

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

5
 TODD M. SCHNEIDER (California Bar No. 158253)
 6 JOSHUA KONECKY (California Bar No. 182897)
 SCHNEIDER & WALLACE
 7 180 Montgomery Street, Suite 2000
 San Francisco, CA 94104
 8 Telephone: (415) 421-7100
 Fax: (415) 421-7105
 9 TTY: (415) 421-1655

10 DANIEL F. GOLDSTEIN (*pro hac vice*)
 BROWN, GOLDSTEIN & LEVY, LLP
 11 120 E. Baltimore St., Suite 1700
 Baltimore, MD 21202
 12 Telephone: (410) 962-1030
 Fax: (410) 385-0869

DISABILITY RIGHTS ADVOCATES
 2001 Center Street, Third Floor
 Berkeley, CA 94704-1204
 510.665.8644

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

18 NATIONAL FEDERATION OF THE
 19 BLIND, the NATIONAL FEDERATION OF
 20 THE BLIND OF CALIFORNIA, on behalf of
 21 their members and all others similarly situated,
 and BRUCE F. SEXTON, on behalf of himself
 and all others similarly situated,

22 Plaintiffs,

23 v.

24 TARGET CORPORATION

25 Defendant.
 26
 27
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Case No.: C 06-01802 MHP

CLASS ACTION

**[proposed] ORDER DENYING
 DEFENDANT TARGET
 CORPORATION'S MOTION TO
 DISMISS**

Judge: The Honorable Marilyn Hall Patel

1 Having considered Defendant Target Corporation’s (“Target”) Motion to Dismiss
2 Plaintiffs’ Amended Complaint and Plaintiffs’ Opposition; and good cause appearing, the Court
3 hereby DENIES Target’s Motion for the following reasons:

- 4 1. plaintiffs have properly pled a claim under the Americans With Disabilities Act
5 (“ADA”), 42 U.S.C. §§12101, *et seq.*, because Target stores are places of public
6 accommodation and target.com is a service, privilege and advantage of Target stores
7 that is denied to the blind;
- 8 2. plaintiffs have properly pled a claim under the Unruh Act, Cal. Civ. Code §§51, *et*
9 *seq.*, because:
 - 10 (a) Target is a business establishment within the meaning of the Unruh Act and
11 target.com is a service, privilege and advantage that Target denies to the blind;
12 and
 - 13 (b) plaintiffs have properly pled a claim under Title III of the ADA;
- 14 3. plaintiffs have properly pled a claim under California’s Disabled Persons Act
15 (“DPA”), Cal. Civ. Code §§54, *et seq.*, because:
 - 16 (a) Target stores are public accommodations within the meaning of the DPA and
17 target.com is a privilege, service and advantage of Target stores that is denied
18 to the blind;
 - 19 (b) target.com is a public place within the meaning of the DPA that is denied to the
20 blind; and
 - 21 (c) plaintiffs have properly pled a claim under Title III of the ADA;
- 22 4. The Commerce Clause of the Constitution of the United States, U.S. Const. art. I,
23 §8, cl. 3, does not bar the application of the Unruh Act and DPA to target.com.

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25 IT IS SO ORDERED.

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27 Dated: _____, 2006

28 HONORABLE MARILYN H. PATEL
United States District Court Judge

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