

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DAVID FELIMON CERDA) No.
)
Plaintiff,)
)
vs.)
)
CHICAGO CUBS BASEBALL CLUB, LLC)
)
Defendant.) JURY TRIAL DEMANDED

COMPLAINT

NOW COMES the Plaintiff, David Felimon Cerda, by his attorney, and for his Complaint states as follows:

THE PARTIES

1. At the time complained of herein, plaintiff David Felimon Cerda resided in Chicago, Illinois
2. The Chicago Cubs Baseball Club, LLC, (hereinafter the “Chicago Cubs”), is a corporation registered in the State of Illinois and does business in Chicago, Illinois.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over plaintiff's federal claims pursuant to the Americans With Disabilities Act, 42 U.S.C. § 12101 *et seq.*
4. This Court has personal jurisdiction over the defendant as all actions complained of herein occurred in Chicago, Illinois.
5. Venue is proper in this district because all the conduct complained of

herein occurred in this district.

THE FACTS

6. The Chicago Cubs field a team that plays baseball at Wrigley Field in Chicago.

7. Plaintiff suffers from Duchenne Muscular Dystrophy and is confined to a wheelchair.

8. Plaintiff is a Chicago Cubs fan and prior to 2014 attended games in a wheelchair seating area in the right field bleachers and in a lower box wheelchair seating area behind home plate.

9. Beginning in 2014, the Chicago Cubs began an extensive renovation of Wrigley Field.

10. As part of the renovation of Wrigley Field, the Chicago Cubs demolished the left and right field bleachers to the ground.

11. After the new construction of the right field bleachers, the right field bleachers did not have a wheelchair seating area. After the reconstruction, the area in the right field bleachers that at one time had a wheelchair seating area is now a special ticketing area featuring a bar.

12. In 2017, plaintiff attended Cubs games at Wrigley Field and though he would have liked to, he was unable to sit in the right field bleachers because there are no wheelchair seats in the right field bleachers.

13. Before the new construction of the left field bleachers, Wrigley Field did not have wheelchair seating in the left field bleachers. After the left field

bleachers were rebuilt from the ground up, there are still no wheelchair seats in the left field bleachers. After the reconstruction, the Chicago Cubs added a bar area to the left field bleachers.

14. In 2017, plaintiff attended Cubs games at Wrigley Field and though he would have liked to, he was unable to sit in the left field bleachers because there are no wheelchair seats in the left field bleachers.

15. After 2014, the Chicago Cubs reconstructed the lower box seats, including the lower box wheelchair seating area behind home plate.

16. After the reconstruction of the lower box seats, the row of wheelchair seats behind home plate was moved back several rows farther from the field of play.

17. In 2017, the plaintiff attend a Cubs game and sat in the lower box seats which are now farther away from the field of play. Plaintiff would like to enjoy lower box seating closer to rather than farther away from the field of play.

18. In 2017, when sitting in wheelchair lower box seats, plaintiff was unable to see the full field of play when patrons in front of him were standing.

19. As part of the renovation of Wrigley Field, the Cubs are currently constructing a luxury club underneath the lower box seating area behind home plate advertised as the American Airlines 1914 Club. When completed, 1914 Club patrons will have access to lower box seats behind home plate, including front row seats behind home plate.

20. Before 2012, Plaintiff attended baseball games at the Great American Ball Park in Cincinnati, Ohio.

21. The Great American Ball Park has a luxury club underneath the lower box seating area behind home plate which gives patrons access to front row wheelchair seating behind home plate.

22. Plaintiff has enjoyed sitting in front row wheelchair seats next to the visitor's dugout while at The Great American Ball Park.

23. Plaintiff would like to enjoy wheelchair seating in the front row at Wrigley Field. The Chicago Cubs have not announced that front row wheelchair seating will be available after the completion of the renovations of Wrigley Field.

COUNT I

(American With Disabilities Act)

24. Plaintiff realleges and incorporates herein by reference the foregoing paragraph as if set forth in full herein.

25. With regard to new construction and alterations, the Chicago Cubs have a duty to comply with Title III of the American with Disabilities Act.

26. With regard to the new construction and alterations at Wrigley Field after March 15, 2012, the Chicago Cubs have a duty to comply with the 2010 ADA Standards for Accessible Design.

27. The ADA requires that wheelchair spaces be an integral part of the seating plan at Wrigley Field.

28. The seating plan at Wrigley Field is required to provide wheelchair spectators with choices of seating locations and view angles that are substantially equivalent to, or better than, the choices of seating locations and viewing angles

available to other spectators.

29. The ADA requires that wheelchair spaces be dispersed horizontally around the field of play.

30. The ADA requires that wheelchair spaces be dispersed vertically.

31. Notwithstanding their duty to comply with the ADA, after March 15, 2012, the Chicago Cubs rebuilt and altered Wrigley Field in violation of the ADA.

32. After reconstruction which commenced in 2014, the right field bleachers no longer had wheelchair accessible seating. The wheelchair seating that existed before the construction was eliminated and replaced with a bar area.

33. Wheelchair seating in the right field bleachers may be accommodated now without substantial alterations, or alterations at all, by designating part of the area which is now reserved for special ticketing bar area a wheelchair seating area.

34. After reconstruction which commenced in 2014, the Chicago Cubs did not add wheelchair seating to the left field bleachers. The Chicago Cubs did add a bar area to the left field bleachers.

35. After reconstruction which was commenced after 2014, the Chicago Cubs moved the lower box wheelchair seating behind home plate farther away from home plate rather than maintaining or improving the view previously enjoyed by the plaintiff and other wheelchair patrons.

36. After the reconstruction of the lower box wheelchair seats, the height difference between the row of wheelchair seats and the row in front of the wheelchair seats is not great enough for wheelchair patrons to see the field of play

over patrons standing in front of them.

37. Since March 15, 2012, the Chicago Cubs have altered the lower box seating area behind home plate and are currently building a luxury club underneath the lower box seats behind home plate but have not provided for front row wheelchair seating behind home plate.

38. Plaintiff has suffered damages because he has not and cannot enjoy seating at Wrigley Field which complies with the ADA.

WHEREFORE, plaintiff requests that the Chicago Cubs Baseball Club, LLC be held in violation of the American With Disabilities Act and that the following relief be ordered:

- A. That the Chicago Cubs put into place wheelchair seating in the right field bleachers which complies with the ADA;
- B. That the Chicago Cubs put into place wheelchair seating in the left field bleachers which complies with the ADA;
- C. That the Chicago Cubs put into place wheelchair seating in the lower box seats which is equal to or better than the vertical wheelchair seating that existed prior to the alterations which were made after 2014 and which otherwise complies with the ADA;
- D. That the Chicago Cubs put into place front row wheelchair seating behind home plate;
- E. That the Chicago Cubs pay the reasonable attorney's fees, costs and expenses of this lawsuit;

F. That the Court order such further relief as is appropriate.

Respectfully submitted,

s/David A. Cerda
Attorney for the Plaintiff

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