

# EXHIBIT 1

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN FRANCISCO DIVISION

4 - - -

5 NATIONAL FEDERATION OF THE BLIND, the  
6 NATIONAL FEDERATION OF THE BLIND OF  
7 CALIFORNIA, on behalf of their members,  
8 and Bruce F. Sexton, on behalf of himself  
9 and all other similarly situated,

10 Plaintiff,

11 vs. No. C06-01802 MHP

12 TARGET CORPORATION, et al.,

13 Defendants.

14 -----/

15 DEPOSITION OF  
16 CHARLES LETOURNEAU  
17 SAN FRANCISCO, CALIFORNIA  
18 JULY 5, 2006

19 ATKINSON-BAKER, INC.

20 COURT REPORTERS

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23 REPORTED BY: DANUTA KRANTZ, CSR NO. 4782

24 FILE No.: A005872

1 A. It was from Stuart.

2 Q. Mr. Plunkett?

3 A. Mr. Plunkett.

4 Q. And what did Mr. Plunkett say to you,  
5 roughly, the gist?

6 A. Roughly, he introduced himself as  
7 representing Morrison & Foerster. He said that they  
8 were legal representatives for Target Corporation in a  
9 complaint filed by the, as I recall, the National  
10 Federation of the Blind and probably others, and asked  
11 me some questions about my experience in website  
12 accessibility in my field, and that was the gist of it.  
13 Yes.

14 Q. Did he indicate that he was interested in  
15 retaining your services as a litigation expert?

16 A. I don't remember if that was in the first  
17 call or in a follow-up call. It might have been in the  
18 first call, but I think he was wanting to find out if I  
19 met his qualifications for --

20 Q. Did he explain that this litigation  
21 concerns the accessibility of target.com to blind  
22 users?

23 A. Yes.

24 Q. Had you ever evaluated target.com before?

25 A. No.

1 Q. And have you, up through now, gone and  
2 inspected target.com?

3 A. No, I have not.

4 Q. Why not?

5 A. I was not asked to.

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6 Q. I take it you provide services to website  
7 designers and authors in helping them make their  
8 websites accessible; is that right?

9 A. Yes, among other things.

10 Q. What standards do you apply when you assist  
11 a website designer or author in making its website  
12 accessible?

13 A. Primarily I use the standards or guidelines  
14 that I am asked to use by the client.

15 Q. Have you assisted any retailer in making a  
16 retailer's website accessible?

17 A. No, I have not.

18 Q. Have you assisted any business entity that  
19 is not a government entity in making its website  
20 accessible?

21 A. No, I have not.

22 Q. What types of entities have you assisted in  
23 helping make their websites accessible?

24 A. Federal government of Canada primarily, and  
25 a number of nongovernmental organizations, such as

1 advocacy groups and organizations for people with  
2 disabilities.

3 Q. Were you asked not to look at target.com?

4 A. I don't recall being asked that. I was not  
5 asked to look at it.

6 Q. Do you find it surprising that you were not  
7 asked to look at the website which is the subject of  
8 this litigation?

9 A. No, I don't think so, because I was asked  
10 some specific questions that didn't require the answers  
11 and which didn't require looking at the website.

12 Q. What questions were you asked to address?

13 A. I was asked three questions. One was about  
14 the different kinds of standards, the different  
15 standards that exist for people to follow in designing  
16 websites. I was asked about screen reader usage by  
17 people who are blind. And I was asked specifically  
18 there about the kind of versions of screen readers that  
19 exist, differences between versions.

20 And thirdly, if other factors besides  
21 websites' compliance affect how people with  
22 disabilities interact with those websites.

23 MR. PARADIS: Can you read that last answer  
24 back, please?

25 (Record read.)

1 Thatcher.

2 MR. PARADIS: Q. Have you -- you have  
3 worked hand in hand with him on a variety of projects  
4 relating to web accessibility; is that right?

5 A. I wouldn't say hand in hand, but we have  
6 worked together on committees and working groups, yes.

7 Q. Would you say that Dr. Thatcher is highly  
8 regarded in the field among experts in your field?

9 A. Yes.

10 Q. Have you reviewed the declaration that  
11 Dr. Thatcher prepared and signed in this litigation?

12 A. No.

13 Q. Were you aware that Dr. Thatcher had  
14 executed a declaration in this case?

15 A. Yes.

16 Q. Did you ever ask to see Dr. Thatcher's  
17 declaration?

18 A. No.

19 Q. Why not?

20 A. It was not part of what I was being asked.

21 Q. You said that the third question you were  
22 being asked was whether other factors besides website  
23 compliance affect how people with disabilities interact  
24 with websites.

25 What is the role of website compliance

1 A. Yes.

2 Q. Let me show you a document we have marked  
3 as Plaintiff's Exhibit F. And I will give a copy to  
4 Stuart.

5 MR. PLUNKETT: Is this F because you  
6 premarked exhibits?

7 MR. PARADIS: Yes. And I think all of this  
8 is Exhibit F. That is your copy.

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9 Q. Mr. Letourneau, would you review Exhibit F  
10 and tell me if that looks like a printout of your  
11 website?

12 A. Yes.

13 Q. Okay. Now, the very first paragraph of  
14 your website has a definition of web accessibility. Do  
15 you see that?

16 A. Yes.

17 Q. It says, "What does web accessibility mean?  
18 To me it means that anyone using any kind of web  
19 browsing technology must be able to visit any site and  
20 get a full and complete understanding of the  
21 information contained there, as well as have the full  
22 and complete ability to interact with the site."

23 Is that your understanding of web  
24 accessibility?

25 A. Writ large, yes.

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1           A. The use of appropriate alt text is very  
2 important to the experience of someone using the  
3 website, someone with a screen reader using a website.

4           Q. Is it a critical requirement for blind  
5 users?

6           MR. PLUNKETT: Objection. Vague.  
7 Incomplete hypothetical. Calls for speculation.

8           THE WITNESS: According to the standard, it  
9 is important, a very important part of the web  
10 experience. Yes.

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11           MR. PARADIS: Q. Based on your own  
12 experience as an expert, would you agree that correctly  
13 providing alt text is a critical access requirement for  
14 blind users to a website?

15           MR. PLUNKETT: Objection. Incomplete  
16 hypothetical. Calls for speculation.

17           THE WITNESS: In general, yes.

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18           MR. PARADIS: Q. Another element you  
19 mentioned here is, "misuse or don't use title."

20                    What does "title" mean as you used it here?

21           A. The title I am referring to there is the  
22 HTML title that appears in the top bar of most browsers  
23 to identify the page.

24           Q. Is that sometimes also referred to as  
25 headings?



1 Q. Yes.

2 A. What was the intent?

3 Would you repeat that, please?

4 (Record read.)

5 THE WITNESS: Actually, I am not sure I  
6 understand what you mean by "intent" in that.

7 MR. PARADIS: Q. Am I correct that  
8 Priority Two is the designation for features that are  
9 important to provide because some people with  
10 disabilities will have difficulty using the website  
11 unless they are provided?

12 A. I think that characterizes the intent of  
13 Priority Two, yes.

14 Q. And then Priority Three are features that  
15 are not as important as Priorities One and Two, in  
16 terms of making a website usable by disabled people; is  
17 that correct?

18 A. That is an interpretation of that, yes.

19 Q. Is that an interpretation you would agree  
20 with?

21 A. I think in general, yes.

22 Q. Looking again at slide 4 from this  
23 Exhibit E, I see that using header elements to convey  
24 document structure is a Priority Two item. Do you see  
25 that?

1 A. Yes.

2 Q. What does that mean?

3 MR. PLUNKETT: Objection. Vague.

4 THE WITNESS: If a document is a structured  
5 document, then proper use of headers to identify the  
6 sections of that document will aid the understanding  
7 and navigation of that document.

8 MR. PARADIS: Q. Would you consider this a  
9 basic navigation element as you have used the term  
10 "basic"?

11 A. For structured documents, yes.

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12 Q. And is this a basic navigation element that  
13 blind people need?

14 MR. PLUNKETT: Objection. Incomplete  
15 hypothetical. Calls for speculation.

16 THE WITNESS: The use of headers would make  
17 it easier for a blind person to navigate a structured  
18 document. Do they need it? That is open to  
19 speculation.

20 MR. PARADIS: Q. Was it the consensus of  
21 the WCAG working group -- let me start again.

22 Was there a WCAG working group?

23 A. Yes.

24 Q. Is that the group that developed the WCAG  
25 1.0 standards?

1 Q. Right. Unfortunately, the declaration and  
2 the attachments use letters. The declaration is  
3 Exhibit B, and attached to the declaration as Exhibit A  
4 is an assessment report that Dr. Thatcher prepared in  
5 July of 2005.

6 A. Thank you.

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7 Q. I would like you to look at the tab on the  
8 first page of this report, paragraph three. It's  
9 labeled, "Summary: Target.com accessibility."

10 And then he says in here, "The key issues  
11 for accessibility of any site are: No. 1, Text  
12 equivalentents for images."

13 Do you see that?

14 A. Yes.

15 Q. Do you agree with that?

16 A. Yes.

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17 Q. No. 2, on the next page is, "Labeling for  
18 forms."

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19 Do you have an understanding of what  
20 "Labeling for forms" means?

21 A. Yes.

22 Q. And do you consider labeling for forms to  
23 be a key issue for accessibility of any site for blind  
24 users?

25 MR. PLUNKETT: Objection. Calls for

1 speculation. Incomplete hypothetical.

2 THE WITNESS: I think that proper labeling  
3 of forms can make forms easier to use.

4 MR. PARADIS: Q. What is your  
5 understanding of the requirements within WCAG 1.0  
6 concerning labeling of forms?

7 A. I believe it was a Priority Two. I just --  
8 I want to refresh myself on that.

9 Q. Sure.

10 A. Yes. Priority Two.

11 Q. And what is the purpose for requiring  
12 labeling of forms within WCAG as you understand it?

13 MR. PLUNKETT: Objection. Vague.

14 THE WITNESS: It would -- my interpretation  
15 of that has been that for screen readers that recognize  
16 form labels, it allows the web page designer more  
17 flexibility in how they design their forms, so that the  
18 label that applies for a particular field is  
19 discoverable.

20 MR. PARADIS: Q. Is the ultimate purpose,  
21 as you understand it, so that a blind user can know  
22 with confidence what each field within the form calls  
23 for?

24 A. It would aid that, yes.

25 Q. And is the ultimate purpose, so that a

1 blind user can fill out a form with as much ease and  
2 confidence as a sighted person could?

3 A. Yes.

---

4 Q. The third item Dr. Thatcher mentions is  
5 labeled "Techniques for navigation." And he says,  
6 "Large pages with lots of links are organized into  
7 groups or sections. When those section headings are  
8 marked up as HTML headings, the keyboard user can move  
9 from section to section with a single key on the  
10 keyboard. Without this accommodation it is extremely  
11 difficult to use the page for its intended purpose."

12 Do you agree that this is an important  
13 access element for blind users in a web page such as  
14 target.com?

15 A. I can't --

16 MR. PLUNKETT: Objection. Calls for  
17 speculation.

18 THE WITNESS: I have not seen target.com,  
19 so I can't --

20 MR. PARADIS: Q. Have you seen the website  
21 of any large retail company?

22 A. Yes.

23 Q. Can you give me an example of one you have  
24 seen in the last year?

25 A. Company called Future Shop.

1 specific. There are many techniques for navigation.

2 MR. PARADIS: Q. Well, looking at how  
3 Dr. Thatcher describes it in paragraph three, he says,  
4 "Large pages with lots of links are organized into  
5 groups or sections."

6 Do you consider that an important access  
7 feature for blind users of a web page that has lots of  
8 links?

9 MR. PLUNKETT: Objection. Vague. Calls  
10 for speculation. Incomplete hypothetical.

11 THE WITNESS: It might very well.

12 MR. PARADIS: Q. In a website that has a  
13 home page with lots of different sections that perform  
14 different functions, is it important for such a page to  
15 have techniques for navigation so that blind users can  
16 move easily around the home page?

17 MR. PLUNKETT: Objection. Incomplete  
18 hypothetical. Calls for speculation. Vague.

19 THE WITNESS: There are many techniques for  
20 navigation, and having some is important.

21 MR. PARADIS: Q. And particularly -- is it  
22 particularly important to have a mechanism to avoid  
23 repetitive navigation links on such a page?

24 MR. PLUNKETT: Objection. Incomplete  
25 hypothetical. Calls for speculation. Vague.

1 THE WITNESS: In general, yes, I do believe  
2 that.

3 MR. PARADIS: Q. And that is a requirement  
4 of Section 508 guidelines, correct?

5 A. I believe it is, yes.

6 Q. Just so I am clear, what do you mean by a  
7 computer -- I am sorry. What do you mean by a web page  
8 versus a website?

9 A. A web page -- a lot of people are arguing  
10 over this one right now. In my opinion, a web page is  
11 a single unit delivered by the entering of a URL, a web  
12 address. A website is the complete collection of  
13 linked pages in a website.

14 Q. The next item, No. 4, in Dr. Thatcher's  
15 report, is labeled, Keyboard access.

16 Do you consider it a critical access  
17 feature for blind users that a website enable them to  
18 perform all of the user functions through a keyboard?

19 MR. PLUNKETT: Objection. Incomplete  
20 hypothetical. Calls for speculation. Vague.

21 THE WITNESS: I generally agree with that,  
22 yes.

23 MR. PARADIS: Q. On the next paragraph,  
24 going to the second sentence -- first of all, this  
25 paragraph discusses target.com. And it says, "On these

1 MR. PARADIS: Q. What about Section 508?

2 Is it the recommended method under 508?

3 A. I don't remember the exact wording of 508.

4 I would have to read it to refresh my memory.

5 Q. Is some form of form labeling required

6 under Section 508?

7 A. I would have to read the web section of

8 that again. I don't have that in front of me.

9 Q. Back to Dr. Thatcher's assessment report.

10 He then says, in the summary paragraph, "Nothing has

11 been done to improve navigation for screen reader or

12 keyboard users," as part of his critique of target.com.

13 Assuming hypothetically that target.com

14 lacks navigation features to enable blind users to move

15 around within the home page easily, would you consider

16 that home page to be inaccessible to blind users?

17 A. I would have to --

18 MR. PLUNKETT: Objection. Vague.

19 Incomplete hypothetical. Calls for speculation.

20 THE WITNESS: I would really have to

21 evaluate the website to give a complete and honest

22 answer to that.

23 MR. PARADIS: Q. Why didn't you evaluate

24 target.com?

25 A. I was not asked to.



1 Q. Do you find it odd that you are being  
2 designated as an expert on web access in this case and  
3 have not even looked at the website at issue?

4 MR. PLUNKETT: Objection. Argumentative.  
5 Do you find it odd?

6 MR. PARADIS: Q. The question is to you.  
7 Do you find that odd?

8 A. I was asked three specific questions, and I  
9 provided my expertise on those answers. You are asking  
10 me a lot of extra questions, but I was not asked by the  
11 lawyers on this side.

12 Q. Do you only evaluate the specific issues  
13 you are asked to address when you are called upon as an  
14 expert on web access?

15 A. I evaluate what the client has asked me to  
16 evaluate.

17 Q. Did you ever find it's curious, in your own  
18 mind, hey, is target.com actually accessible to blind  
19 people or not?

20 MR. PLUNKETT: Objection. Asked and  
21 answered.

22 THE WITNESS: I don't spend my time  
23 wondering about all of the websites that are out there  
24 in the world as to whether they are accessible or not.  
25 There are 75 million websites nowadays. No, I don't

1 ask myself that question.

2 MR. PARADIS: Q. This is the only website  
3 where you have been asked to -- strike that.

4 Are there any other websites that you have  
5 been asked to address in any way as part of a  
6 litigation?

7 A. No.

8 Q. Did your client in this case ask you to  
9 address only those three questions?

10 A. Yes.

11 Q. The next item in Dr. Thatcher's summary  
12 paragraph says, "As a rough estimate, 80 percent of the  
13 images lack text equivalent."

14 Assuming hypothetically that that is  
15 correct, would you consider this a significant access  
16 barrier on target.com?

17 MR. PLUNKETT: Objection. Assumes facts.  
18 Calls for speculation.

19 THE WITNESS: I would have to look at the  
20 website to completely answer that question.

21 MR. PARADIS: Q. You mentioned earlier the  
22 phrase, critical images. Let me ask you to turn to  
23 page 6 of Dr. Thatcher's report. He has got a section  
24 here labeled Detailed Results. And he has got a  
25 summary box under 6.1. Do you see that?

1 for speculation. Lacks foundation.

2 THE WITNESS: The purpose is to facilitate,  
3 to make it easier for someone to do that. Screen  
4 readers are not often very good at fixing bad design or  
5 mitigating bad design.

6 MR. PARADIS: Q. Now, the WCAG guidelines  
7 that you helped develop were designed to make web pages  
8 accessible to a wide variety of different types of  
9 disabilities, correct?

10 A. That's the intent, yes.

11 Q. They were designed to make disabled people  
12 able to access websites using a wide range of  
13 screen-reading software, correct?

14 A. It was to allow web page designers to make  
15 web pages that could facilitate that interaction.

---

16 Q. And the -- your understanding of access  
17 is -- for website access is that even people using  
18 older technologies should be able to interact with the  
19 web page with ease, correct?

20 A. Ideally, yes.

21 MR. PLUNKETT: Objection. Vague.

22 MR. PARADIS: Q. And under your definition  
23 of access, the website designer should not design only  
24 to the most up -- the most recent technologies, but to  
25 the entire range of technologies that are generally