

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

GWLADYS K. NARE and MANFRED L.S. NARE,)	
Individually; GWLADYS K. NARE and MANFRED)	
L.S. NARE, as PARENTS, NATURAL GUARDIANS)	
and NEXT FRIENDS OF M.N., a minor)	
child,)	
)	
)	COMPLAINT AND
)	JURY DEMAND
)	(42 U.S.C §§2000a,
)	§2000a-2, 2000a-6,
Plaintiffs,)	§§1981,1982)
)	
vs.)	
)	
OMAHA DISCOVERY TRUST d/b/a KIEWIT)	
LUMINARIUM, a Nebraska corporation,)	
)	
Defendant.)	

Parties and Jurisdiction

1. Gwladys and Manfred Nare are citizens of the United States. Their national origin is the country of Burkina Faso. Their race is Black or African-American. They are residents of Sarpy County, Nebraska.
2. Gwladys and Manfred Nare are husband and wife. They are the parents and natural guardians of two minor children: M.N. (a female) and M.N. (a male). They bring this action on behalf of M.N., female, and in their individual capacity. M.N. (a male) is not a party to this action as his admission to the Defendant's place of exhibition or entertainment was free based solely upon his age and not his race.
3. Omaha Discovery Trust d/b/a Kiewit Luminarium is a Nebraska non-profit corporation. It owns and operates the establishment known as the Kiewit Luminarium; a place of exhibition or entertainment located at 345 Riverfront Drive,

Omaha, Nebraska. Minor children are the target market for the Defendant's place of exhibition or entertainment.

4. Defendant's business is engaged in interstate commerce as it attracts customers who are residents of states other than Nebraska. Defendant's business customarily presents exhibitions and other sources of entertainment which move in commerce.
5. Defendant's business is a place of public accommodation within the meaning of 42 U.S.C. §2000a.
6. Jurisdiction is proper pursuant to 28 U.S.C. §1331 as this matter arises under the laws of the United States; specifically, 42 U.S.C. §§ 1981, 1982, 2000a, 2000a-2. This court has ancillary or pendent jurisdiction pursuant to 28 U.S.C. §1367 with respect to the plaintiffs' cause of action arising under the Nebraska Consumer Protection Act, Neb. Rev. Stat. §59-1602.
7. Jurisdiction is proper in this Court per 42 U.S.C. §2000a-6 without regard to whether the Plaintiffs have exhausted any administrative or other remedies as provided by law.
8. Venue is proper in the District of Nebraska as all relevant events occurred within the District of Nebraska.

FACTS

9. On October 14, 2023, the federal holiday known as Columbus Day (5 U.S.C. §6103(a)), Defendant issued a press release and announced to the public that any member of a federally recognized Native American tribe was entitled to free admission upon the presentation of a piece of paper proving their membership in

a Native American Tribe. The Defendant published this statement and policy on its website. The Defendant's policy will hereinafter be referred to as the "free-admission-based-upon-race-and-show-us-your-papers" policy.

10. On February 10, 2024, Plaintiffs paid the full admission price to the Kiewit Luminarium for two adults (\$19.95) and one youth (\$14.95).

11. On February 11, 2024, Plaintiffs presented their paid tickets at Defendant's place of exhibition or entertainment in order to gain admission to the premises. At the ticket counter, Plaintiffs sought a full refund for the admission prices they had paid. Their demand for refund was rejected because they are not Native Americans.

12. As a direct and proximate result of Defendant's actions and enactment of its free-admission-based-upon-race-and-show-us-your-papers policy, Plaintiffs have suffered the loss of dignity, emotional harm, the deprivation of their federal civil rights, general and special damages in an amount to be proven at trial.

FIRST CAUSE OF ACTION – 42 U.S.C. §§ 2000a, 2000a-2

13. Plaintiffs restate and incorporate the allegations of paragraphs 1 -12 as if fully set forth herein.

14. The Defendant's free-admission-based-upon-race-and-show-us-your-papers policy is, on its face, in violation of 42 U.S.C. §2000a and unlawful.

15. The Defendant's free-admission-based-upon-race-and-show-us-your-papers policy as applied to the Plaintiffs is racial discrimination, in violation of 42 U.S.C. §2000a and unlawful.

16. 42 U.S.C. § 2000a was enacted into law on July 2, 1964. The statute is long-established as the law of the United States. This statute also codified the American value of equality as set forth in the Preamble to the Declaration of Independence.

17. All Americans know, or should know, that racial discrimination in public accommodations is strictly prohibited by federal law.

18. The Defendant's actions, as set forth in this Complaint, withheld and denied to Plaintiffs their rights and privileges as granted to them in 42 U.S.C. §2000a; said actions being unlawful and contrary to 42 U.S.C. §2000a-2.

19. Defendant's free-admission-based-upon-race-and-show-us-your-papers policy was intentionally established by Defendant as malicious, oppressive or in reckless disregard to Plaintiffs' federal civil rights.

20. Defendant's free-admission-based-upon-race-and-show-us-your-papers policy is reprehensible because - if it is allowed to continue - it will pose a substantial risk of harm to people of all races who are not parties to this case. Minor children of all races should not be exposed or subjected to Defendant's unlawful and racially discriminatory policy as they then might come to believe that discrimination based upon race is allowed in the state of Nebraska and the United States.

21. As a direct and proximate result of Defendant's actions and enactment of its free-admission-based-upon-race-and-show-us-your-papers policy, Plaintiffs have suffered the loss of dignity, emotional harm, the deprivation of their federal civil rights, and general and special damages in an amount to be proven at trial.

SECOND CAUSE OF ACTION – 42 U.S.C §1981

22. Plaintiffs restate and incorporate the allegations of paragraphs 1 -12 as if fully set forth herein.
23. Plaintiffs are members of a protected class.
24. Defendant intended to discriminate against Plaintiffs based upon their race.
25. Defendant's discrimination interfered and impaired Plaintiffs' contractual rights in violation of 42 U.S.C. §1981.

THIRD CAUSE OF ACTION – 42 U.S.C. §1982

26. Plaintiffs restate and incorporate the allegations of paragraphs 1 -12 as if fully set forth herein.
27. Plaintiffs are members of a protected class.
28. Defendant intended to discriminate against the Plaintiffs based upon their race.
29. Defendant's discrimination interfered with the Plaintiff's rights or benefits pertaining to the ownership of personal property.

FOURTH CAUSE OF ACTION – NEB. REV. STAT. §59-1602

30. Plaintiffs restate and incorporate the allegations of paragraphs 1 -12 as if fully set forth herein.
31. Defendant's free-admission-based-upon-race-and-show-us-your-papers policy is an unfair practice of trade or commerce.

PUNITIVE DAMAGES

32. In addition to compensatory damages, Plaintiffs make a claim for punitive damages against Defendant available for the First, Second and Third Causes of Action in an amount to be proven at trial for the intentional, willful, and wanton acts of Defendant

to include violation of their civil rights as alleged herein. The acts of Defendant in this case were so gross and culpable in nature that they constitute reckless indifference and wanton disregard for long-established and settled federal law prohibiting the discrimination based upon race by a place of public accommodations. Defendant committed the acts and omissions alleged herein and subjected the Plaintiffs to improper treatment that caused the Plaintiffs to suffer harm so serious that no person should be expected to endure it. Defendant's actions should be punished, and an example should be made so that these actions and omissions are not repeated.

33. This instance of intentional, reckless, and callous indifference to the Plaintiffs' federal civil rights should be punished through the imposition of punitive damages so as to make an example of conduct that will not be tolerated.

ATTORNEY'S FEES

34. As a result of Defendant's actions as alleged herein, Plaintiffs have been required to retain the services of an attorney and are entitled to a reasonable amount of attorney's fees pursuant to 42 U.S.C. §§1988 and 2000a-3(b).

RELIEF REQUESTED

35. Based upon the foregoing, Plaintiffs pray for judgment against the Defendant as follows:

A. A preliminary and permanent injunction restraining and preventing the Defendant from continuing its free-admission-based-upon-race-and-show-us-your-papers policy;

- B. Damages that will fairly and justly compensate the Plaintiffs for the violation of their civil rights, their pain and suffering and other consequential damages flowing the violations set forth herein;
- C. For attorney's fees as allowed by 42 U.S.C. §§1988 and 2000a-3(b);
- D. For punitive damages as allowed by federal law on their First, Second and Third Causes of Action; and
- E. For the costs of this action and such other and further relief as this Court deems equitable and proper.

JURY DEMAND AND DESIGNATION OF PLACE OF TRIAL

36. Pursuant to F. R. Civ. P. 38(b), Plaintiffs demand trial by jury of all issues so triable and that the trial be held in Omaha, Nebraska.

Dated this 5th day of February, 2025.

GWLADYS K. NARE, MANFRED L. S.
NARE, Individually and as Parents,
Next Friends and Guardians of M.N., a
minor child

By: s/ David D. Begley
David D. Begley, #16795
Elder Law and Estate Planning of Nebraska,
David D. Begley, P.C., L.L.O.
dbegley@lawyer.com
4611 S. 96th Street, Suite 253
Omaha, NE 68127
(402) 915-0097