

RIGHTS OF THE DISABLED; PLACES OF PUBLIC ACCOMMODATION

The firm recently settled a claim brought under the Florida Civil Rights Act for a disabled Viet Nam war veteran. R.S. served his country with great distinction during the Viet Nam war, suffering multiple complications arising from wounds sustained in battle and his exposure to Agent Orange. As a result of these disabilities, R.S. is confined to a wheelchair. He clearly experienced hell on earth in the jungles of Viet Nam, but neither his current physical condition, nor his past experiences has dampened his enthusiasm for life. His wonderful outlook on life affected every member of this firm with whom he came into contact.

In 1994, R.S. called a local movie theater to determine whether it was wheelchair accessible so that he could attempt to enjoy a film like any of us. He was advised that the theater was wheelchair accessible, but when arriving at the theater, he and his companion found out that it was not accessible to the handicapped. Entry to the theater was precluded by the existence of a steep staircase at the entrance to the theater. R.S. rejected offers by attendants to carry him and his wheelchair into the theater. Such an offer posed a great risk to R.S. because he suffered from brittle bone disease and because any such effort would be a blow to his dignity. He was then allowed access into the theater only through an emergency exit in the loading dock area. Unfortunately, he sustained an injury to his neck when the wheelchair had to be lifted over a curb. Once inside, though few others were in the theater, he was instructed that he would have to leave his wheelchair and sit in one of the seats. The theater was not equipped with wheelchair seating. Weeks later, R.S. was told by the same theater that he could see another film and

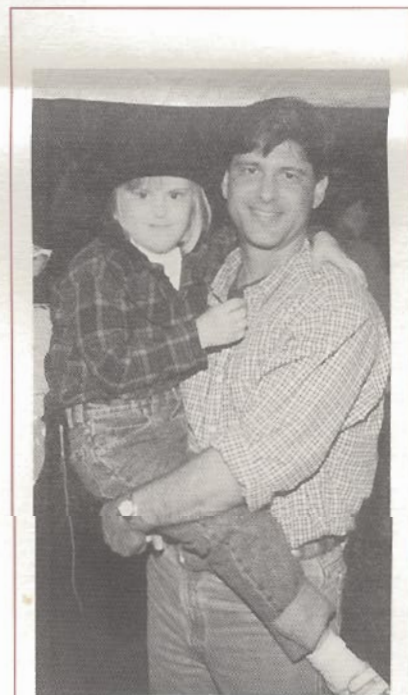
gain access to the theater through an emergency exit which emptied into the interior of the mall. After the late show was over, other patrons were able to exit the theater through the normal entrance, but R.S. had to leave through the emergency exit which led into the interior of the mall. Unfortunately, the mall had closed by that time and R.S. and his companion could not exit the mall until they were let out by guards sometime later through another exit of the mall. R.S. had to be wheeled completely around the mall in order to get to his companion's vehicle. After a third incident at the theater, R.S. came to our firm to see if the abuse of his rights could be vindicated.

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The attorneys handling the case recognized that the Americans With Disabilities Act did not provide relief for compensatory damages and sought relief under the Florida Civil Rights Act. The attorneys argued that the accessibility guidelines of the Americans With Disabilities Act were incorporated into Florida law under the provisions of the Florida Civil Rights Act and the Florida Americans With Disabilities Accessibility Implementation Act. Under this unique interpretation, the firm's attorneys argued that places of public accommodation, including movie theaters, had to take steps after January 26, 1992, to remove any architectural barriers (where such removal was readily achievable) in order to allow uninhibited access by wheelchair bound persons to these places of public accommodation. The attorneys argued that the theater's failure to install ramps leading into the theater, its failure to install wheel-

chair seating inside the theater, and its failure to modify its bathrooms to allow accessibility by wheelchair-bound persons violated the provisions of the Florida Civil Rights Act. The defendant theater argued that the provisions of the Implementation Act did not apply because of an exemption which existed under the Act for buildings built before October 1, 1993. The issue of law was argued before the court, but the case was settled prior to resolution of the issue by the court. The terms of the settlement were confidential.

Earl Denney and Bill King considered it an honor and a privilege to represent R.S. Just as no one could question his courage under fire, no one could question his loss of dignity when denied the simple pleasure of a movie. ■



Lance Block, pictured with his daughter Anna, was elected President of the Board of Directors of The Arc (The Association for Retarded Citizens of Palm Beach County). ■