

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JOHN R. FUNK,

Plaintiff

v.

Civ. No. 1:07-CV-334 JCH/WPL

JONES LANG LASALLE, INC.,
a foreign corporation managing
MESILLA VALLEY MALL and
CANDY ALLEN,

Defendants.

STIPULATED TEMPORARY RESTRAINING ORDER

The Court, having considered the pleadings and being otherwise fully advised by Plaintiff and Defendants, hereby finds that the following Stipulated Temporary Restraining Order should be entered and remain in place until such time as a hearing is held on the requested injunctive relief:

1. Plaintiff John Funk shall be permitted to operate his Segway motorized transportation device in a safe and prudent manner at reasonable speeds for the conditions present in the common areas of the Mesilla Valley Mall, with appropriate regard at all times for the safety of the pedestrian mall customers around him and for his own safety.

2. This order applies to Plaintiff only, and does not extend to allow any other individuals to use a Segway or any other motorized device within the mall common areas.

3. Plaintiff remains liable for the operation of his Segway at all times. By permitting access, Defendants do not assume any liability for any actions of Plaintiff while he is using his Segway in the mall common areas, and Defendants specifically disclaim any liability for any actions of Plaintiff.

4. Defendants do not control the areas leased by individual merchants in the mall, and make no representations to Plaintiff as to his access to any areas controlled by those merchants.

5. Defendants do not admit or concede that they are liable to Plaintiff on any claims already stated or that may be stated by him.

6. This order extends to Defendants, their employees, agents, assigns and successors, and all persons in active concert or participation with them.

7. Temporary Restraining Order Hearing set for April 19, 2007, at 1:30 p.m., is hereby vacated.


HONORABLE JUDITH C HERRERA

Submitted by:

Approved 4/10/07
Joleen K. Youngers
Attorneys for Plaintiff
Almanzar & Youngers, P.A.
P.O. Box 7256
Las Cruces, New Mexico 88006-7256
(505) 541-8000
(505) 541-9000 (fax)

Approved 4/10/07
George Bach
Attorneys for Plaintiff
ACLU of New Mexico
PO Box 566
Albuquerque, New Mexico 87103-0566
(505) 243-0046
(505) 266-5916 (fax)

Approved 4/10/07
Theresa W. Parrish
Attorneys for Defendants
Rodey, Dickason, Sloan, Akin & Robb, P.A.
P.O. Box 1888
Albuquerque, New Mexico 87103
(505) 765-5900
(505) 768-7395 (fax)