

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. \_\_\_\_\_

CHELSEA WARNE, by and through her next friend, MENDA WARNE,

Plaintiff,

v.

GREELEY INDEPENDENCE STAMPEDE, INC., a Colorado corporation, and  
BILL HAMES SHOWS, INC., a Texas corporation.

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**COMPLAINT**

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Plaintiff Chelsea Warne, by and through her next friend, Menda Warne, by and through their attorneys, Fox & Robertson, P.C. and Kevin W. Williams, hereby bring this Complaint against the Greeley Independence Stampede, Inc., and Bill Hames Shows, Inc.

**Introduction**

1. Fourteen years after President George H.W. Bush signed the Americans with Disabilities Act into law, and three years after Defendants were both first informed by Plaintiff's mother that the practice was illegal, Defendant Bill Hames Shows, Inc. continues to require patrons with disabilities to sign releases to participate in its carnival rides, and Defendant Greeley Independence Stampede, Inc. continues to contract with Defendant Bill Hames Shows, Inc. to provide such rides.

2. In this way and others, the carnival rides at the Greeley Independence Stampede (the "Stampede") discriminate against individuals with disabilities, in violation of Title III of the

Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12181 et seq., and the Colorado Anti-Discrimination Act. C.R.S. § 24-34-601 et seq.

### **Jurisdiction and Venue**

3. This Court has jurisdiction over the federal claim in this action pursuant to 28 U.S.C. §§ 1331 and 1343, and supplemental jurisdiction over the state claim pursuant to 28 U.S.C. § 1367.

4. Venue is proper within this District pursuant to 28 U.S.C. § 1391.

### **Parties**

5. Chelsea Warne is a 15-year-old student who resides in Gilcrest, Colorado. She participates in this lawsuit by and through her next friend, her mother Menda Warne.

6. Due to spina bifida and related conditions, Chelsea Warne is substantially limited in several major life activities, including but not limited to walking. She is able to walk only with great difficulty, and uses a manual wheelchair for ambulation most of the time.

7. The Greeley Independence Stampede, Inc. (“GIS”) is a corporation incorporated in the State of Colorado, with its principal place of business in Greeley, Colorado.

8. Bill Hames Shows, Inc. (“Hames”) is a corporation incorporated in the State of Texas, with its principal place of business in Forth Worth, Texas.

### **Facts**

9. GIS operates the Greeley Independence Stampede, an annual event held each July in Greeley, Colorado.

10. The Stampede includes a carnival midway with rides.

11. For at least the past three years, GIS has contracted with Hames to provide the rides in the carnival midway at the Stampede.

12. Many of the rides in the carnival midway at the Stampede bear a sign reading, in part, "Guests with temporary or permanent physical disabilities must go to the midway office for information on rides they may ride safely."

13. At least one ride in the carnival midway at the Stampede bears a sign reading, in part, "Disabled passengers must be accompanied by someone responsible for them."

14. In 2001, the Chelsea and Menda Warne and other members of their family went to the Stampede and attempted to ride some of the rides in the carnival midway.

15. On one ride, an individual who was, on information and belief, a Hames representative, refused to permit Chelsea Warne to ride, stated that she needed a release, and directed her to the midway office.

16. At the midway office, an individual believed to be a Hames manager, provided a release form to the Warnes and informed them that they would be required to execute the release in order for Chelsea Warne to ride the rides.

17. Menda Warne informed the Hames manager that requiring her to sign a release for Chelsea Warne constituted discrimination.

18. The Hames representative insisted that the release be signed.

19. Not wanting to delay their family outing, Menda Warne signed the release.

20. Menda Warne then approached a representative of GIS and informed her that the practice of requiring releases for individuals with disabilities was illegal.

21. She offered to discuss the matter further with GIS management, and left her card with the GIS representative.

22. She heard nothing further on the matter from either Hames or GIS.

23. The Warnes encountered a similar situation when they went to the Stampede in 2002 and 2004. In 2004, Chelsea Warne was accompanied by her aunt, who signed the release.

24. Chelsea Warne has also viewed the sign requiring her to be “accompanied by someone responsible for” her and has been discouraged from riding the ride in question, as she is not permitted to ride it independently.

25. Menda Warne informed Hames and GIS in writing that the practice of requiring releases was illegal.

26. Chelsea Warne intends to return to the Stampede and would like to be able to ride the rides in a nondiscriminatory manner.

**Claim I: Violation of the Americans with Disabilities Act**

27. Plaintiff realleges and incorporates by reference the allegations set forth in this Complaint as if fully set forth herein.

28. The Stampede, including the rides at issue in this litigation, is a place of public accommodation as that term is defined in 42 U.S.C. § 12181(7).

29. Defendants, directly or through contractual licensing, or other arrangements, operate the rides in the carnival midway at the Stampede.

30. Defendants have discriminated against Chelsea Warne on the basis of her disability in that they have denied her the full and equal enjoyment of the goods, services,

facilities, privileges, advantages, and accommodations of the Stampede, in violation of Title III of the Americans with Disabilities Act.

31. Defendants' discrimination includes but is not limited to:
  - a. denying Plaintiff the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages, and accommodations of the Stampede,
  - b. utilizing standards or criteria or methods of administration that have the effect of discriminating on the basis of disability, and/or
  - c. imposing eligibility criteria that screen her out or tend to screen her out from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations.

32. Chelsea Warne has been injured by and will continue to be injured by Defendants' discrimination.

**Claim II: Violation of the Colorado Anti-Discrimination Act**

33. Plaintiff realleges and incorporates by reference the allegations set forth in this Complaint as if fully set forth herein.

34. The Stampede, including the rides at issue in this litigation, is a place of public accommodation as that term is defined in C.R.S. § 24-34-601(1).

35. Defendants have, directly or indirectly, refused, withheld from, and/or denied Chelsea Warne, because of her disability, the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of the Stampede.

36. Defendants have, directly or indirectly, published, circulated, issued, displayed, and/or posted printed communications, notices, and/or advertisements which indicate that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation will be refused, withheld from, or denied Chelsea Warne and/or that her patronage or presence is unwelcome, objectionable, unacceptable, and/or undesirable because of her disability.

37. Chelsea Warne has been injured by and will continue to be injured by Defendants' discrimination.

38. Plaintiff's claim under the Colorado Anti-Discrimination Act is so related to her claim under the Americans with Disabilities Act that they form part of the same case or controversy.

### **Relief Requested**

WHEREFORE, Plaintiff respectfully requests:

39. That this Court assume jurisdiction;

40. That this Court declare the actions of Defendants described in this Complaint to be in violation of the Americans with Disabilities Act and the Colorado Anti-Discrimination Act;

41. That this Court enter an injunction ordering Defendants to cease discriminating on the basis of disability in the carnival rides at the Stampede by, among other things, ceasing to require of individuals with disabilities releases, attendants or other criteria not required of individuals without disabilities;

42. That this Court award Plaintiff damages under the Colorado Anti-Discrimination Act in an amount to be proved at trial;

43. That this Court award Plaintiff her reasonable attorneys' fees and costs; and

44. That this Court award such additional or alternative relief as may be just, proper and equitable.

Respectfully submitted,

FOX & ROBERTSON, P.C.

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Dated: August 20, 2004

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