

ORIGINAL

IN THE CIRCUIT COURT IN AND FOR ORANGE COUNTY
STATE OF FLORIDA

EDWIN SOTOMAYOR

CASE NO. 08-CA-16442
34-Turner

Petitioner

vs.

WALT DISNEY WORLD CO.
a Florida corporation

Respondent

ORIGINAL

Other

SWORN - PETITION FOR INJUNCTIVE RELIEF

PPA

COMES NOW your Petitioner, EDWIN SOTOMAYOR, by and through undersigned counsel, and moves this Honorable Court for the entry of a temporary and permanent injunction against the Respondent, WALT DISNEY WORLD CO., a Florida corporation, hereinafter referred to as "Disney", or Walt Disney World, and as grounds therefore does submit the following facts and matters:

1. This is an equitable action for injunctive relief brought pursuant to Florida Statute 790.251.
2. The Petitioner is a resident of Orange County, Florida, over the age of majority and otherwise sui juris.
3. At all times pertinent hereto the Petitioner was and continues to be the holder of a valid Florida Concealed Weapons Permit.
4. At all times pertinent hereto, until being fired by the Respondent on July 7, 2008, the Petitioner was an employee of the Respondent, and worked exclusively at the Respondent's Animal Kingdom attraction area over the past four years in a security position.
5. The Respondent is an active Florida Corporation doing business in Orange County, Florida, and controls what is collectively referred to as the World Disney World Resort, an area of some 30,000 acres (46 square miles), comprised of hotels, resorts, camp grounds, restaurants, golf courses, sports complex, theme parks, and other attractions.

7/11/08 - NO CIVIL COVER SHEET; NO SUMMONS

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6. The Respondent employs over 50,000 people at its various Orlando facilities, including Disney Hollywood Studios (154 acres), Epcot (300 acres), Animal Kingdom (500 acres), Typhoon Lagoon (56 acres), Blizzard Beach (66 acres), Magic Kingdom (107 acres), Downtown Disney, Wide World of Sports (200 acres).
7. No fireworks are stored or displayed at Animal Kingdom or its customer or employee parking facilities.
8. The Respondent is subject to obeying the laws of the State of Florida within the State.
9. All matters pertaining to this action occurred in Orange County, Florida.

COUNT ONE

VIOLATION OF FLORIDA STATUTE 790.251

FACTS

10. On July 4, 2008, the Petitioner, EDWIN SOTOMAYOR, reported to work at the Respondent's facilities.
11. At that time your Petitioner had his lawfully possessed and owned firearm (handgun) locked in his trunk, out of view.
12. Said firearm was kept for lawful self defense purposes.
13. The Respondent was aware, prior to the Petitioner's arrival, that the Petitioner would have a lawfully possessed firearm in his vehicle pursuant to Florida Statute 790.251.
14. Upon arriving for work the Respondent, through its agents and servants, requested that the Petitioner confirm he had a firearm in his vehicle, and further requested permission to search his vehicle for the firearm.
15. That your Petitioner, EDWIN SOTOMAYOR, declined to confirm whether he possessed a firearm in his vehicle, and further declined to permit a search of his vehicle, on the basis of Florida law.

16. Immediately thereafter, and as a direct result of the Petitioner's assertions of his rights under Florida Statute 790.251 the Respondent, WALT DISNEY WORLD COMPANY, did suspend the Petitioner, EDWIN SOTOMAYOR, from his job, and had a Trespass Warning issued to him, barring him from entry on any Disney property.
17. As a further and direct result of the Petitioner's assertion of his rights under Florida Statute 790.251, the Respondent, WALT DISNEY WORLD COMPANY, did terminate his employment on July 7, 2008, and did issue another Trespass Warning to the Petitioner, again barring him from entry on any Disney property.
18. As a result thereof the Petitioner, EDWIN SOTOMAYOR, has lost his job of many years, is banned from coming on Disney property and using its facilities as a customer, is unable to visit friends on Disney property, has lost medical insurance benefits previously provided by Disney, and has lost a myriad of other benefits previously provided under his employment.

LEGAL ARGUMENT

19. Florida Statute 790.251, titled "PRESERVATION AND PROTECTION OF THE RIGHT TO KEEP AND BEAR ARMS IN MOTOR VEHICLES ACT OF 2008." was passed by the Legislature with an effective date of July 1, 2008. The purpose and findings of the Legislature, as set forth in the Act, are as follows:

"Legislative Intent; Findings.--this act is intended to codify the long-standing legislative policy of the state that individual citizens have a constitutional right to keep and bear arms, that they have a constitutional right to possess and keep legally owned firearms within their motor vehicles for self-defense and other lawful purposes, and that these rights are not abrogated by virtue of a citizen becoming a customer, employee, or invitee of a business entity. It is the finding of the legislature that a citizen's lawful possession, transportation, and secure keeping of firearms and ammunition within his or her motor vehicle is essential to the exercise of the fundamental constitutional right to keep and bear arms and the constitutional right of self-defense. The legislature finds that protecting and preserving these rights is essential to the exercise of freedom and individual responsibility. The legislature further finds that no citizen can or should be required to waive or abrogate his or her right to possess and securely keep firearms and ammunition locked within his or her motor vehicle by virtue of becoming a customer, employee, or invitee of any employer or business establishment within the state, unless specifically required by state or federal law."

20. The provisions of the Act further provide:

4) **Prohibited acts.**--no public or private employer may violate the constitutional rights of any customer, employee, or invitee as provided in paragraphs (a)-(e):

(a) no public or private employer may prohibit any customer, employee, or invitee from possessing any legally owned firearm when such firearm is lawfully possessed and locked inside or locked to a private motor vehicle in a parking lot and when the customer, employee, or invitee is lawfully in such area.

(b) no public or private employer may violate the privacy rights of a customer, employee, or invitee by verbal or written inquiry regarding the presence of a firearm inside or locked to a private motor vehicle in a parking lot or by an actual search of a private motor vehicle in a parking lot to ascertain the presence of a firearm within the vehicle. Further, no public or private employer may take any action against a customer, employee, or invitee based upon verbal or written statements of any party concerning possession of a firearm stored inside a private motor vehicle in a parking lot for lawful purposes. A search of a private motor vehicle in the parking lot of a public or private employer to ascertain the presence of a firearm within the vehicle may only be conducted by on-duty law enforcement personnel, based upon due process and must comply with constitutional protections.

(c) no public or private employer shall condition employment upon either:

1. The fact that an employee or prospective employee holds or does not hold a license issued pursuant to s. 790.06; or

2. Any agreement by an employee or a prospective employee that prohibits an employee from keeping a legal firearm locked inside or locked to a private motor vehicle in a parking lot when such firearm is kept for lawful purposes.

(d) no public or private employer shall prohibit or attempt to prevent any customer, employee, or invitee from entering the parking lot of the employer's place of business because the customer's, employee's, or invitee's private motor vehicle contains a legal firearm being carried for lawful purposes, that is out of sight within the customer's, employee's, or invitee's private motor vehicle.

(e) no public or private employer may terminate the employment of or otherwise discriminate against an employee, or expel a customer or invitee for exercising his or her constitutional right to keep and bear arms or for exercising the right of self-defense as long as a firearm is never exhibited on company property for any reason other than lawful defensive purposes. This subsection applies to all public-sector employers, including those

already prohibited from regulating firearms under the provisions of s. 790.33.

21. Subsection 6 of the Act further provides that a party aggrieved by violation of the Act may seek and obtain injunctive relief, damages, costs, and attorney fees for its violation.
22. Your Petitioner has retained private counsel for the prosecution of this action, and is entitled to reasonable fees, costs, and other relief when determined to be a prevailing party.
23. The actions of the Respondent, WALT DISNEY WORLD COMPANY, were all in clear violation of the Act, and have punished the Petitioner, EDWIN SOTOMAYOR, for relying on the protections of the statute, and his rights under the Florida Constitution, all of such punishment shall continue unless injunctive relief is granted.
24. The actions of the Respondent, WALT DISNEY WORLD COMPANY, substantially impact the rights of its over 50,000 employees, and the citizens and visitors to this State.
25. There is no adequate remedy at law to cure the Constitutional and statutory violation of the rights of the Petitioner, as he is foreclosed from visiting Disney property, carries the stigma of being fired, is humiliated by the actions of the Defendant, and has had his Florida Constitutional and statutory rights violated purely for their legal assertion, thus the damages to the Petitioner's right of self defense is irreparable.

COUNT TWO

VIOLATION OF FLORIDA STATUTE 448.102

Your Petitioner, EDWIN SOTOMAYOR, by and through undersigned counsel, again moves this Honorable Court for the entry of a temporary and permanent injunction against the Respondent, WALT DISNEY WORLD COMPANY, a Florida corporation, hereinafter referred to as "Disney", on the additional ground that the conduct of the Respondent also violates Florida Statute 448.102(3), for which the Petitioner is entitled to injunction relief, as follows:

26. Petitioner realleges all previous paragraphs of this Petition, and incorporates them by reference. No differences in facts or basis of relief are alleged other than the Petitioner alleges he is also protected pursuant to F.S. 448.102(3), which states:

An employer may not take any retaliatory personnel action against an employee because the employee has: “(3) Objected to, or refused to participate in, any activity, policy, or practice of the employer which is in violation of a law, rule, or regulation.”

27. At all times pertinent hereto, Disney had a policy that forbade employees from having firearms in their parked vehicles pursuant to Florida Statute 790.251, and threatened retaliation for any infraction of its policy.
28. Petitioner submits that since the F.S. 790.251 prevents the Respondent from prohibiting firearms in the parked vehicles of employees such as the Petitioner, and further prevents inquiry or search by the employer – that the actions of Disney as directed against the Petitioner violated F.S. 448.102(3).
29. Petitioner retained private counsel to pursue this action.

RELIEF SOUGHT UNDER BOTH CAUSES OF ACTION

30. **TEMPORARY INJUNCTION**: To preserve the integrity of the statute, and the rights of your Petitioner, your Petitioner respectfully requests pursuant to both F.S. 790.251, and F.S. 448.103, that a temporary injunction be entered requiring that the Respondent, WALT DISNEY WORLD COMPANY:
 - A. Restore the Petitioner, EDWIN SOTOMAYOR, to his former position without any reassignment, discipline, harassment, loss in pay, loss in benefits, or change in duties or schedule,
 - B. That Respondent be ordered to withdraw the Trespass Warnings issued against the Petitioner, and furthermore
 - C. That the Respondent be ordered to not inquire about, or attempt to search the Petitioner’s vehicle for the presence of a firearm, or otherwise impede the Petitioner from parking his vehicle in the employee parking area when attending work at the Respondent’s facility.

31. In doing so – that this Court make the required findings as set forth in The Reserve at Wedgefield Homeowners' v. Dixon, 948 So.2d 65, 67 (Fla. 5DCA 2007), to wit:
- A. Irreparable damage – that the Petitioner has been fired, disenfranchised , and humiliated for merely asserting his rights under the Florida Constitution, and the specific protections of Florida Statute 790.251, and further trespassed from the grounds of the largest entertainment complex in the State of Florida, all as punishment for doing something he was specifically permitted to do by statute – and for which the Respondent was specifically prohibited from retaliating against, all for which the damage is irreparable.
 - B. There is no adequate remedy at law to return the Petitioner to his former status, or otherwise undo the illegal actions of the Respondent, and without an injunction any remedy would be incomplete and inadequate, and leave him “persona non grata” at the largest entertainment complex in the State, and thereby marked with continuous humiliation.
 - C. There is a strong likelihood of success in the Petitioner prevailing in this lawsuit.
 - D. The interest of the Public in the outcome of this case is extreme, as it impacts thousands, if not hundreds of thousands of residents and visitors, and whether their rights under Florida law and the Florida Constitution will be honored, or subject to the whim of those who wish to ignore the law.

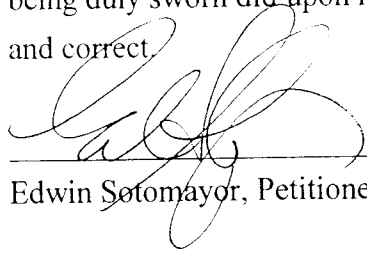
32. **PERMANENT INJUNCTION:**

Your respondent prays that this Honorable Court, after having the opportunity for a full and complete hearing , does grant a permanent injunction, finding that the Petitioner’s rights were violated by the Respondent, and against the statutory protections, on the same terms and basis as previously recited in paragraphs of this Complaint.

33. **OTHER RELIEF:** Your Petitioner respectfully requests an award of reasonable attorney fees, expenses, and costs from the Respondent, and in favor of the Petitioner, pursuant to both F.S. 790.251, and F.S. 448.104.

VERIFICATION

CAME BEFORE ME this 11 day of July, 2008, the person of EDWIN SOTOMAYOR, who after being duly sworn did upon his oath depose and state that the facts set forth in this Petition are true and correct.


Edwin Sotomayor, Petitioner

SWORN TO AND SUBSCRIBED before me
the undersigned notary by Edwin Sotomayor
this 11 day of July, 2008, personally known to me.

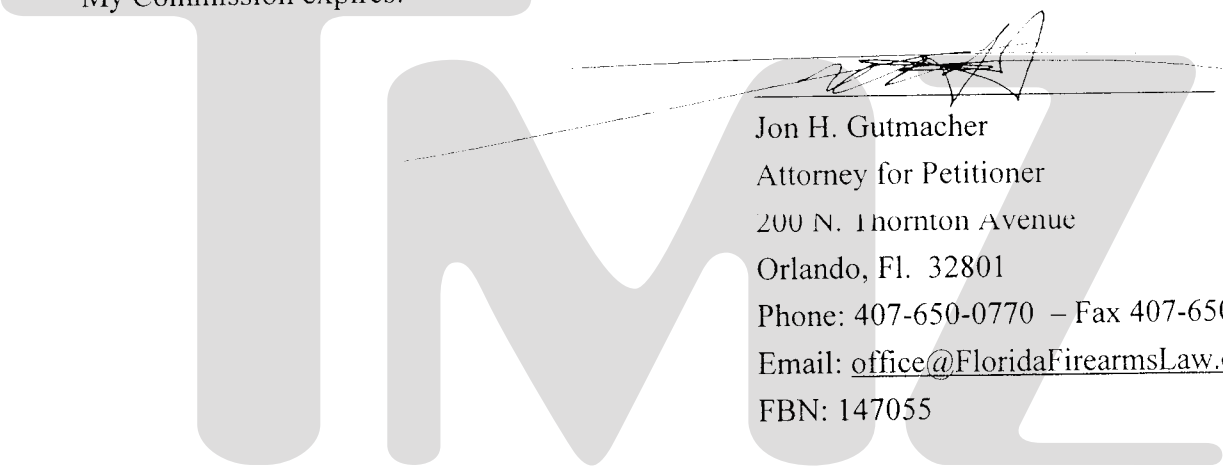


Notary Public

My Commission expires:



JON H. GUTMACHER
MY COMMISSION # DD 541133
EXPIRES: August 17, 2010
Bonded Thru Budget Notary Services





Jon H. Gutmacher
Attorney for Petitioner
200 N. Thornton Avenue
Orlando, Fl. 32801
Phone: 407-650-0770 – Fax 407-650-1947
Email: office@FloridaFirearmsLaw.com
FBN: 147055