U.S.,*
19 *Inc.*, Case No. 30-2021-01230857-CU-BT-CXC, in the Superior Court of
20 California in the County of Orange. A copy of the complaint, together with all
21 process, pleadings, and orders served on WDPR in the state court action, is
22 attached as Exhibit A.

23 4. In the complaint, Nielsen alleges that she purchased a Dream Key
24 Pass, a Magic Key available through WDPR’s Magic Key pass program, that
25 allowed her to make reservations to Disneyland Resort theme parks with “no
26 blockout dates,” but that she was unable to make reservations for certain dates in

NOTICE OF REMOVAL

1 November 2021. *See, e.g.*, Compl. ¶¶ 7-13. The complaint asserts, on behalf of a
2 putative class, claims for breach of contract, negligent misrepresentation,
3 concealment/nondisclosure, and violations of the California Consumer Legal
4 Remedies Act (Cal. Civ. Code § 1750 *et seq.*), California False Advertising Law
5 (Cal. Civ. Code § 17500 *et seq.*), and California Unfair Competition Law (Cal.
6 Bus. & Prof. Code § 17200 *et seq.*). *Id.* ¶¶ 29-82. Nielsen seeks damages,
7 attorneys’ fees and costs, and equitable relief. *Id.* at 16. WDPR disputes the
8 allegations in the complaint and disputes that Nielsen is entitled to any relief.

9 5. Nielsen served WDPR with the complaint and summons on
10 November 15, 2021. WDPR’s time to respond to the complaint and summons has
11 not expired, and WDPR has not served or filed an answer.

12 6. This notice of removal is timely filed under 28 U.S.C. § 1446(b)
13 because it is filed within 30 days from November 15, 2021, the date on which
14 WDPR was served with a copy of the complaint and summons. No previous notice
15 of removal has been filed or made to this Court for the relief sought herein.

16 7. This action is removable to this Court because Orange County is
17 located in the Central District of California. *See* 28 U.S.C. § 1441(a).

18 **GROUND FOR REMOVAL**

19 8. A defendant may remove an action from state court if the federal
20 district court has original jurisdiction over the action. 28 U.S.C. § 1441(a).

21 9. This Court has original jurisdiction over this action under the Class
22 Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d).

23 10. CAFA vests federal district courts with “original jurisdiction of any
24 civil action” (A) that “is a class action,” (B) in which “the number of members of
25 all proposed plaintiff classes in the aggregate is [not] less than 100,” (C) in which
26 “any member of a class of plaintiffs is a citizen of a State different from any

NOTICE OF REMOVAL

1 defendant”; and (D) in which “the matter in controversy exceeds the sum or value
2 of \$5,000,000, exclusive of interest and costs.” 28 U.S.C. § 1332(d). This action
3 satisfies these requirements.

4 **A. This Action Is A Putative Class Action**

5 11. Original jurisdiction under CAFA applies to any civil action that “is a
6 class action.” 28 U.S.C. § 1332(d)(2). A “class action” means “any civil action
7 filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute
8 or rule of judicial procedure authorizing an action to be brought by 1 or more
9 representative persons as a class action.” *Id.* § 1332(d)(1)(B).

10 12. California Code of Civil Procedure § 382 provides in part that “when
11 the question is one of a common or general interest, of many persons, or when the
12 parties are numerous, and it is impracticable to bring them all before the court, one
13 or more may sue or defend for the benefit of all.” Section 382 is the California
14 state analog to Federal Rule of Civil Procedure 23. *See, e.g., Huckleby v.*
15 *Manpower, Inc.*, 2010 WL 11552970, at *3 n.1 (C.D. Cal. Sept. 7, 2010).

16 13. Nielsen brings her “action individually and as a class action on behalf
17 of all of other consumers who purchased Dream Key passes from Disney during
18 the four years prior to the fil[ing] of this lawsuit up to the time class certification is
19 granted.” Compl. ¶ 22. She raises “class allegations,” *see id.* ¶¶ 22-28, and seeks
20 an “Order declaring this action to be a proper class action, appointing Ms. Nielsen
21 as class representative, and appointing her undersigned counsel as class counsel,”
22 *id.* at 16. This action is therefore a putative class action removable under CAFA
23 under 28 U.S.C. § 1332(d)(2).

24 **B. The Putative Class Is Sufficiently Numerous**

25 14. Under 28 U.S.C. § 1332(d)(5)(B), the number of members of all
26 proposed plaintiff classes must equal or exceed 100 in the aggregate for the action

1 to be removable under CAFA.

2 15. Nielsen proposes to represent a class consisting of “all of other
3 consumers who purchased Dream Key passes from Disney during the four years
4 prior to the fil[ing] of this lawsuit up to the time class certification is granted.”
5 Compl. ¶ 22. She alleges that “[t]he number of class members is believed to
6 include thousands of people.” *Id.* ¶ 25. WDPR sold more than 3,600 Dream Key
7 passes. *See* Exhibit B, Declaration of Rachel Alde in Support of Removal (“Alde
8 Decl.”) ¶ 4. The proposed class is thus sufficiently numerous under 28 U.S.C.
9 § 1332(d)(5)(B).

10 **C. There Is Diversity Of Citizenship Between The Parties**

11 16. A putative class action is removable if “any member of a class of
12 plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C.
13 § 1332(d)(2)(A).

14 17. Nielsen is “an individual who resides in Santa Clara County,
15 California.” Compl. ¶ 1.

16 18. WDPR is “a Florida Corporation whose principal place of business is
17 in Lake Buena Vista, Florida.” Compl. ¶ 2.

18 19. Because Nielsen is a citizen of California and WDPR is a citizen of
19 Florida, this is a putative class action in which “any member of a class of plaintiffs
20 is a citizen of a State different from any defendant.” 28 U.S.C. § 1332(d).
21 Diversity of citizenship accordingly exists between the parties.

22 **D. The Amount In Controversy Exceeds \$5,000,000**

23 20. “In any class action, the claims of the individual class members shall
24 be aggregated to determine whether the matter in controversy exceeds the sum or
25 value of \$5,000,000, exclusive of interest and costs.” *See* 28 U.S.C. § 1332(d)(6).
26 “The amount in controversy is simply an estimate of the total amount in dispute,
27

1 not a prospective assessment of defendant’s liability.” *Lewis v. Verizon*
2 *Commc’ns, Inc.*, 627 F.3d 395, 400 (9th Cir. 2010).

3 21. Nielsen seeks to recover actual damages, attorneys’ fees, and
4 equitable relief, on behalf of the proposed class. *See* Compl. at 16.

5 22. Nielsen alleges that she and “thousands” of putative class members
6 “suffer[ed] damages in the form of lost money from the purchase price of the
7 Dream Key passes” that they purchased “in exchange for \$1,399.00 each.” Compl.
8 ¶¶ 25, 63, 71. She therefore seeks, among other things, “an order for the restitution
9 of all monies from the sale of the Dream Key passes.” *Id.* ¶ 61; *see also id.* at 16
10 (seeking an “Order requiring Disney to pay restitution to restore all funds”).

11 23. The equitable relief she seeks also includes disgorgement, restitution,
12 and orders “enjoining Disney from engaging in the unfair, unlawful, and deceptive
13 business practices and false advertising complained of herein,” “compelling
14 Disney to conduct a corrective advertising campaign,” and “compelling Disney to
15 recall and destroy all misleading and deceptive advertising materials.” Compl. 16.;
16 *see also id.* ¶¶ 41, 49, 58-61, 66.

17 24. WDPR denies that it is liable to Nielsen or the putative class in any
18 way whatsoever. But if a court were to order the specific relief Nielsen demands,
19 the amount would exceed the jurisdictional requirement, exclusive of interest and
20 costs. WDPR sold more than 3,600 Dream Key passes, the aggregate sale price of
21 which exceeds \$5,000,000. *See* Alde Decl. ¶ 4. Nielsen’s requested relief would
22 impose additional substantial burdens on WDPR. Thus, the amount in controversy
23 requirement for removal under CAFA is satisfied.

24 **OTHER PROCEDURAL MATTERS**

25 25. Promptly upon its filing, a true copy of this Notice of Removal will be
26 provided to all adverse parties pursuant to 28 U.S.C. § 1446(d). Pursuant to

1 Federal Rule of Civil Procedure 5(d), WDPR will file with this Court a Certificate
2 of Service of notice to the adverse party of removal to federal court.

3 26. Upon the filing of this Notice of Removal, WDPR will promptly file a
4 Notification of Filing of Notice of Removal with the Clerk of the Superior Court of
5 California, County of Orange, in accordance with 28 U.S.C. § 1446(d).

6 27. By filing this Notice of Removal, WDPR does not waive any defenses
7 that may be available to it, including without limitation any defenses relating to
8 service, process, and jurisdiction, and does not concede that the allegations in the
9 complaint state a valid claim under any applicable law.

10 28. WDPR reserves the right to submit additional factual support,
11 evidence, and affidavits to support the basis for federal jurisdiction as necessary at
12 the appropriate time.

NOTICE OF REMOVAL

Nielsen v. Walt Disney Parks and Resorts U.S., Inc., Case No. 8:21-cv-02055

1 **NOTICE TO STATE COURT AND PLAINTIFF**

2 Counsel for WDPR certifies that pursuant to 28 U.S.C. § 1446(d), copies of
3 this Notice of Removal will be filed with the Clerk of the Superior Court of
4 California, County of Orange, and served on plaintiff promptly.

5 WHEREFORE, the case now pending in the Superior Court of California,
6 County of Orange, Case No. 30-2021-01230857-CU-BT-CXC, is hereby removed
7 to the United States District Court for the Central District of California pursuant to
8 28 U.S.C. §§ 1332, 1441, and 1453.

9 Respectfully submitted,

10 Dated: December 15, 2021

/s/ David C. Marcus
 DAVID C. MARCUS (CA Bar No. 158704)
 (Email: david.marcus@wilmerhale.com)
 WILMER CUTLER PICKERING
 HALE AND DORR LLP
 350 South Grand Avenue, Suite 2400
 Los Angeles, California 90071
 Telephone: (213) 443-5312
 Facsimile: (213) 443-5400

Attorneys for Defendant
 Walt Disney Parks and Resorts U.S., Inc

NOTICE OF REMOVAL

Nielsen v. Walt Disney Parks and Resorts U.S., Inc., Case No. 8:21-cv-02055

Exhibit A

Case Summary:

Case Id:	30-2021-01230857-CU-BT-CXC
Case Title:	JENALE NIELSON VS. WALT DISNEY PARKS AND RESORTS U.S., INC., A FLORIDA CORPORATION
Case Type:	BUSINESS TORT
Filing Date:	11/09/2021
Category:	CIVIL - UNLIMITED

Register Of Actions:

ROA	Docket	Filing Date	Filing Party	Document	Select
1	E-FILING TRANSACTION 41262670 RECEIVED ON 11/09/2021 04:23:02 PM.	11/12/2021		NV	
2	COMPLAINT FILED BY NIELSON, JENALE ON 11/09/2021	11/09/2021		18 pages	<input type="checkbox"/>
3	SUMMONS ISSUED AND FILED FILED BY NIELSON, JENALE ON 11/09/2021	11/09/2021		1 pages	<input type="checkbox"/>
4	CIVIL CASE COVER SHEET FILED BY NIELSON, JENALE ON 11/09/2021	11/09/2021		2 pages	<input type="checkbox"/>
5	PAYMENT RECEIVED BY LEGALCONNECT FOR 194 - COMPLAINT OR OTHER 1ST PAPER, 34 - COMPLEX CASE FEE - PLAINTIFF IN THE AMOUNT OF 1,435.00, TRANSACTION NUMBER 12969616 AND RECEIPT NUMBER 12797535.	11/12/2021		1 pages	<input type="checkbox"/>
6	CASE ASSIGNED TO JUDICIAL OFFICER SHERMAN, RANDALL ON 11/09/2021.	11/09/2021		NV	
7	E-FILING TRANSACTION 21089829 RECEIVED ON 11/16/2021 02:07:51 PM.	11/16/2021		NV	
8	PROOF OF SERVICE OF SUMMONS FILED BY NIELSON, JENALE ON 11/16/2021	11/16/2021		1 pages	<input type="checkbox"/>

Participants:

Name	Type	Assoc	Start Date	End Date
VENTURA HERSEY & MULLER, LLP	ATTORNEY		11/12/2021	
WALT DISNEY PARKS AND RESORTS U.S., IN	DEFENDANT		11/12/2021	
JENALE NIELSON	PLAINTIFF		11/12/2021	

Hearings:

Description	Date	Time	Department	Judge
-------------	------	------	------------	-------

Print this page

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

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

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

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

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): Superior Court of California County of Orange
Civil Complex Center
751 W. Santa Ana Blvd., Santa Ana, CA 92701-4512

CASE NUMBER: (Número del Caso):

30-2021-01230857-CU-BT-CXC

Judge Randall J. Sherman

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Daniel J. Muller, Esq. (SBN 193396); 1506 Hamilton Avenue, San Jose, CA 95125; (408) 512-3025

DATE:

(Fecha) 11/09/2021 DAVID H. YAMASAKI, Clerk of the Court

Clerk, by

(Secretario)

Georgina Ramirez

, Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

Georgina Ramirez

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify): **WALT DISNEY PARKS AND RESORTS U.S., INC., a Florida corporation**
 under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
- by personal delivery on (date)

1 DANIEL J. MULLER, SBN 193396
dmuller@venturahersey.com
2 ANTHONY F. VENTURA, SBN 191107
aventura@venturahersey.com
3 VENTURA HERSEY & MULLER, LLP
1506 Hamilton Avenue
4 San Jose, California 95125
Telephone: (408) 512-3022
5 Facsimile: (408) 512-3023

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.

1 Dream Key Pass
2 No Blockout dates

3
4 Total
5 \$1,399.⁰⁰

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

15 **No Blockout Dates**

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

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

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

24 12. After reading the Advertisement, Ms. Nielsen decided to purchase a Dream Key
25 Pass. She paid \$1,399.00 for the Dream Key Pass and finalized her purchase on September 23,
26 2021.

27 13. Shortly thereafter, Ms. Nielsen attempted to use her Magic Key to make
28 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

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

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

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

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

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

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

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

18 **SECOND CAUSE OF ACTION**

19 **VIOLATIONS OF THE FALSE ADVERTISING LAW**

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

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

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

28 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
2 1. An Order declaring this action to be a proper class action, appointing Ms. Nielsen
3 as class representative, and appointing her undersigned counsel as class counsel;

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

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

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

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

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

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

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

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

18 10. Any other and further relief that Court deems necessary, just, or proper.
19

20 Dated: November 9, 2021

VENTURA HERSEY & MULLER LLP

21
22 By: 

DANIEL J. MULLER

Attorneys for Plaintiff and the Proposed Class
23
24
25
26
27
28

EXHIBIT A



Dream Key Pass

No Blockout dates

Total

\$1,399⁰⁰

- 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 theme park parking included*



No Blockout Dates

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

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
 Daniel J. Muller, Esq. (SBN 193396); Anthony F. Ventura, Esq. (SBN 191107)
 VENTURA HERSEY & MULLER, LLP
 1506 HAMILTON AVENUE, SAN JOSE, CA 95125

TELEPHONE NO.: (408) 512-3022 FAX NO. (Optional): (408) 512-3023
 ATTORNEY FOR (Name): PLAINTIFFS

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
 STREET ADDRESS: 751 W. SANTA ANA BLVD.,
 MAILING ADDRESS: 751 W. SANTA ANA BLVD.,
 CITY AND ZIP CODE: SANTA ANA 92701-2028
 BRANCH NAME: CIVIL COMPLEX CENTER

CASE NAME:
 JENALE NIELSEN, ET AL VS. WALT DISNEY PARKS AND RESORTS U.S., Inc., ET AL.

FOR COURT USE ONLY

CIVIL CASE COVER SHEET

Unlimited (Amount demanded exceeds \$25,000) **Limited** (Amount demanded is \$25,000)

Counter **Joinder**

Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:
 30-2021-01230857-CU-BT-CXC

JUDGE: Judge Randall J. Sherman
 DEPT.: CX-105

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<p>Auto Tort</p> <p><input type="checkbox"/> Auto (22)</p> <p><input type="checkbox"/> Uninsured motorist (46)</p> <p>Other PI/PD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort</p> <p><input type="checkbox"/> Asbestos (04)</p> <p><input type="checkbox"/> Product liability (24)</p> <p><input type="checkbox"/> Medical malpractice (45)</p> <p><input type="checkbox"/> Other PI/PD/W/D (23)</p> <p>Non-PI/PD/W/D (Other) Tort</p> <p><input checked="" type="checkbox"/> Business tort/unfair business practice (07)</p> <p><input type="checkbox"/> Civil rights (08)</p> <p><input type="checkbox"/> Defamation (13)</p> <p><input type="checkbox"/> Fraud (16)</p> <p><input type="checkbox"/> Intellectual property (19)</p> <p><input type="checkbox"/> Professional negligence (25)</p> <p><input type="checkbox"/> Other non-PI/PD/W/D tort (35)</p> <p>Employment</p> <p><input type="checkbox"/> Wrongful termination (36)</p> <p><input type="checkbox"/> Other employment (15)</p>	<p>Contract</p> <p><input type="checkbox"/> Breach of contract/warranty (06)</p> <p><input type="checkbox"/> Rule 3.740 collections (09)</p> <p><input type="checkbox"/> Other collections (09)</p> <p><input type="checkbox"/> Insurance coverage (18)</p> <p><input type="checkbox"/> Other contract (37)</p> <p>Real Property</p> <p><input type="checkbox"/> Eminent domain/Inverse condemnation (14)</p> <p><input type="checkbox"/> Wrongful eviction (33)</p> <p><input type="checkbox"/> Other real property (26)</p> <p>Unlawful Detainer</p> <p><input type="checkbox"/> Commercial (31)</p> <p><input type="checkbox"/> Residential (32)</p> <p><input type="checkbox"/> Drugs (38)</p> <p>Judicial Review</p> <p><input type="checkbox"/> Asset forfeiture (05)</p> <p><input type="checkbox"/> Petition re: arbitration award (11)</p> <p><input type="checkbox"/> Writ of mandate (02)</p> <p><input type="checkbox"/> Other judicial review (39)</p>	<p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <p><input type="checkbox"/> Antitrust/Trade regulation (03)</p> <p><input type="checkbox"/> Construction defect (10)</p> <p><input type="checkbox"/> Mass tort (40)</p> <p><input type="checkbox"/> Securities litigation (28)</p> <p><input type="checkbox"/> Environmental/Toxic tort (30)</p> <p><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)</p> <p>Enforcement of Judgment</p> <p><input type="checkbox"/> Enforcement of judgment (20)</p> <p>Miscellaneous Civil Complaint</p> <p><input type="checkbox"/> RICO (27)</p> <p><input type="checkbox"/> Other complaint (not specified above) (42)</p> <p>Miscellaneous Civil Petition</p> <p><input type="checkbox"/> Partnership and corporate governance (21)</p> <p><input type="checkbox"/> Other petition (not specified above) (43)</p>
--	---	---

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. Large number of separately represented parties d. Large number of witnesses

b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court

c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): 6

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: November 9, 2021
 DANIEL J. MULLER, ESQ.


 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort	Contract	Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)
Auto (22)—Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (06)	Antitrust/Trade Regulation (03)
Uninsured Motorist (46) <i>(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)</i>	Breach of Rental/Lease	Construction Defect (10)
	Contract <i>(not unlawful detainer or wrongful eviction)</i>	Claims Involving Mass Tort (40)
	Contract/Warranty Breach—Seller Plaintiff <i>(not fraud or negligence)</i>	Securities Litigation (28)
	Negligent Breach of Contract/Warranty	Environmental/Toxic Tort (30)
Other P/DP/DWD (Personal Injury/Property Damage/Wrongful Death) Tort	Other Breach of Contract/Warranty	Insurance Coverage Claims <i>(arising from provisionally complex case type listed above)</i> (41)
Asbestos (04)	Collections (e.g., money owed, open book accounts) (09)	Enforcement of Judgment
Asbestos Property Damage	Collection Case—Seller Plaintiff	Enforcement of Judgment (20)
Asbestos Personal Injury/Wrongful Death	Other Promissory Note/Collections Case	Abstract of Judgment (Out of County)
Product Liability <i>(not asbestos or toxic/environmental)</i> (24)	Insurance Coverage <i>(not provisionally complex)</i> (18)	Confession of Judgment <i>(non-domestic relations)</i>
Medical Malpractice (45)	Auto Subrogation	Sister State Judgment
Medical Malpractice—Physicians & Surgeons	Other Coverage	Administrative Agency Award <i>(not unpaid taxes)</i>
Other Professional Health Care Malpractice	Other Contract (37)	Petition/Certification of Entry of Judgment on Unpaid Taxes
Other P/DP/DWD (23)	Contractual Fraud	Other Enforcement of Judgment Case
Premises Liability (e.g., slip and fall)	Other Contract Dispute	Miscellaneous Civil Complaint
Intentional Bodily Injury/PD/DWD (e.g., assault, vandalism)	Real Property	RICO (27)
Intentional Infliction of Emotional Distress	Eminent Domain/Inverse Condemnation (14)	Other Complaint <i>(not specified above)</i> (42)
Negligent Infliction of Emotional Distress	Wrongful Eviction (33)	Declaratory Relief Only
Other P/DP/DWD	Other Real Property (e.g., quiet title) (26)	Injunctive Relief Only <i>(non-harassment)</i>
Non-P/DP/DWD (Other) Tort	Writ of Possession of Real Property	Mechanics Lien
Business Tort/Unfair Business Practice (07)	Mortgage Foreclosure	Other Commercial Complaint Case <i>(non-tort/non-complex)</i>
Civil Rights (e.g., discrimination, false arrest) <i>(not civil harassment)</i> (08)	Quiet Title	Other Civil Complaint <i>(non-tort/non-complex)</i>
Defamation (e.g., slander, libel) (13)	Other Real Property <i>(not eminent domain, landlord/tenant, or foreclosure)</i>	Miscellaneous Civil Petition
Fraud (16)	Unlawful Detainer	Partnership and Corporate Governance (21)
Intellectual Property (19)	Commercial (31)	Other Petition <i>(not specified above)</i> (43)
Professional Negligence (25)	Residential (32)	Civil Harassment
Legal Malpractice	Drugs (38) <i>(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)</i>	Workplace Violence
Other Professional Malpractice <i>(not medical or legal)</i>	Judicial Review	Elder/Dependent Adult Abuse
Other Non-P/DP/DWD Tort (35)	Asset Forfeiture (05)	Election Contest
Employment	Petition Re: Arbitration Award (11)	Petition for Name Change
Wrongful Termination (36)	Writ of Mandate (02)	Petition for Relief From Late Claim
Other Employment (15)	Writ—Administrative Mandamus	Other Civil Petition
	Writ—Mandamus on Limited Court Case Matter	
	Writ—Other Limited Court Case Review	
	Other Judicial Review (39)	
	Review of Health Officer Order	
	Notice of Appeal—Labor Commissioner Appeals	

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Daniel Muller, 193396 Ventura Hersey & Muller, LLP 1506 Hamilton Avenue San Jose, CA 95125 TELEPHONE NO.: (408)512-3022 ATTORNEY FOR (Name): Plaintiff	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Superior Court of California, Orange County 751 W. Santa Ana Blvd. Santa Ana, CA 92701	
PLAINTIFF/PETITIONER: Jenale Nielsen, et al. DEFENDANT/RESPONDENT: Walt Disney Parks and Resorts U.S., Inc., et al.	CASE NUMBER: 30-2021-01230857-CU-BT-CXC
PROOF OF SERVICE OF SUMMONS	Ref. No. or File No.:

1. At the time of service I was a citizen of the United States, at least 18 years of age and not a party to this action.
2. I served copies of:
 Complaint, Summons, Civil Case Cover Sheet

3. a. Party served: WALT DISNEY PARKS AND RESORTS U.S., INC., a Florida corporation
 b. Person Served: CSC - Lai Saevang - Person Authorized to Accept Service of Process
4. Address where the party was served: 2710 Gateway Oaks Drive, Suite 150N
 Sacramento, CA 95833
5. I served the party
 a. **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): 11/15/2021 (2) at (time): 1:45PM
6. The "Notice to the Person Served" (on the summons) was completed as follows:

 d. on behalf of:

 WALT DISNEY PARKS AND RESORTS U.S., INC., a Florida corporation
 under: CCP 416.10 (corporation)
7. **Person who served papers**
 a. Name: Tyler Anthony DiMaria
 b. Address: One Legal - P-000618-Sonoma
 1400 North McDowell Blvd, Ste 300
 Petaluma, CA 94954

 c. Telephone number: 415-491-0606
 d. The fee for service was: \$ 40.00
 e I am:
 (3) registered California process server.
 (i) Employee or independent contractor.
 (ii) Registration No.: 2006-06
 (iii) County: Sacramento
8. I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.
 Date: 11/15/2021

Tyler Anthony DiMaria
 (NAME OF PERSON WHO SERVED PAPERS)



(SIGNATURE)

EXHIBIT B

1 DAVID C. MARCUS (CA Bar No. 158704)
2 (Email: david.marcus@wilmerhale.com)
3 WILMER CUTLER PICKERING
4 HALE AND DORR LLP
5 350 South Grand Avenue, Suite 2400
6 Los Angeles, California 90071
7 Telephone: (213) 443-5312
8 Facsimile: (213) 443-5400

9 *Attorneys for Defendant*
10 *Walt Disney Parks and Resorts U.S., Inc.*

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 JENALE NIELSEN, individually and
14 on behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 WALT DISNEY PARKS AND
18 RESORTS U.S., INC., a Florida
19 Corporation, and DOES 1 through 25,
20 inclusive,

21 Defendants.

Case No. 8:21-cv-02055

22 **DECLARATION OF RACHEL**
23 **ALDE IN SUPPORT OF NOTICE**
24 **OF REMOVAL**

25 **DECLARATION OF RACHEL ALDE**

26 I, Rachel Alde, declare as follows:

27 1. I am a Vice President of Walt Disney Parks and Resorts U.S., Inc.
28 (“WDPR”). I am over the age of eighteen and competent to testify on the matters
herein. I am familiar with the corporate history, corporate structure, and business

DECLARATION OF RACHEL ALDE IN SUPPORT OF
NOTICE OF REMOVAL

1 of WDPR. The facts contained herein are based upon either my personal
2 knowledge or information provided to me in my capacity as an officer of WDPR.

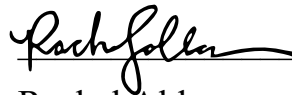
3 2. This Declaration is submitted in support of WDPR's Notice of
4 Removal of Civil Action to Federal Court.

5 3. WDPR is a Florida corporation with its principal place of business
6 located at 1375 Buena Vista Drive, Lake Buena Vista, Florida, 32830.

7 4. Prior to the filing of this lawsuit on November 9, 2021, WDPR sold
8 more than 3,600 Dream Key passes at a price of \$1,399 per pass, for a total amount
9 exceeding \$5,000,000.00.

10
11 I declare under penalty of perjury that the foregoing is true and correct.

12 Executed on the _____ day of December 2021.

13
14 

15 Rachel Alde
16
17
18
19
20
21
22
23
24
25
26

28 **DECLARATION OF RACHEL ALDE IN SUPPORT OF
NOTICE OF REMOVAL**