

CLOSED

**U.S. District Court  
Southern District of Florida (Miami)  
CIVIL DOCKET FOR CASE #: 1:96-cv-02245-EBD**

Florida Paraplegic, et al v. Kadosh, et al  
Assigned to: Judge Edward B. Davis  
Demand: \$0  
Cause: 28:1331 Federal Question

Date Filed: 08/12/1996  
Date Terminated: 05/16/1997  
Jury Demand: None  
Nature of Suit: 443 Civil Rights:  
Accommodations  
Jurisdiction: Federal Question

**Plaintiff**

**Florida Paraplegic Association, Inc.**  
*a Florida not-for-profit corporation*

represented by **Stuart A. Rosenfeldt**  
Rosenfeldt & Birken, P.A.  
100 SE 3rd Ave  
Suite 1300  
Fort Lauderdale, FL 33394

[REDACTED]  
Email: [REDACTED]  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED  
DISBARRED 08/25/2014*

**Plaintiff**

**Association For Disabled Americans,  
Inc.**  
*a Florida not-for-profit corporation*

represented by **Stuart A. Rosenfeldt**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED  
DISBARRED 08/25/2014*

V.

**Defendant**

**Michael Kadosh**

represented by **John Rollins Allison , III**  
Allison & Robertson  
100 SE 2nd Street  
Suite 3350  
Miami, FL 33131-2151

[REDACTED]  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Mark Christopher Rutecki**  
 Rutecki & Rutecki  
 100 SE 2nd Street  
 Suite 3400  
 Miami, FL 33131  
 [REDACTED]  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Bar None, Ltd.**  
*a limited partnership which operates a public accomodation*

represented by **Stephen N. Zack**  
 Boies Schiller & Flexner  
 100 SE 2nd Street  
 Suite 2800, Miami Tower  
 Miami, FL 33131-2144  
 [REDACTED]  
 Email: [REDACTED]  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Plantronics, Inc.**  
*as General Partner of Bar None, Ltd.*

represented by **Stephen N. Zack**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Cross Claimant**

**Michael Kadosh**

represented by **John Rollins Allison , III**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Mark Christopher Rutecki**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

V.

**Cross Defendant**

**Bar None, Ltd.**

Date Filed	#	Docket Text
08/12/1996	<u>1</u>	COMPLAINT filed; FILING FEE \$ 120.00 RECEIPT # 666042; A-7; RLD (Former Deputy Clerk) (Entered: 08/16/1996)

08/12/1996		Magistrate identification: Magistrate Judge Robert L. Dube (Former Deputy Clerk) (Entered: 08/16/1996)
08/12/1996	<u>2</u>	SUMMONS(ES) issued for Michael Kadosh (Former Deputy Clerk) (Entered: 08/16/1996)
10/11/1996	<u>3</u>	RETURN OF SERVICE executed for Michael Kadosh on 10/1/96 by serving Nadia Damati Answer due on 10/21/96 for Michael Kadosh (Former Deputy Clerk) (Entered: 10/22/1996)
11/08/1996	<u>4</u>	MOTION by Michael Kadosh to extend time to respond to complaint (lh, Deputy Clerk) (Entered: 11/16/1996)
11/13/1996	<u>5</u>	ORDER granting [4-1] motion to extend time to respond to complaint ( signed by Judge Edward B. Davis on 11/13/96) CCAP (lh, Deputy Clerk) (Entered: 11/16/1996)
11/14/1996	<u>6</u>	RESPONSE by Disabled Americans, Florida Paraplegic in opposition to [4-1] motion to extend time to respond to complaint (lh, Deputy Clerk) (Entered: 11/16/1996)
11/15/1996	<u>7</u>	REPLY by Michael Kadosh to response to [4-1] motion to extend time to respond to complaint (Former Deputy Clerk) (Entered: 11/20/1996)
11/29/1996	<u>8</u>	REQUEST by Disabled Americans, Florida Paraplegic for entry upon land for inspection and other purposes (Former Deputy Clerk) (Entered: 12/04/1996)
12/20/1996	<u>9</u>	RESPONSE by Michael Kadosh to [8-1] motion for entry upon land for inspection and other purposes (Former Deputy Clerk) (Entered: 12/30/1996)
12/20/1996	10	RESPONSE by Michael Kadosh to Request for Production (Former Deputy Clerk) (Entered: 12/30/1996)
01/10/1997	<u>11</u>	MOTION with memorandum in support by Michael Kadosh to dismiss complaint for failure to join a necessary party under Rule 19 (Former Deputy Clerk) (Entered: 01/10/1997)
01/27/1997	<u>12</u>	AMENDED COMPLAINT by Disabled Americans, Florida Paraplegic ,amending [1-1] complaint adding Bar None, Ltd., Plantronics, Inc. (Former Deputy Clerk) (Entered: 02/05/1997)
01/27/1997	<u>13</u>	SUMMONS(ES) issued for Bar None, Ltd. by serving George R. Richard, registered agent (Former Deputy Clerk) (Entered: 02/05/1997)
01/27/1997	<u>14</u>	SUMMONS(ES) issued for Plantronics, Inc. by serving Neal Litman, Registered Agent (Former Deputy Clerk) (Entered: 02/05/1997)
02/04/1997	<u>15</u>	RETURN OF SERVICE executed for Plantronics, Inc. by serving Neal Litman, Registered agent on 1/27/97 Answer due on 2/16/97 for Plantronics, Inc. (Former Deputy Clerk) (Entered: 02/05/1997)
02/12/1997	<u>16</u>	RETURN OF SERVICE executed for Bar None, Ltd. on 2/10/97 by serving Neal Litman, as the registered agent. Answer due on 3/2/97 for Bar None, Ltd. (Former Deputy Clerk) (Entered: 02/18/1997)
02/12/1997	<u>17</u>	

		ORDER denying as moot [11-1] motion to dismiss complaint for failure to join a necessary party under Rule 19 ( signed by Judge Edward B. Davis on 2/12/97) CCAP (Former Deputy Clerk) (Entered: 02/18/1997)
02/25/1997	<a href="#">18</a>	ANSWER and Affirmative Defenses by Michael Kadosh to amended complaint (Former Deputy Clerk) (Entered: 02/26/1997)
02/25/1997	18	CROSSCLAIM by Michael Kadosh against Bar None, Ltd. (Former Deputy Clerk) (Entered: 02/26/1997)
03/03/1997	<a href="#">19</a>	MOTION by Bar None, Ltd., Plantronics, Inc. to extend time to respond to complaint (hd, Deputy Clerk) (Entered: 03/12/1997)
03/10/1997	20	ORDER granting [19-1] motion to extend time to 3/17/97 to respond to the complaint ( signed by Judge Edward B. Davis on 3/7/97) (Former Deputy Clerk) (Entered: 03/17/1997)
03/17/1997	<a href="#">21</a>	SECOND MOTION by Bar None, Ltd. to extend time to respond to the complaint (Former Deputy Clerk) (Entered: 03/21/1997)
03/24/1997	<a href="#">22</a>	ORDER granting [21-1] motion to extend time to respond to the complaint reset answer due for 3/27/97 for Plantronics, Inc., for Bar None, Ltd. ( signed by Judge Edward B. Davis on 3/22/97) CCAP (Former Deputy Clerk) (Entered: 03/28/1997)
03/27/1997	<a href="#">23</a>	THIRD MOTION by Bar None, Ltd., Plantronics, Inc. to extend time to respond to the plaintiffs' complaint (Former Deputy Clerk) (Entered: 04/02/1997)
03/27/1997	<a href="#">24</a>	MOTION by Bar None, Ltd., Plantronics, Inc. to extend time to respond to the plaintiff's first request for production (Former Deputy Clerk) (Entered: 04/02/1997)
03/28/1997	<a href="#">25</a>	ORDER Referring Motion(s) [8-1] motion for entry upon land for inspection and other purposes referred to Judge Robert L. Dube ( signed by Judge Edward B. Davis on 3/28/97) (Former Deputy Clerk) (Entered: 04/02/1997)
03/28/1997	25	ORDER REFERRING all (PRE-TRIAL) discovery matters to Magistrate Judge Robert L. Dube ( Signed by Judge Edward B. Davis on 3/28/97) CCAP (Former Deputy Clerk) (Entered: 04/02/1997)
04/07/1997	<a href="#">26</a>	ORDER granting [23-1] motion to extend time to respond to the plaintiffs' complaint reset answer due for 4/16/97 for Plantronics, Inc., for Bar None, Ltd. ( signed by Judge Edward B. Davis on 4/7/97) CCAP (Former Deputy Clerk) (Entered: 04/10/1997)
04/16/1997	<a href="#">27</a>	SECOND MOTION by Bar None, Ltd., Plantronics, Inc. to extend time to respond to the Plaintiff's First Request for Production (Former Deputy Clerk) (Entered: 04/17/1997)
04/17/1997	<a href="#">28</a>	MOTION by Bar None, Ltd., Plantronics, Inc. to extend time to respond to the complaint (Former Deputy Clerk) (Entered: 04/18/1997)
04/22/1997	<a href="#">29</a>	ORDER granting [27-1] motion to extend time to 5/5/97 within which to respond to the Plaintiff's First Request for Production ( signed by Judge Robert L. Dube on 4/22/97) CCAP (Former Deputy Clerk) (Entered: 04/24/1997)

04/22/1997		Motion(s) no longer referred: [27-1] motion to extend time to respond to the Plaintiff's First Request for Production (Former Deputy Clerk) (Entered: 04/24/1997)
04/22/1997	<a href="#">30</a>	ORDER granting [28-1] motion to extend time to respond to the complaint reset answer due for 5/5/97 for Plantronics, Inc., for Bar None, Ltd. ( signed by Judge Edward B. Davis on 4/22/97) CCAP (Former Deputy Clerk) (Entered: 04/24/1997)
05/06/1997	<a href="#">31</a>	FIFTH MOTION by Bar None, Ltd., Plantronics, Inc. to extend time to respond to Plaintiffs' complaint (Former Deputy Clerk) (Entered: 05/07/1997)
05/06/1997	<a href="#">32</a>	THIRD MOTION by Bar None, Ltd., Plantronics, Inc. to extend time to respond to Plaintiff's Request for Production (Former Deputy Clerk) (Entered: 05/07/1997)
05/08/1997	<a href="#">33</a>	ORDER granting [32-1] motion to extend time to 5/20/97 to respond to Plaintiff's Request for Production ( signed by Judge Edward B. Davis on 5/8/97) CCAP (Former Deputy Clerk) (Entered: 05/12/1997)
05/08/1997	<a href="#">34</a>	ORDER granting [31-1] motion to extend time to respond to Plaintiffs' complaint reset answer due for 5/20/97 for Plantronics, Inc., for Bar None, Ltd. ( signed by Judge Edward B. Davis on 5/8/97) CCAP (Former Deputy Clerk) (Entered: 05/12/1997)
05/15/1997	<a href="#">35</a>	STIPULATION of settlement by Florida Paralegic, Disabled Americans, Bar None, Ltd., Plantronics, Inc., Michael Kadosh (Former Deputy Clerk) (Entered: 05/16/1997)
05/16/1997	<a href="#">36</a>	ORDER granting [35-1] settlement with prejudice. The Cross-claims are dismissed with prejudice. The parties are ordered to abide by the terms of the Stipulation of Settlement. The Court retains jurisdiction of the cause for the purposes of enforcing the Stipulation. (signed by Judge Edward B. Davis on 5/16/97) CCAP (Former Deputy Clerk) (Entered: 05/20/1997)
05/16/1997		Case closed (Former Deputy Clerk) (Entered: 05/20/1997)
05/16/1997		CASE AND MOTIONS NO LONGER REFERRED TO Magistrate [32-1] motion to extend time to respond to Plaintiff's Request for Production, [31-1] motion to extend time to respond to Plaintiffs' complaint, [28-1] motion to extend time to respond to the complaint, [27-1] motion to extend time to respond to the Plaintiff's First Request for Production, [24-1] motion to extend time to respond to the plaintiff's first request for production, [23-1] motion to extend time to respond to the plaintiffs' complaint, [21-1] motion to extend time to respond to the complaint, [19-1] motion to extend time to respond to complaint, [11-1] motion to dismiss complaint for failure to join a necessary party under Rule 19, [8-1] motion for entry upon land for inspection and other purposes, [4-1] motion to extend time to respond to complaint (Former Deputy Clerk) (Entered: 05/20/1997)

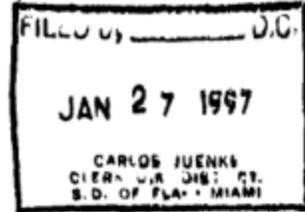
**PACER Service Center**

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<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	1:96-cv-02245-EBD
<b>Billable Pages:</b>	4	<b>Cost:</b>	0.40

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 96-2245-CIV-DAVIS  
(Magistrate Judge Dube')

THE FLORIDA PARAPLEGIC ASSOCIATION,  
INC., a Florida not-for-profit  
corporation; and, THE ASSOCIATION  
FOR DISABLED AMERICANS, INC., a  
Florida not-for-profit corporation,



Plaintiffs,

vs.

MICHAEL KADOSH, Individually; and,  
BAR NONE, LTD., Limited Partnership  
which operates a public accommodation; and,  
PLANTRONICS, INC., as General Partner of  
BAR NONE, LTD.,

Defendants.

\_\_\_\_\_ /

**AMENDED COMPLAINT**

COME NOW the Plaintiffs, THE FLORIDA PARAPLEGIC ASSOCIATION, INC. and  
THE ASSOCIATION FOR DISABLED AMERICANS, INC., by and through their undersigned  
counsel, and sue the Defendants, MICHAEL KADOSH, BAR NONE, LTD. and  
PLANTRONICS, INC., and would show:

1. This is an action for injunctive relief, a declaration of rights, attorneys' fees and  
costs, and is brought against the Defendant, MICHAEL KADOSH, who owns a building, and  
BAR NONE, LTD., which operates a nightclub in said building, who are not in compliance with  
the Americans With Disabilities Act.

*ad*  
*12*

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**PARTIES**

2. Plaintiff, THE FLORIDA PARAPLEGIC ASSOCIATION, INC., is a Florida not-for-profit corporation, which, among other things, is engaged in finding and correcting violations of the Americans With Disabilities Act.

3. Plaintiff, THE ASSOCIATION FOR DISABLED AMERICANS, INC., a Florida not-for-profit corporation, which, among other things, is engaged in the search for violations of the Americans With Disabilities Act, educational efforts to correct such violations and, when necessary, litigation to require persons and entities in violation of such Act to comply with it.

**JURISDICTION**

4. Jurisdiction is invoked based upon the Americans With Disabilities Act, Title III, found at 42 U.S.C. § 12182, *et seq.* This Court has jurisdiction under 42 U.S.C. § 12188 and 12189, as well as 28 U.S.C. § 1331 and 1345.

5. Venue is proper in the Southern District of Florida pursuant to 28 U.S.C. § 1391 as the claims described herein arise in and the Defendants are located in this district.

6. Defendant, MICHAEL KADOSH, owns a building located at 411 Washington Avenue in Miami Beach which houses a nightclub called "Bar None".

7. Defendant, BAR NONE, LTD., is a limited partnership which operates the facility located at 411 Washington Avenue in Miami Beach which is operated as a nightclub called "Bar

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None". Defendant, PLANTRONICS, INC., is a general partner of BAR NONE, LTD. and, therefore, is liable for the wrongful conduct described herein.

8. As such, "Bar None", is a public accommodation within the meaning of the Americans With Disabilities Act and, accordingly, is subject to that law and the regulations incorporating and interpreting it.

9. Defendants' facility is not in compliance with the access requirements of the Americans With Disabilities Act and, in particular, the following barriers to full enjoyment by disabled persons, removal of which is readily achievable, are in existence:

- a. There is insufficient or no parking for disabled persons available;
- b. There are steps and no ramp or alternate accessible route at the main entrance;
- c. Once inside, there are steps both up and down within the interior and no ramp making the interior accessible to persons with disabilities;
- d. The doorways inside have excessive door resistance and lack the appropriate hardware required by the ADA;
- e. There are alarms with no strobe lights for hearing impaired persons;
- f. Some doors are less than the required 32 inches and many of the thresholds have greater than a half inch height difference as required by the ADA;

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- g. Appropriate signage is missing for permanent rooms and spaces;
- h. Wheelchair seating is not distributed throughout nor at appropriate heights and clearance;
- i. There are stairs between the central public areas inaccessible to persons with mobility impairments and the stairs do not have continuous rails on both sides;
- j. Restrooms lack signage, proper door with hardware, and have excessive resistance; and there are steps leading to the restroom stall inaccessible to persons with mobility impairments. Once inside, the stall has no raised toilets or grab bars, and the lavatories lack clearance below;
- k. Drinking fountains are inaccessible and the controls are not on the front edges;
- l. Telephones are only located in the ladies restroom and are missing volume controls; and
- m. Other violations of the ADA to be identified at the time that full inspection is made.

10. The Plaintiffs have, through their agent, on several occasions informed the Defendants' agents and or leasee of their failure to be in compliance with the law, but their response has been to ignore all contacts.

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11. The barriers described above deny persons with disabilities equal access to a public accommodation in violation of 42 U.S.C. § 12188(a).

WHEREFORE, Plaintiffs demand that the Court do the following:

- A. Accept jurisdiction of this case and declare that Defendants' facility is not in compliance with the Americans Disabilities Act, Title III; and
- B. Enter an injunction requiring Defendants to comply with all requirements of the Americans With Disabilities Act, Title III; and
- C. Enter a judgment against Defendants for the costs suffered by Plaintiffs in bringing this action, as well as attorneys' fees as permitted by law; and
- D. Retain jurisdiction of this case until Defendants have fully complied with the Orders of this Court.

Respectfully submitted,

PHILLIPS, EISINGER & KOSS, P.A.  
Attorneys for Plaintiffs  
4000 Hollywood Boulevard, Suite 265-S  
Hollywood, Florida 33021  
Tele: [REDACTED]  
Fax: [REDACTED]

By:   
STUART A. ROSENFELDT  
FBN: 316113

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished, by mail, this 24th day of <sup>Jan. 1997</sup> ~~November~~, to: Mark C. Rutecki, Esquire, **Counsel for Defendant**, Rutecki & Rutecki, P.A., 100 S.E. 2<sup>nd</sup> Street, #3350, Miami, Florida 33131; and, John R. Allison, III, Esquire, **Counsel for Defendant**, 100 S.E. 2<sup>nd</sup> Street, #3350, Miami, Florida 33131.

PHILLIPS, EISINGER & KOSS, P.A.

By:   
STUART A. ROSENFELDT