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15 Attorneys for Defendant
 TARGET CORPORATION

17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA

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

22 Plaintiffs,

23 v.

24 TARGET CORPORATION,
 25 Defendant.

Case No. C06-01802 MHP

**DEFENDANT TARGET
 CORPORATION'S MOTION FOR
 ADMINISTRATIVE RELIEF TO
 FILE SURREPLY BRIEF IN
 SUPPORT OF OPPOSITION TO
 PLAINTIFFS' MOTION FOR
 PRELIMINARY INJUNCTION**

[Local Rule 7-11]

1 Defendant Target Corporation (“Target”) seeks leave to file the surreply brief attached
2 hereto as Exhibit 1, as well as the two supporting declarations attached as Exhibits 2 and 3. The
3 surreply is in support of Target’s opposition to the motion for preliminary injunction filed by
4 Plaintiffs National Federation of the Blind, the National Federation of the Blind of California and
5 Bruce Sexton (jointly, “NFB”).

6 Target is mindful of the fact that surreply briefs are ordinarily disfavored. But here, the
7 parties, by agreement and with leave of the Court, conducted depositions of the witnesses who
8 submitted declarations in support of Target’s opposition to the motion for preliminary injunction.
9 NFB has thus submitted new evidence in its reply brief that was not available to the parties at the
10 time the opposition was filed. The surreply brief addresses *only* the new evidence submitted by
11 NFB. The surreply brief is thus warranted and would assist the Court in resolving NFB’s motion.
12 *See Pfohl v. Farmers Ins. Group*, 2004 U.S. Dist. LEXIS 6447 at *4 (C.D. Cal. March 1, 2004)
13 (defendant permitted to file surreply where plaintiff submitted new evidence and raised new
14 argument in reply); *Fedrick v. Mercedes-Benz USA, LLC*, 366 F. Supp. 2d 1190, 1197 (N.D. Ga.
15 2005) (allowing surreply “where a valid reason for such additional briefing exists, such as where
16 the movant raises new arguments in its reply brief”); *Murray v. TXU Corp.*, 2005 U.S. Dist.
17 LEXIS 10298 at *4 (N.D. Tex. May 27, 2005) (surreply appropriate “when the movant raises new
18 legal theories or attempts to present new evidence at the reply stage”).

19 Target is also mindful of the fact that the hearing on the motion for preliminary injunction
20 is set in less than one week. Target filed this motion for administrative relief within two business
21 days after NFB filed a notice of errata regarding citations in its reply brief (which it did after
22 Target notified NFB that certain citations appeared to be incorrect). Target thus acted with
23 diligence in preparing and seeking leave to file a surreply.

1 NFB opposes this motion.

2 Respectfully submitted,

3 Dated: June 18, 2006

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By: /s/
Robert A. Naeve

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Attorneys for Defendant
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