

1 LAURENCE W. PARADIS (California Bar No. 122336)  
lparadis@dralegal.org  
2 MAZEN M. BASRAWI (California Bar No. 235475)  
mbasrawi@dralegal.org  
3 DISABILITY RIGHTS ADVOCATES  
2001 Center Street, Third Floor  
4 Berkeley, California 94704  
Telephone: (510) 665-8644  
5 Facsimile: (510) 665-8511  
TTY: (510) 665-8716  
6

TODD M. SCHNEIDER (California Bar No. 158253)  
7 tschneider@schneiderwallace.com  
JOSHUA KONECKY (California Bar No. 182897)  
8 jkonecky@schneiderwallace.com  
SCHNEIDER & WALLACE  
9 180 Montgomery Street, Suite 2000  
San Francisco, CA 94104  
10 Telephone: (415) 421-7100  
Fax: (415) 421-7105  
11 TTY: (415) 421-1655

12 DANIEL F. GOLDSTEIN (*pro hac vice*)  
dfg@browngold.com  
13 BROWN, GOLDSTEIN & LEVY, LLP  
120 E. Baltimore St., Suite 1700  
14 Baltimore, MD 21202  
Telephone: (410) 962-1030  
15 Fax: (410) 385-0869

DISABILITY RIGHTS ADVOCATES  
2001 CENTER STREET, THIRD FLOOR  
BERKELEY, CALIFORNIA 94704-1204  
(510) 665-8644

16 **UNITED STATES DISTRICT COURT**  
17 **NORTHERN DISTRICT OF CALIFORNIA**  
18 **SAN FRANCISCO DIVISION**  
19

20 NATIONAL FEDERATION OF THE  
21 BLIND, the NATIONAL FEDERATION OF  
22 THE BLIND OF CALIFORNIA, on behalf of  
23 their members, and Bruce F. Sexton, on behalf  
of himself and all others similarly situated,

24 Plaintiffs,

25 v.

26 TARGET CORPORATION,

27 Defendants.  
28

Case No.: C 06-01802 MHP

**CLASS ACTION**

**DECLARATION OF MAZEN M.  
BASRAWI IN SUPPORT OF  
PLAINTIFFS' MOTION FOR RELIEF  
FROM GENERAL ORDER NO. 56**

1 I, Mazen M. Basrawi, declare as follows:

2 1. The facts in this declaration are based upon my personal knowledge. If called to testify,  
3 I could testify competently to the facts described in this declaration.

4 2. I serve as counsel to the National Federation of the blind (“NFB”) in the matter of  
5 *National Federation of the Blind, et al. v. Target Corporation.*

6 3. On May 5, 2005, Plaintiff National Federation of the Blind notified Target Corporation  
7 (“Target”) of the alleged unlawful accessibility barriers on its website. Plaintiffs offered and  
8 Target agreed to enter into structured negotiations pursuant to a litigation standstill and tolling  
9 agreement executed on September 1, 2005. This agreement was extended two times. In the end,  
10 however, the parties were not able to reach an agreement resolving the web access issues.

11 4. Plaintiffs thus fully embraced the aim and spirit of General Order No. 56 by meeting and  
12 conferring with Defendants over a period of eight months to attempt to settle the case even  
13 before the litigation was filed.

14 5. On April 6, 2006, I requested from counsel for Target that Target stipulate to relief from  
15 General Order No. 56 in order for the case to move forward without unnecessary delay. That  
16 request is attached hereto as Exhibit A.

17 6. Mr. Michael Bostrom, counsel for Target in this matter, informed me in a telephone  
18 conversation on April 6, 2006, that Target would not stipulate to relief from General Order No.  
19 56 generally but that Target itself sought relief from General Order No. 56 as well as from this  
20 court’s standing order for the sole and express purpose of the court to hear Target’s motion to  
21 dismiss. Mr. Bostrom forwarded a draft stipulation on April 10, 2006.

22 7. On April 11, 2006, I informed Mr. Bostrom that Plaintiffs would not oppose Target’s  
23 motion for limited relief.

24 8. On April 26, 2006, I contacted Target’s counsel and asked if Target would stipulate to  
25 limited relief from General Order No. 56 so that Plaintiffs may file a motion for preliminary  
26 injunction. That request is attached as Exhibit B.

27  
28

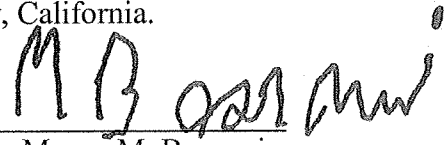
DISABILITY RIGHTS ADVOCATES  
2001 CENTER STREET, THIRD FLOOR  
BERKELEY, CALIFORNIA 94704-1204  
(510) 665-8644

1 9. During a telephone conversation on April 27, 2006, Mr. Bostrom asked for clarification  
2 on the specific kind of preliminary injunctive relief Plaintiffs seek. I responded accordingly in a  
3 letter attached hereto as Exhibit C.

4 10. On April 28, 2006, I received a letter from Robert Naeve, also counsel for Target, setting  
5 forth Target's reasons for refusing to stipulate to plaintiffs' request for limited relief from the  
6 General Order. A copy of Mr. Naeve's letter is attached hereto as Exhibit D.

7  
8 I declare under penalty of perjury under the laws of the United States of America that the  
9 foregoing is true and correct.

10  
11  
12 Executed this May day of 1, 2006, at Berkeley, California.

13   
14 Mazen M. Basrawi  
15

16  
17 \\Server\cases\NFB.Target\Pleadings\go56\_admin\_relief\Basrawi\_decl.doc  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

DISABILITY RIGHTS ADVOCATES  
2001 CENTER STREET, THIRD FLOOR  
BERKELEY, CALIFORNIA 94704-1204  
(510) 665-8644

**EXHIBIT A**



2001 Center Street, Third Floor  
Berkeley, California 94704-1204  
Telephone: (510) 665-8644  
Facsimile: (510) 665-8511  
TTY: (510) 665-8716  
general@dralegal.org

**BOARD OF DIRECTORS**

Shelley Bergum  
*California Communications Access Foundation*  
Peter Blanck  
*University of Iowa School of Law*  
Frederick L. Cannon  
*Keefe, Bruyette & Woods, Inc.*  
Mark A. Chavez  
*Chavez & Gertler LLP*  
Dr. Alan Kalmanoff  
*Institute for Law and Policy Planning*  
Johnnie Lacy  
*CRIL (Retired)*  
Paul Longmore  
*San Francisco State University*  
Laurence Paradis  
*Disability Rights Advocates*  
Walter Park  
*Access Consultant*  
Anne E. Schneider  
*LD Access Foundation, Inc.*  
Michael P. Stanley  
*Legal Consultant*  
Liane Chie Yasumoto  
*Corporation on Disabilities and Telecom.*

**ATTORNEYS & MANAGEMENT**

Laurence Paradis  
*Executive Director*  
Sid Wolinsky  
*Litigation Director*  
Melissa Kasnitz  
*Managing Attorney*  
Roger Heller  
*Staff Attorney*  
Kevin Knestrick  
*Staff Attorney*  
Alexius Markwalder  
*Staff Attorney*  
Mazen Basrawi  
*EJW / Loeff Cabraser Heimann & Bernstein Fellow*  
Mary-Lee Kimber  
*DRA Fellow*  
Lisa Burger  
*David Boies / LD Access Fellow*  
Kasey Corbit  
*DRA Fellow*  
Laurie Ferreira  
*Finance Director*  
Caroline Amimo  
*Office Manager*  
Patricia Kirkpatrick  
*Development Director*

**ADVISORY BOARD**

Joseph Cotchett  
*Cotchett, Pitre, Simon & McCarthy*  
Hon. Joseph Grodin  
*Retired Justice, California Supreme Court*  
Kathleen Hallberg  
*Ziffren, Brittenham & Branca*  
Karen Kaplowitz  
*President, New Ellis Group*  
Yoshi Kawauchi  
*Architect - Japan*  
Leslie Klinger  
*Partner, Kopple & Klinger LLP*  
Hon. Charles Renfrew  
*Retired, United States District Judge*  
Margaret R. Roisman  
*Partner, Roisman Henel LLP*  
Guy T. Saperstein  
Gerald Uelmen  
*Former Dean, Santa Clara University School of Law*

April 6, 2006

**Via Electronic Mail**

Robert A. Naeve  
Morrison Foerster  
19900 MacArthur Boulevard, Twelfth Floor  
Irvine, California 92612

Re: **NFB v. Target**

Dear Mr. Naeve,

I write to follow up on your recent conversation with Larry Paradis regarding the possibility of a stipulation for relief from the Northern District of California's General Order No. 56 "Americans with Disabilities Access Litigation." Please find attached a draft joint motion and a draft proposed order. If you would like to propose any changes we would be happy to consider them. Please let us know no later than April 13, 2006 if Target is willing to submit the proposed stipulation.

Thank you for your cooperation.

Sincerely,

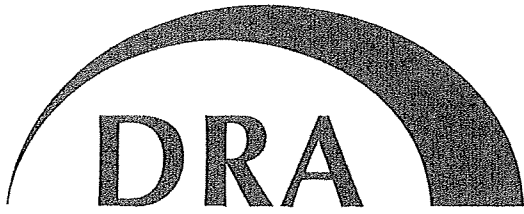
/s/ Mazen M. Basrawi

Mazen M. Basrawi

enclosure

cc: Larry Paradis  
Josh Konecky  
Dan Goldstein  
Camilla Roberson  
David McDowell  
Michael Bostrom

## **EXHIBIT B**



**DISABILITY RIGHTS ADVOCATES**

A non-profit corporation

2001 Center Street, Third Floor  
Berkeley, CA 94704-1204  
Phone (510) 665-8644  
Fax (510) 665-8511  
TTY (510) 665-8716  
www.dralegal.org

**BOARD OF DIRECTORS**

Shelley Bergum  
*California Communications Access Foundation*  
Peter Blanck  
*University of Iowa School of Law*  
Frederick L. Cannon  
*Keefe, Bruyette & Woods, Inc.*  
Mark A. Chavez  
*Chavez & Gertler LLP*  
Dr. Alan Kalmanoff  
*Institute for Law and Policy Planning*  
Johnnie Lacy  
*CRIL (Retired)*  
Paul Longmore  
*San Francisco State University*  
Laurence Paradis  
*Disability Rights Advocates*  
Walter Park  
*Access Consultant*  
Anne E. Schneider  
*LD Access Foundation, Inc.*  
Michael P. Stanley  
*Legal Consultant*  
Liane Chie Yasumoto  
*Corporation on Disabilities and Telecom.*

April 26, 2006

**Via Electronic Mail**

Michael J. Bostrom  
Morrison Foerster  
555 West Fifth Street, Suite 3500  
Los Angeles, California 90013-1024

Re: **NFB v. Target**

Dear Mr. Bostrom,

I write to inform you that Plaintiffs intend to file a motion for preliminary relief. We would like to know if you will stipulate to or agree not to oppose a motion for leave from the Northern District's General Order No. 56 to allow Plaintiffs to file such a motion. Please let us know no later than Friday April 28, 2006.

Sincerely,

Mazen M. Basrawi

cc: Larry Paradis  
Josh Konecky  
Dan Goldstein  
Camilla Roberson  
David F. McDowell  
Robert A. Naeve

**ATTORNEYS & MANAGEMENT**

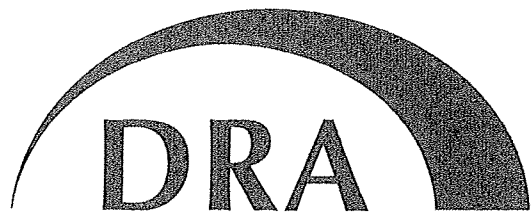
Laurence Paradis  
*Executive Director*  
Sid Wolinsky  
*Litigation Director*  
Melissa Kasnitz  
*Managing Attorney*  
Roger Heller  
*Staff Attorney*  
Kevin Knestrick  
*Staff Attorney*  
Alexius Markwalder  
*Staff Attorney*  
Mazen Basrawi  
*EJW / Lief Cabraser Heimann & Bernstein Fellow*  
Mary-Lee Kimber  
*DRA Fellow*  
Lisa Burger  
*David Boies / LD Access Fellow*  
Kasey Corbit  
*DRA Fellow*  
Laurie Ferreira  
*Finance Director*  
Caroline Amimo  
*Office Manager*  
Patricia Kirkpatrick  
*Development Director*

**ADVISORY BOARD**

Joseph Cotchett  
*Cotchett, Pitre, Simon & McCarthy*  
Hon. Joseph Grodin  
*Retired Justice, California Supreme Court*  
Kathleen Hallberg  
*Ziffren, Brittenham & Branca*  
Karen Kaplowitz  
*President, New Ellis Group*  
Yoshi Kawauchi  
*Architect - Japan*  
Leslie Klinger  
*Partner, Kopple & Klinger LLP*  
Hon. Charles Renfrew  
*Retired, United States District Judge*  
Margaret R. Roisman  
*Partner, Roisman Henel LLP*  
Guy T. Saperstein  
Gerald Uelmen  
*Former Dean, Santa Clara University School of Law*

**EXHIBIT C**





**DISABILITY RIGHTS ADVOCATES**

A non-profit corporation

2001 Center Street, Third Floor  
Berkeley, CA 94704-1204  
Phone (510) 665-8644  
Fax (510) 665-8511  
TTY (510) 665-8716  
www.dralegal.org

**BOARD OF DIRECTORS**

- Shelley Bergum  
*California Communications Access Foundation*
- Peter Blanck  
*University of Iowa School of Law*
- Frederick L. Cannon  
*Keefe, Bruyette & Woods, Inc.*
- Mark A. Chavez  
*Chavez & Gertler LLP*
- Dr. Alan Kalmanoff  
*Institute for Law and Policy Planning*
- Johnnie Lacy  
*CRIL (Retired)*
- Paul Longmore  
*San Francisco State University*
- Laurence Paradis  
*Disability Rights Advocates*
- Walter Park  
*Access Consultant*
- Anne E. Schneider  
*LD Access Foundation, Inc.*
- Michael P. Stanley  
*Legal Consultant*
- Liane Chie Yasumoto  
*Corporation on Disabilities and Telecom.*

April 27, 2006

**Via Electronic Mail**

Michael J. Bostrom  
Morrison Foerster  
555 West Fifth Street, Suite 3500  
Los Angeles, California 90013-1024

Re: **NFB v. Target**

Dear Mr. Bostrom,

I write to follow up on our telephone conversation this morning. So that there is no uncertainty, we will be asking the court to order Target to make its website accessible to blind persons who use screen readers within ninety (90) days. As we have explained to your client, there are a variety of approaches to doing so including following the relevant guidelines under Priority I and Priority II of the web content accessibility guidelines promulgated by the World Wide Web Consortium (W3C) and the guidelines pursuant to Section 508 of the Rehabilitation Act (28 USC §794(d) published at 36 CFR §1194 *et seq.*). This is precisely the relief that the NFB has been demanding from the very beginning.

Please let me know by 5:00 p.m. tomorrow, April 28, 2006, whether Target will stipulate to administrative relief from General Order No. 56 for the purpose of Plaintiffs' motion for preliminary relief.

Sincerely,

Mazen M. Basrawi

- cc: Larry Paradis
- Josh Konecky
- Dan Goldstein
- Camilla Roberson
- David F. McDowell
- Robert A. Naeve

**ATTORNEYS & MANAGEMENT**

- Laurence Paradis  
*Executive Director*
- Sid Wolinsky  
*Litigation Director*
- Melissa Kasnitz  
*Managing Attorney*
- Roger Heller  
*Staff Attorney*
- Kevin Knestrick  
*Staff Attorney*
- Alexius Markwalder  
*Staff Attorney*
- Mazen Basrawi  
*EJW / Lief Cabraser Heimann & Bernstein Fellow*
- Mary-Lee Kimber  
*DRA Fellow*
- Lisa Burger  
*David Boies / LD Access Fellow*
- Kasey Corbit  
*DRA Fellow*
- Laurie Ferreira  
*Finance Director*
- Caroline Amimo  
*Office Manager*
- Patricia Kirkpatrick  
*Development Director*

**ADVISORY BOARD**

- Joseph Cotchett  
*Cotchett, Pitre, Simon & McCarthy*
- Hon. Joseph Grodin  
*Retired Justice, California Supreme Court*
- Kathleen Hallberg  
*Ziffren, Brittenham & Branca*
- Karen Kaplowitz  
*President, New Ellis Group*
- Yoshi Kawauchi  
*Architect - Japan*
- Leslie Klinger  
*Partner, Kopple & Klinger LLP*
- Hon. Charles Renfrew  
*Retired, United States District Judge*
- Margaret R. Roisman  
*Partner, Roisman Henel LLP*
- Guy T. Saperstein
- Gerald Uelmen  
*Former Dean, Santa Clara University School of Law*

**EXHIBIT D**

**MORRISON | FOERSTER**

19900 MACARTHUR BLVD.  
IRVINE  
CALIFORNIA 92612-2445

TELEPHONE: 949.251.7500  
FACSIMILE: 949.251.0900

WWW.MOFO.COM

MORRISON & FOERSTER LLP  
NEW YORK, SAN FRANCISCO,  
LOS ANGELES, PALO ALTO,  
SAN DIEGO, WASHINGTON, D.C.

DENVER, NORTHERN VIRGINIA,  
ORANGE COUNTY, SACRAMENTO,  
WALNUT CREEK, CENTURY CITY

TOKYO, LONDON, BEIJING,  
SHANGHAI, HONG KONG,  
SINGAPORE, BRUSSELS

April 28, 2006

Mazen M. Basrawi, Esq.  
Disability Rights Advocates  
449 16th Street  
Suite 303  
Oakland, California 94612-2821

Re: *NFB v. Target*

Dear Mr. Basrawi:

Thank you for your April 27, 2006 letter to Michael Bostrom, in which you confirm that NFB will be asking for a court order requiring "Target to make its website accessible to blind persons who use screen readers." You ask that we stipulate to administrative relief from General Order 56, apparently so that you can file your motion forthwith. This letter constitutes our preliminary response, which we ask you to include in whatever papers you file with Judge Patel.

As you know, Target has filed a motion to dismiss NFB's amended complaint in this action. Our motion raises serious constitutional and statutory issues which, if accepted by the Court, would suggest that NFB should address its concerns about the accessibility of Internet Websites to the Congress, the Access Board, and state legislatures, rather than to the Court. We understand that you disagree with our analysis. Indeed, you'll need to plow through many of the same legal issues in moving for whatever preliminary relief you have in mind. Under the circumstances, we believe that the type of repetitive and dual track litigation you seek to pursue is unnecessary, inefficient and, in a phrase, places the cart well ahead of the equine. For at least these reasons, we decline your request that the parties stipulate to additional administrative relief.

I briefly note that your April 27, 2006 letter, as well as other communications you have made about this case, come perilously close to crossing the line of confidentiality we agreed to long ago. We request that you comply with your contractual and ethical obligations in this regard.

Very truly yours,

  
Robert A. Naeve