

# EXHIBIT D



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May 25, 2007

Via Facsimile (415.268.7522)

Kristina Paszek  
Morrison & Forrester LLP  
425 Market Street  
San Francisco, CA 94105

Re: *NFB v. Target Corp.*

Dear Kristina:

This letter is in regards to your email today concerning Target's proposed motion seeking additional depositions and further briefing on Plaintiffs' motion for class certification. Plaintiffs remain concerned that Target's approach could further delay this case and unnecessarily drive up fees and costs for both parties, and are still not clear why additional depositions and further briefing are necessary. Plaintiffs remain willing to consider any specific proposal from Target regarding how this case should proceed, however Target still has not explained why it believes additional depositions and further briefing are necessary, or provided sufficient detail to allow Plaintiffs to properly consider whether to accept or oppose Target's motion.

For example, Target has not indicated how many additional depositions it wishes to take, whether there would be any limit to the issues covered in any additional depositions, or whether declarants that have previously been deposed could be deposed again. Without that information, it is difficult for Plaintiffs to agree to such an open-ended proposal regarding additional depositions.

Target has already taken numerous class member depositions in connection with Plaintiff's motion for class certification. The supplemental declarations Plaintiffs are filing today simply provide additional factual support for allegations concerning the nexus issue which have been part of Plaintiffs' case from the beginning and were addressed in prior declarations. Target was clearly on notice regarding these allegations when it took the previous rounds of class member depositions, and had every opportunity, but largely declined, to ask the previously-deposed declarants questions about these allegations. It is thus unclear what additional depositions at this time would accomplish, other than to increase the fees and costs expended by both sides.

As suggested in my previous letter, Plaintiffs suggest that Target do the following: (1) review the supplemental declarations that Plaintiffs

will file today; and (2) if Target still wishes to take additional depositions, make a more tailored proposal that is based on Target's need, if any, for additional depositions.

With respect to Target's desire for further briefing, the parties have briefed the issues relating to Plaintiffs' ADA claim many times already in this case, and have fully briefed Plaintiffs' motion for class certification. The Court already has sufficient information to be able to review the supplemental declarations that Plaintiffs will file today and determine whether class certification is appropriate and, if so, what class definition is appropriate for Plaintiffs' ADA claim. For that reason, Plaintiffs do not at this time understand what issues would be addressed, or what purpose would be served, by further briefing. Plaintiffs again ask Target to explain why it believes further briefing is necessary, and to indicate what specific issues Target envisions the parties addressing in further briefing, so that Plaintiffs can properly consider whether to accept Target's approach as it pertains to further briefing.

Plaintiffs hope that we can resolve this matter cooperatively and expeditiously. I look forward to your response.

Sincerely,



Roger Heller

cc: Joshua Konecky (via fax)  
Daniel Goldstein (via fax)  
Laurence Paradis



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To: Kristina Paszek  
Matt Kreeger  
Morrison & Forrester LLP

Fax 415-268-7522

From: Roger Heller

Date: Friday, May 25, 2007

Re: NFB v. Target Corp.

Urgent       For Review       Please Comment       Please Reply

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