

# **EXHIBIT E**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

NATIONAL FEDERATION OF THE	)	Case No.
BLIND, et al.,	)	-C 06-01802 MHP
Plaintiffs,	)	
v.	)	
TARGET CORPORATION,	)	
Defendant.	)	

DEPOSITION OF BRUCE F. SEXTON  
TUESDAY, MAY 23, 2006

BY: CHRISTINE L. JORDAN, CSR NO. 12262  
1320 ADOBE DRIVE  
PACIFICA, CALIFORNIA 94044  
(650) 359-3201

1 Tuesday, May 23, 2006 1:43 P.M.

2  
3 BRUCE F. SEXTON,  
4 having been first duly sworn, was examined and  
5 testified as follows:

6 THE WITNESS: Yes.  
7 EXAMINATION

8 BY MR. PLUNKETT:

9 Q. Mr. Sexton, my name is Stuart Plunkett. I  
10 represent Target Corporation in this action.

11 Could you state your name and spell it for  
12 the record.

13 A. Bruce Sexton. B-R-U-C-E; Sexton,  
14 S-E-X-T-O-N.

15 Q. What is your current address?

16 A. My current address is 242 - no, sorry,  
17 2415 Dwight Way, Berkeley, California,  
18 94104 - no, 107 (sic). Sorry. I just moved there not  
19 too long ago.

20 Q. When did you move there?

21 A. In August.

22 Q. Okay. What was your prior address?

23 A. It was in Dublin.

24 Q. All right. How long were you in Dublin?

25 A. All my life pretty much.

1 Q. What's your date of birth?

2 A. 11/25/1981.

3 Q. Have you ever had your deposition taken  
4 before?

5 A. No.

6 Q. All right. I just want to give you a few  
7 preliminary instructions which you may have heard from  
8 counsel at some time. But just as a reminder, your  
9 testimony today is under oath, and you're sworn to tell  
10 the truth as if you were in a court.

11 The deposition will proceed in a  
12 question-and-answer format, and it's being transcribed  
13 by the court reporter. The court reporter can only  
14 take down one person's voice at a time, so I'll do my  
15 best to let you finish answering before I start another  
16 question. Hopefully you can do the same with respect  
17 to my questions.

18 Your counsel may state objections on the  
19 record. You should give him an opportunity to do that  
20 before you answer. Unless you're instructed by your  
21 counsel not to answer a question, you should go ahead  
22 and answer it if you understand the question, which  
23 raises another point.

24 If at any time you don't understand my  
25 questions, feel free to ask me to rephrase the question

1 or to define some term in the question or even to ask  
2 the court reporter to read back the question before you  
3 answer it. I want to make sure you understand every  
4 question that's asked before you answer it.

5 When the transcript is prepared after the  
6 deposition is concluded, you'll have an opportunity to  
7 review it and to make any changes. But you should be  
8 aware that we would be entitled to comment on any  
9 changes that you made after the deposition is completed  
10 which is why I ask that you give complete and accurate  
11 answers while we're here in the deposition.

12 If at any time during the deposition you want  
13 to take a break, just ask and we can take a break any  
14 time. Similarly, I'm going to feel free to take a  
15 break any time I want if that's okay with you.

16 Is there anything preventing you from  
17 proceeding with this deposition and from giving full  
18 and complete answers?

19 MR. KONECKY: That's a new question, right,  
20 Counsel, after your preparatory remarks?

21 MR. PLUNKETT: Yes.

22 MR. KONECKY: Okay.

23 THE WITNESS: Could you repeat the question?

24 MR. PLUNKETT: Right.

25

1 BY MR. PLUNKETT:

2 Q. Is there anything preventing you from  
3 proceeding with the deposition today and providing  
4 complete and accurate answers to questions?

5 A. There's nothing preventing me from answering  
6 questions today, no.

7 Q. All right. One of the common answers that  
8 or withdraw.

9 One of the reasons for asking that question  
10 is in case a witness is on medication or is not feeling  
11 well or something like that at the time of the  
12 deposition. So that's the type of information I was  
13 attempting to elicit, and it sounds like the answer to  
14 that is no, and you're fine to proceed; is that right?

15 MR. KONECKY: Well, that's overbroad.

16 You can tell him if you're on any medication  
17 or there's anything else that would prevent you from --  
18 as far as you know from testifying truthfully and  
19 accurately. But I think that's all the information  
20 he's seeking.

21 THE WITNESS: I'm ready to proceed. There's  
22 no -- nothing that I know of to -- that would prevent  
23 me from doing this.

24 MR. PLUNKETT: All right.

25

1 Q. Just to be clear, I was asking for a list of  
2 sites that you consider to be accessible. And I know  
3 you listed Walmart.com and then you said "shopping."  
4 Is shopping a website?

5 A. Oh, I'm sorry. What I meant was Safeway.com,  
6 shopping in places like Safeway or Albertsons.com, that  
7 sort of thing.

8 Q. And are the websites that we've just talked  
9 about websites that are accessible to you using your  
10 adaptive technology?

11 A. The websites that we've talked about are  
12 acceptably accessible to me, yes.

13 Q. And what do you mean by "acceptably  
14 accessible"?

15 A. They allow me to make purchases and navigate  
16 through their sites with -- with ease.

17 Q. Are you able to identify any websites other  
18 than Target.com and Amazon.com that do not allow you to  
19 navigate through the sites and make purchases with  
20 ease?

21 A. I've been to sites that -- that are -- like  
22 Amazon and Target I can recall. But I don't recall  
23 which ones they are. I didn't keep track of all of the  
24 ones I went to that were not accessible.

25 Q. Can you tell me approximately how long you've

1 been making -- withdraw.

2 Can you tell me approximately how long you've  
3 been shopping using the Internet.

4 A. I would say even since I was around, um,  
5 maybe 12, 15 -- between 12 and 15 years old is when I  
6 started shopping online.

7 Q. When shopping online, have you ever found it  
8 necessary to make a telephone call to the website owner  
9 to ask him a question about using their site?

10 A. I don't recall ever making a phone call to a  
11 person asking them about how to use their site.

12 Q. Do you recall ever asking for help from a  
13 sighted person when shopping online?

14 A. I -- I have asked sighted people to help if  
15 there's somebody available to help. Oftentimes,  
16 there's not. And I've also e-mailed many -- many  
17 different places to -- well, I wouldn't say many but  
18 places where I incur problems about their site and the  
19 accessibility thereof.

20 Q. You're saying that you've sent e-mails to the  
21 website operator if you've had accessibility issues?

22 A. I've sent e-mails to the person who I think  
23 is in charge of that portion of the site, yes.

24 Q. Can you remember any particular instances  
25 when you've done that?

1 A. I can't remember specific instances where  
2 I've ever done that. I just know that I have.

3 Q. Did you do that with Target.com?

4 A. I never sent, to my knowledge, any e-mails to  
5 Target.com.

6 Q. In your declaration at paragraphs 19 through  
7 27, you talk about your experience shopping at Target  
8 retail stores. When going -- have you ever shopped at  
9 a Target retail store by yourself?

10 MR. KONECKY: Do you want to read a  
11 particular section of the declaration that you're  
12 referring to?

13 MR. PLUNKETT: No, unless it would help the  
14 witness to answer. That was my clever way of  
15 transitioning into a new topic.

16 MR. KONECKY: I thought you were looking at  
17 paragraph 19 where it says, "I have shopped at Target  
18 stores for several years by myself and with members of  
19 my family."

20 THE WITNESS: Right. Yes, I have shopped by  
21 myself.

22 BY MR. PLUNKETT:

23 Q. And when you shopped at Target by yourself,  
24 how were you able to pick products out and complete a  
25 purchase?

1 A. I -- I would go to a customer service  
2 representative and ask them to help me out if -- if I  
3 needed it.

4 Q. When you requested that service, was it  
5 always available to you?

6 A. Finding somebody to help me wasn't always  
7 easy.

8 Q. Can you explain that?

9 A. The Target stores are pretty big, and so  
10 finding somebody isn't always easy to do because of the  
11 size of the store, because of the availability of  
12 people not -- not lack of my skill or independence  
13 because that's one of the things I'm trained how to do,  
14 is shop independently.

15 Q. So when you were -- when you overcame the  
16 difficulty of finding someone in a Target store, were  
17 you always provided with the service of having someone  
18 help you shop there?

19 MR. KONECKY: Objection; vague and ambiguous,  
20 assumes facts not in the record.

21 You can answer.

22 THE WITNESS: To my knowledge, I was always  
23 given service. The quality thereof may not have been  
24 the kind that I -- I would have liked. For example, I  
25 oftentimes bring somebody with me who -- who knows how

1 to describe products to me and what not to do with a  
2 blind person, such as to -- to only give me one option.

3 And I've had problems with customer service.  
4 Sometimes they'll say, "Well, this is -- this is a  
5 product, and that's what we have available." Yet when  
6 I go into the store when I hire somebody to come with  
7 me to do the same service, they might tell me that  
8 there's a lot -- a lot of options on the shelf and  
9 which ones they are because they are -- they're  
10 specifically hired to do that job with me.

11 **Q. Approximately how many times have you shopped**  
12 **at a Target store with the assistance of Target**  
13 **personnel?**

14 MR. KONECKY: Objection; overbroad.

15 THE WITNESS: I've been shopping at Target  
16 probably since I was -- independently since I was  
17 around 12 years old, and I'm 26 now. So whatever the  
18 average would be for somebody in that age range, it's  
19 probably around that. I mean, I'm just as avid of a  
20 shopper as anybody else.

21 BY MR. PLUNKETT:

22 **Q. Would you say approximately once a month --**  
23 **withdraw.**

24 **Just to be clear, I'm asking about the times**  
25 **that you have gone to Target and shopped with the**

1 **assistance of Target personnel and not the times that**  
2 **you've gone to Target with somebody else. And I**  
3 **believe in your declaration -- I know in your**  
4 **declaration you say you've done both.**

5 A. Right.

6 **Q. So just to be clear, I want to limit my**  
7 **question to those times when you have shopped at Target**  
8 **with the assistance of Target personnel.**

9 **Can you estimate the approximate number of**  
10 **times you've done that?**

11 MR. KONECKY: Objection; vague and ambiguous  
12 and overbroad.

13 THE WITNESS: More often than not I have gone  
14 with somebody. So the number of times is probably few  
15 and far in between; though, I do it and I have done  
16 it. I can't give you a number. I'm sorry.

17 BY MR. PLUNKETT:

18 **Q. Okay. And I don't want an exact number, but**  
19 **unfortunately we do need to have your best estimation.**

20 **Has it been more than ten times, if you know?**

21 A. Probably --

22 MR. KONECKY: I'm going to object as the  
23 preparatory remarks, and it's been asked and answered.

24 But you can answer again.

25 THE WITNESS: Probably more than ten times.

1 BY MR. PLUNKETT:

2 **Q. More than 20 times?**

3 A. I -- I don't -- I don't know if it's been  
4 more than 20 times. Probably between 10 and 35 times,  
5 if I had to guesstimate.

6 **Q. And you mentioned earlier that there have**  
7 **been times when the quality of service was not up to**  
8 **par. On approximately how many of those occasions was**  
9 **the quality of service provided not up to par?**

10 MR. KONECKY: Objection; vague and ambiguous,  
11 overbroad.

12 THE WITNESS: I'd say about 70 percent of the  
13 time that I -- I go and use customer service it's --  
14 it's poorer quality than what I would get if I brought  
15 somebody myself.

16 BY MR. PLUNKETT:

17 **Q. You mentioned that one of the problems is**  
18 **that you're not told about all of the options for a**  
19 **particular product; is that right?**

20 A. Yes.

21 **Q. Can you identify any other problems with the**  
22 **customer service you've experienced?**

23 A. Well, as I said before, not being able to  
24 find them because the fact that they're -- they're not  
25 around is -- is a problem. They don't always offer to

1 help -- help me. They don't come up to me necessarily  
2 within the first 10 or 20, sometimes 30 or 40 minutes  
3 that I'm there which, in my mind, if you're there for  
4 five minutes and you're blind, alone, they should come  
5 up to you and say, "Oh, can I help you," you know.  
6 It's just courtesy, common, nice thing to do.

7 **Q. Have there been customer service problems**  
8 **other than not being able to find someone and not being**  
9 **pointed out the different options of a particular**  
10 **product?**

11 MR. KONECKY: Objection; asked and answered.  
12 You can continue.

13 THE WITNESS: I'm sure there have been, but I  
14 can't -- I can't recall.

15 BY MR. PLUNKETT:

16 **Q. You mentioned that you've waited at a Target**  
17 **store for 40 minutes before someone came up to you; is**  
18 **that correct?**

19 A. I --

20 MR. KONECKY: Objection; vague and ambiguous.

21 THE WITNESS: I think what I said is  
22 something between 10 and 40 minutes. And I'm not just  
23 standing there waiting for somebody; I'm actively  
24 looking for somebody to help me.

25 MR. PLUNKETT: Can you read the answer back.

1 (Record read as follows:  
2 "ANSWER: I think what I said is something  
3 between 10 and 40 minutes. And I'm not just  
4 standing there waiting for somebody; I'm  
5 actively looking for somebody to help me.")

6 BY MR. PLUNKETT:

7 Q. What's the longest you have looked for  
8 someone to help you before you found them?

9 A. I can't -- I can't estimate that. I don't  
10 know.

11 Q. Of the between 10 and 35 times that you've  
12 sought assistance at Target to help shop on your own,  
13 how many times or what percentage of the times did it  
14 take longer than you thought it should have to find  
15 someone to help you?

16 A. I would guess between 25 and 35 percent of  
17 the time.

18 Q. On the occasions that you shopped at Target  
19 on your own with the assistance of Target, did Target  
20 ever refuse to provide you with assistance?

21 MR. KONECKY: Objection; vague and ambiguous,  
22 compound.

23 THE WITNESS: I don't think I nor anyone else  
24 would ever be denied service. No, I have not been  
25 denied service once I've found somebody to -- to attend

1 to my needs.

2 BY MR. PLUNKETT:

3 Q. How far is the closest Target from where you  
4 currently reside?

5 A. I --

6 MR. KONECKY: That you know.

7 THE WITNESS: Huh?

8 MR. KONECKY: I'll object as to the extent it  
9 requires speculation.

10 That you know.

11 THE WITNESS: The only Target that I'm sure  
12 of that's close to where I live is probably 30, 30 to  
13 40 miles from where I live.

14 BY MR. PLUNKETT:

15 Q. Have you ever shopped at that Target?

16 A. Yes.

17 Q. When was the last time you went there?

18 A. I went to that Target -- the last time I can  
19 recall was around August 2005.

20 Q. And which location is that, by the way?

21 A. That's in Dublin.

22 Q. When you went there in August 2005, how did  
23 you get there?

24 A. I hired a driver and went with that person  
25 into the store with myself, my mom and the driver.

1 Q. Okay. Did you ask Target for assistance in  
2 shopping at that time?

3 A. No, I did not.

4 Q. Okay. Who assisted?

5 A. The driver that drove us.

6 Q. And have you been to a Target store since  
7 August 2005?

8 A. I have not been to a Target since  
9 August 2005. I have been to the Target.com website  
10 since August 2005.

11 Q. Right. I promise I'll get to that. Believe  
12 it or not.

13 A. I'm sure you will.

14 Q. Turning again to your declaration, which is  
15 Exhibit 1, paragraph 29, it states, "I have attempted  
16 on numerous occasions to access Target.com with my  
17 screen reader."

18 Is your screen reader JAWS?

19 A. My screen reader that I've attempted to  
20 access Target.com with is JAWS, yes.

21 Q. And are you able to tell me which versions of  
22 JAWS you used when you were trying to access  
23 Target.com?

24 A. I used the most current versions of JAWS that  
25 was available during the time that I first -- first

1 recall accessing Target.com.

2 Q. Are you able to identify those versions by  
3 number?

4 A. No. I just know that it was the most current  
5 version.

6 Q. What was the date of the first time you tried  
7 to access Target.com?

8 A. I don't know what the date was that I first  
9 tried to access Target.com.

10 Q. Can you give me an approximation?

11 A. The time that I started keeping track of when  
12 I first may have accessed Target was around about a  
13 year ago.

14 Q. Did you try to go to Target.com before that?

15 A. I may have come across it through, like, a  
16 search over the Internet or something like that.

17 Q. You said about a year ago you started keeping  
18 track?

19 A. Yes.

20 Q. What do you mean by that?

21 A. I mean that that's when I -- I decided to  
22 remember that I went to Target.com, keep that in my  
23 mind.

24 Q. All right. It says in here you've attempted  
25 on numerous occasions -- withdraw.

1 that long ago that I did it, maybe within the last  
 2 month or two.  
 3 **Q. Do you recall what the name of that browser**  
 4 **setting is?**  
 5 A. My best guess would be Browser History.  
 6 **Q. And do you remember what you changed that**  
 7 **option to?**  
 8 A. To three -- to retain 365 days rather than 20  
 9 days.  
 10 **Q. All right.**  
 11 **You testified that since January 2005 you've**  
 12 **attempted to access Target approximately 20 times.**  
 13 **Approximately how much time have you spent on**  
 14 **Target.com since January 2005?**  
 15 A. On average or, I should say, the average  
 16 amount of time that I spend on a website is probably --  
 17 **MR. KONECKY: I'm going to interrupt you**  
 18 **there. Focus on his question. You want to have it**  
 19 **read back?**  
 20 **MR. PLUNKETT: I'll just repeat it because I**  
 21 **think what happened is you started to testify about the**  
 22 **average amount of time on a website generally.**  
 23 **BY MR. PLUNKETT:**  
 24 **Q. My question is: How much time did you spend**  
 25 **on Target.com since January 2005?**

1 A. I -- I don't know. I don't know.  
 2 **Q. Okay. Can you provide me with your best**  
 3 **estimate?**  
 4 A. Several hours.  
 5 **Q. Several hours since January 2005?**  
 6 A. Yes, several hours since January 2005.  
 7 **Q. Paragraph 31 of your declaration states,**  
 8 **"Upon accessing Target.com on several occasions, I have**  
 9 **become frustrated with inexplicable code and garbled**  
 10 **text that has prevented me from continuing to navigate**  
 11 **through the site."**  
 12 **On these occasions when you encounter**  
 13 **inexplicable code and garbled text, approximately how**  
 14 **much time did you spend on the site before you left the**  
 15 **site?**  
 16 **MR. KONECKY: Objection; overbroad.**  
 17 **THE WITNESS: Could you repeat the question,**  
 18 **please?**  
 19 **MR. PLUNKETT: Can you read it back.**  
 20 **(Record read as follows:**  
 21 **"QUESTION: Paragraph 31 of your declaration**  
 22 **states, 'Upon accessing Target.com on several**  
 23 **occasions, I have become frustrated with**  
 24 **inexplicable code and garbled text that has**  
 25 **prevented me from continuing to navigate**

1 through the site.'  
 2 "On these occasions when you encounter  
 3 inexplicable code and garbled text,  
 4 approximately how much time did you spend on  
 5 the site before you left the site?")  
 6 **THE WITNESS: When I encounter inexplicable**  
 7 **code and garbled text, I didn't spend much time on the**  
 8 **inexplicable code and garbled text. I went other**  
 9 **places on the site.**  
 10 **BY MR. PLUNKETT:**  
 11 **Q. And so the inexplicable code and garbled text**  
 12 **did not cause you to leave the site right away?**  
 13 **MR. KONECKY: Objection; overbroad, misstates**  
 14 **prior testimony.**  
 15 **THE WITNESS: Inexplicable code itself did**  
 16 **not cause me to leave the site itself, that is,**  
 17 **Target.com.**  
 18 **BY MR. PLUNKETT:**  
 19 **Q. Can you describe for me where on the site you**  
 20 **encountered inexplicable code and garbled text?**  
 21 A. From the very beginning of the site and -- at  
 22 the very introduction of the site and also throughout  
 23 the site.  
 24 **Q. And did the inexplicable code and garbled**  
 25 **text prevent you from browsing for products on**

1 **Target.com?**  
 2 A. It was inexplicable and garbled. I don't  
 3 know if it prevented me from -- from browsing for  
 4 anything. It probably did because it's on the site and  
 5 that's their main goal, is to sell products.  
 6 **Q. Do you recall an occasion when you accessed**  
 7 **the home page of Target?**  
 8 A. Say that again, please.  
 9 **Q. Do you ever recall going to the home page of**  
 10 **Target and navigating past the home page to other**  
 11 **pages?**  
 12 A. I have traveled past the home page of  
 13 Target.com.  
 14 **Q. Did you use a link on the home page to do**  
 15 **that?**  
 16 A. I most likely used a link on the home page to  
 17 go past that -- past that site.  
 18 **Q. Do you remember what link or what type of**  
 19 **link you used to navigate past the home page?**  
 20 A. The link was much like any other link that  
 21 went from one page to the next.  
 22 **Q. Do you remember how the link was identified?**  
 23 A. I don't remember the specific title of the  
 24 link.  
 25 **Q. All right. Do you remember on the home page**

1 a link to departments for shopping on Target.com?

2 A. It seems to me that there were links to  
3 different sections of Target.com.

4 Q. And were those links usable with JAWS --  
5 withdraw.

6 Were those links accessible with JAWS?

7 MR. KONECKY: Objection; vague and ambiguous,  
8 overbroad.

9 THE WITNESS: JAWS -- JAWS can click on  
10 almost any link. Whether I know what -- where it's  
11 going to go does -- is a different story.

12 BY MR. PLUNKETT:

13 Q. Do you remember links on Target's home page  
14 to the various shopping departments that were described  
15 to you through JAWS that enabled you to know where the  
16 link would take you if you clicked on it?

17 MR. KONECKY: Objection; compound, vague and  
18 ambiguous.

19 THE WITNESS: To the best of my knowledge,  
20 there were links that were on Target.com that got me  
21 from the home page to another site. And they were  
22 descriptive enough for me to know approximately where I  
23 was going but not all of them.

24 BY MR. PLUNKETT:

25 Q. Paragraph 30 of your declaration states, "I

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1 have found it extremely difficult, and at times  
2 impossible, to browse for products on Target.com using  
3 my screen reader if I do not have a specific item in  
4 mind."

5 Can you explain what you mean by that?

6 A. When -- when I click on a link, it brings me  
7 to a page. And as I recall, the experiences I've had  
8 with Target have been that the links don't link to  
9 specific retail items that I can reasonably or even  
10 find at all in -- in graphic detail unless I do a  
11 search.

12 Q. What do you mean that you can't find the item  
13 at all in graphic detail?

14 A. Um, so if I link to a site where there may or  
15 may not be products, um, I don't know my -- the website  
16 isn't giving me enough -- or me or JAWS enough  
17 information to know what is on the site.

18 Q. Your declaration says that, "At times it has  
19 been extremely difficult and at other times impossible  
20 to browse for products."

21 A. Uh-huh.

22 Q. Can you recall an occasion when it was  
23 impossible?

24 A. I -- I think that's sort of what I was trying  
25 to describe in the last answers. Most of the time that

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1 I've ever found an actual product, I've had to do a  
2 search. When I've found an actual -- when I've tried  
3 to browse link by link, I really haven't been able to  
4 browse the site in a way that I could really find a  
5 myriad of items that I -- I don't exactly know what --  
6 what may or may not be.

7 If I'm looking for household items and I  
8 don't know what specific item I'm looking for, I cannot  
9 use the interface to just browse.

10 Q. All right. You have to use the search  
11 function to search for a particular product?

12 A. A specific product. And that's most of the  
13 time. I'm not sure if it's all of the time, but I know  
14 that I -- I have rarely, if any a time at any time,  
15 been able to -- to actually browse the Internet and  
16 just find a product.

17 Q. Okay. Well, let's take those one at a time  
18 and start first with the search function.

19 Have you had any difficulties using the  
20 search function when you have a product in mind and  
21 you're going to search for that particular product?

22 MR. KONECKY: Objection; vague and ambiguous,  
23 compound, assumes facts not in the record.

24 You can answer.

25 THE WITNESS: Could you repeat the question?

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1 MR. PLUNKETT: Can you read it back.

2 (Record read as follows:

3 "QUESTION: Well, let's take those one at a  
4 time and start first with the search  
5 function.

6 "Have you had any difficulties using the  
7 search function when you have a product in  
8 mind and you're going to search for that  
9 particular product?")

10 THE WITNESS: The search function is -- in my  
11 mind it is a text box that I write something in and  
12 press the search button. I've been able to  
13 successfully do that.

14 BY MR. PLUNKETT:

15 Q. And after searching for a product and the  
16 page comes up with a product on it, have you ever added  
17 the product to the cart?

18 A. I don't understand the question exactly. I  
19 mean, there's processes that I go through and you're  
20 jumping from searching to buying something.

21 Q. Okay. Well, then let me back up.

22 After you enter the text in the box for the  
23 product you're searching for, I assume that you hit the  
24 function key to search; is that right?

25 A. That's correct.

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1 Q. Then what happens next?  
 2 A. After that, a page with products comes up.  
 3 Q. All right. And have you been able to  
 4 navigate that page to find the product you want and add  
 5 it to the cart?  
 6 MR. KONECKY: Objection; compound.  
 7 THE WITNESS: I've had difficulty navigating  
 8 through the -- that part of it -- part of the site  
 9 after it's -- after I've done a search.  
 10 BY MR. PLUNKETT:  
 11 Q. Have you ever been able to do it -- withdraw.  
 12 Have you ever been able -- withdraw.  
 13 I understand that you've had difficulty  
 14 navigating a page that it goes to. My question is  
 15 whether you've been able to do it to find the item you  
 16 want and to add it to the cart.  
 17 MR. KONECKY: Objection; vague and ambiguous,  
 18 compound.  
 19 THE WITNESS: I've been able to put a product  
 20 in a shopping cart, but I don't know that I've ever  
 21 been able to put the exact make and model, color that  
 22 I've wanted into that shopping cart.  
 23 BY MR. PLUNKETT:  
 24 Q. So you have added an item to a cart that  
 25 you've searched for, correct, but you're just not sure  
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1 if that was the item you intended to add to the cart;  
 2 is that what your testimony is?  
 3 MR. KONECKY: I object. It's been asked and  
 4 answered, and the testimony will speak for itself.  
 5 You can answer it again.  
 6 THE WITNESS: I'm not sure that the product  
 7 that I -- I am selecting to go into the cart is the  
 8 product -- the product that I want.  
 9 BY MR. PLUNKETT:  
 10 Q. Why not?  
 11 A. Because the description -- from my  
 12 experience, the description of what I've looked for and  
 13 the -- the way the page is set up, the way -- yeah, the  
 14 way the page is set up, it reads the description of the  
 15 item, the -- the price and the like, the make or the  
 16 model of the item in such a way that it's confusing  
 17 which one goes to which item. That's why when I put it  
 18 in my cart it's confusing.  
 19 Q. If I understand your testimony, you have  
 20 clicked the add to cart button and added an item to a  
 21 cart, right?  
 22 MR. KONECKY: I'll object to it being  
 23 compound, vague and ambiguous.  
 24 You can answer it.  
 25 THE WITNESS: If -- if the actual button is  
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1 called "add to cart," then I have been able to put it  
 2 into a place where it's -- it would be considered  
 3 checking out, or a cart.  
 4 MR. PLUNKETT: All right.  
 5 BY MR. PLUNKETT:  
 6 Q. After you added an item to a cart, were you  
 7 able to use -- withdraw.  
 8 After you added an item to a cart, could you  
 9 verify at that time whether or not the item in the cart  
 10 was the item you intended to put in the cart?  
 11 MR. KONECKY: Objection; overbroad.  
 12 THE WITNESS: At the time that I put an item  
 13 into the cart, it -- it seems to me that it was  
 14 verified that I put what I put there. And if it was  
 15 what I wanted, it told me if it was something I wanted  
 16 or didn't want, I think.  
 17 MR. PLUNKETT: I'm sorry, I'm not sure I  
 18 understand your answer. So let me rephrase the  
 19 question.  
 20 BY MR. PLUNKETT:  
 21 Q. Did you ever attempt, after adding an item to  
 22 the cart, to use some function on the website to verify  
 23 whether or not the item in the cart is the item you  
 24 intended to put in the cart?  
 25 A. Well, I used JAWS to go through the site and  
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1 the site then had a product that I put into the cart.  
 2 But it was also trying to sell me, as I recall, some of  
 3 the other products. So eventually I think I was able  
 4 to determine what the item was that was actually in the  
 5 cart that I added rather than the surrounding products.  
 6 Q. So after you navigated past the other links  
 7 that were trying to sell you other products, you were  
 8 able to tell what was added to the cart; is that right?  
 9 MR. KONECKY: Objection; overbroad.  
 10 If you can answer.  
 11 THE WITNESS: Could you ask the question  
 12 again?  
 13 MR. PLUNKETT: Sure.  
 14 BY MR. PLUNKETT:  
 15 Q. After you added an item to the cart, I  
 16 understand that a page came up that you said was trying  
 17 to sell you other products. After you on that page  
 18 navigated past the links that were trying to sell you  
 19 other products and you got to the cart, you were able  
 20 to identify the item that had been added to the cart;  
 21 is that correct?  
 22 MR. KONECKY: Objection; vague and ambiguous,  
 23 assumes facts not in the record, overbroad.  
 24 You can answer.  
 25 THE WITNESS: I don't understand the  
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1 question. I'm -- maybe I'm getting tired or something.

2 MR. PLUNKETT: Okay.

3 THE WITNESS: It's a lot of information in  
4 that question.

5 MR. PLUNKETT: I'm sorry about that. My  
6 question is probably confusing.

7 THE WITNESS: Uh-huh.

8 BY MR. PLUNKETT:

9 Q. You said that a page would come up after you  
10 added an item to a cart where Target.com was trying to  
11 sell you other products; is that correct?

12 A. Yes. Another page would come up and there  
13 would be the product that I put in the cart and other  
14 products.

15 Q. Were you able to tell what item you put in  
16 the cart?

17 MR. KONECKY: Objection; overbroad.

18 THE WITNESS: I'm almost certain at one point  
19 or another I was able to tell with a bit of difficulty  
20 which product I had put into the cart.

21 BY MR. PLUNKETT:

22 Q. What was the difficulty you encountered?

23 A. The general navigation of the page, the  
24 ambiguity of what was in the cart versus what was  
25 trying -- what was an extra item trying to be sold to

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1 me from Target.com.

2 Q. Was there a place on the page -- withdraw.  
3 Was there -- withdraw.

4 Did the website identify for you how many  
5 items were in the cart?

6 A. I don't recall.

7 Q. Have you ever seen an element on the page  
8 that identifies for you how many items are in the cart?

9 A. I don't recall.

10 Q. Did you ever look for that?

11 A. I don't recall.

12 Q. After navigating through these difficulties  
13 and identifying the item that was in the cart, were you  
14 able to determine whether that was the item you had  
15 intended to add to the cart?

16 MR. KONECKY: Objection; overbroad, vague and  
17 ambiguous, assumes facts not in the record, asked and  
18 answered.

19 You can answer.

20 THE WITNESS: The -- could you repeat the  
21 question?

22 MR. PLUNKETT: Could you read it back.

23 (Record read as follows:

24 "QUESTION: After navigating through these  
25 difficulties and identifying the item that

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1 was in the cart, were you able to determine  
2 whether that was the item you had intended to  
3 add to the cart?")

4 THE WITNESS: Sometimes I was able to  
5 identify that it was the -- the wrong item that I  
6 didn't want to add to the cart, and sometimes I was  
7 able to identify that it was close to the right item  
8 that I wanted.

9 So for instance, it may have been a towel  
10 that I wanted, but it may not have been the color blue  
11 that I wanted. But I don't recall whether, if ever,  
12 I've actually gotten the actual product, color, and  
13 brand that I wanted in the cart.

14 BY MR. PLUNKETT:

15 Q. You can't recall an occasion when you were  
16 able to verify that you added the correct item to the  
17 cart?

18 A. Not -- not a correct item but something that  
19 was to -- to my liking, my specifications, if you will.  
20 So ...

21 Q. When you say that the item was not to your  
22 specifications, do you mean it was not the product you  
23 intended to add to the cart?

24 A. When I said not to my liking, I meant that  
25 it's the one that I didn't intend to put into the cart.

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1 Q. What did you do on those occasions when you  
2 verified that the item in the cart is not the one you  
3 wanted in the cart?

4 MR. KONECKY: Objection; overbroad.

5 THE WITNESS: Well, I've done several  
6 different things on several different occasions.

7 BY MR. PLUNKETT:

8 Q. What are the different things you've done?

9 A. One occasion I -- I tried to purchase the  
10 item anyways.

11 Q. And what happened when you tried to do that?

12 A. It brought me to -- let me start over.

13 When I -- when I tried to buy the product, it  
14 brought me to another page asking whether I was certain  
15 I wanted to buy products -- this is paraphrasing. I  
16 don't know exactly what it said, but it -- the gist is  
17 that it asked me if I wanted to buy other products and  
18 if I was sure I wanted to buy the products in my -- in  
19 my cart. That's the gist of it.

20 Q. And what did you do next?

21 A. I pressed another button that said something  
22 like "go to the next step" or "make a purchase."

23 Q. And then what happened, were you able to  
24 complete the purchase?

25 A. No, I was never able to complete a purchase.

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1 Q. What happened when you attempted to complete  
2 the purchase?

3 A. It just kept circling around that -- that  
4 process that I just described to you.

5 Q. And just so the record is clear, that process  
6 is that it would continue to offer you additional items  
7 to buy, that's what it kept circling back to?

8 A. And am I sure that I wanted to buy that  
9 product that I had put in my cart.

10 Q. Did you ever see a button on Target.com  
11 called "proceed to checkout"?

12 A. I never -- I never encountered a button that  
13 said "proceed to checkout" or -- that may -- may or may  
14 not be true. I don't know if that's the button that  
15 kept circling me around or if it was the one that I  
16 never encountered.

17 Q. Did you ever -- withdraw.

18 In your times visiting Target.com, did you  
19 ever arrive on a page requiring you to sign in or  
20 create a new account?

21 A. Could you repeat the question?

22 Q. In your times using Target.com, did you ever  
23 arrive at a page requiring you to sign in or create a  
24 new account?

25 A. Could you be more specific?

1 Q. Well, all right, I'll represent to you that  
2 there is a page on Target.com that requires a user to  
3 sign in with an e-mail and a password or to create a  
4 new account.

5 Did you ever arrive at a page like that?

6 A. Could you be more specific?

7 Q. I don't know if I can be more specific than  
8 that.

9 A. Okay.

10 Q. And I'm just asking for your best  
11 recollection sitting here.

12 MR. KONECKY: Well, maybe you should ask a  
13 different question.

14 I mean, answer it if you can.

15 But there's been an expression that the  
16 witness doesn't understand the question.

17 THE WITNESS: Yeah, I don't --

18 MR. KONECKY: You can answer, or you can ask  
19 another question.

20 THE WITNESS: Could you ask me another  
21 question? I don't quite understand that one.

22 BY MR. PLUNKETT:

23 Q. Do you ever recall being on a page on  
24 Target.com where you were asked to sign in?

25 A. I'm having the same problem with that

1 question. I don't understand what you're asking.

2 Q. Gosh, I don't know if I can be much more  
3 specific, but I'll try.

4 A. Okay.

5 Q. Do you recall ever being on Target.com and  
6 being prompted for your e-mail address or for a  
7 password?

8 A. I tried to sign up for e-mail ads or  
9 something like that at Target.com.

10 Q. Can you recall being on any other page where  
11 you were prompted to enter your e-mail address?

12 MR. KONECKY: Any other page on Target?

13 MR. PLUNKETT: Correct.

14 THE WITNESS: I think I tried applying for a  
15 Target credit card on Target.com.

16 BY MR. PLUNKETT:

17 Q. What do you remember about that?

18 A. That I went through the form and stopped  
19 midway through and did not come back to it, didn't  
20 finish it.

21 Q. What information was that form asking you  
22 for?

23 A. The basic information that credit card  
24 companies need to -- to give you a credit card -- name,  
25 address, those sorts of things.

1 Q. And why did you not complete the form?

2 A. Because at the time I did not -- I did not  
3 wish to proceed with the application.

4 Q. Did you ever arrive on a page on Target.com  
5 that asked you for any information about shipping?

6 A. I don't recall ever coming to a point where  
7 it asked about shipping.

8 Q. Do you recall ever arriving on a page that  
9 asked you for information about payment type?

10 A. I'm almost certain that I did not incur any  
11 page like that.

12 Q. We were talking earlier about the website  
13 circling around and taking you back to the same area  
14 where it asked you if you were sure if you wanted to  
15 buy. Can you provide me with an estimate of the amount  
16 of time you spent trying to get out of that circle?

17 MR. KONECKY: Objection; overbroad, vague and  
18 ambiguous.

19 THE WITNESS: I probably spent 15 to 20  
20 minutes trying to not only get out of that circle but  
21 find the -- the place where I could actually make a  
22 purchase, a button or a link, so on and so forth.

23 BY MR. PLUNKETT:

24 Q. Do you know if at the time you were looking  
25 for that button or the link to make a purchase you were

1 BY MR. PLUNKETT:

2 Q. Do you know what insert-Z does on JAWS? Are  
3 you familiar with that function?

4 A. I've -- I've used it before, but I'm not sure  
5 that I know exactly what it does.

6 Q. Okay. Are you familiar with the concept of  
7 turning the virtual concept off and tabbing through the  
8 elements of a page using the PC cursor?

9 A. Yes. I'm familiar with that, yes.

10 Q. Did you attempt to do that in navigating this  
11 page we've been talking about?

12 A. Yes, I used the virtual PC cursor with the  
13 JAWS cursor off to navigate through the page.

14 Q. Did you ever tab through the page with the  
15 virtual cursor turned off?

16 A. I don't know that I did.

17 MR. PLUNKETT: We could take a break now.

18 MR. KONECKY: Okay.

19 (Recess taken.)

20 BY MR. PLUNKETT:

21 Q. I want to now talk about the problems you've  
22 had in browsing for products on Target.com. And maybe  
23 the best way to do that is to read what's in paragraph  
24 33 of your declaration and then ask you about it.

25 At paragraph 33 it says, "In the summer of

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1 2005, I attempted to purchase towels in preparation for  
2 moving into my dorm room the following fall. I  
3 searched Target.com for, quote, towels, unquote, and  
4 found several items. However, the numerous results  
5 were not matched with the different product  
6 descriptions. Because of this situation, I could not  
7 determine which product I wanted to purchase. I became  
8 so frustrated that I did not continue to the point  
9 where I could even attempt to complete a transaction on  
10 Target.com."

11 And my question is what you mean by your  
12 statement that the "numerous results were not matched  
13 with the different product descriptions."

14 A. When I searched for "towels," many -- many  
15 different brands and sizes and colors of towels or  
16 whatever came up from that search were the numerous  
17 part.

18 Q. Is this the -- this was the result of a  
19 search. Is this the same problem you experienced when  
20 you were browsing on the website, that you couldn't  
21 match the product descriptions with the item?

22 A. While browsing I rarely found products  
23 that -- that I -- I rarely found products, period.

24 Q. Can you explain to me what you mean by you  
25 couldn't find products when browsing?

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1 A. I didn't get the same list of type of  
2 products. For instance, "towels," I didn't get that  
3 broad of a selection. I didn't even get a selection of  
4 towels. I might have gotten -- I may have gotten soaps  
5 and bathroom products but not -- so more broad  
6 categories rather than the specific.

7 Q. Okay. Well, I'll represent to you that from  
8 the Target home page there are links to departments  
9 such as Women, Men, Baby, Kids, Home, Bed and Bath,  
10 Furniture, et cetera.

11 Do you recall those links being at the top of  
12 the Target page?

13 A. I seem to recall hearing those links.

14 Q. Did you ever attempt to go into, for example,  
15 the Bed and Bath department using that link to find a  
16 specific product category like towels or soap?

17 A. I think that is the process I went through.

18 Q. And you were not able to find a product  
19 categories using that process?

20 A. After clicking on the link, I don't know  
21 exactly where it brought me. But I know that it  
22 frustrated me to no end, wherever it did bring me, and  
23 I wasn't able to find that specific product line.

24 Q. What caused that frustration?

25 A. The inability to navigate the next or the

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1 preceding pages.

2 Q. Despite the frustration that you experienced  
3 in trying to navigate the previous pages, when you  
4 arrived at the department page like Bed and Bath or  
5 Home, did you ever attempt to search through the links  
6 and try to find more specific product categories like  
7 towels or soap?

8 MR. KONECKY: Objection; compound.

9 THE WITNESS: Could you rephrase the  
10 question?

11 MR. PLUNKETT: I was afraid you were going to  
12 ask that.

13 THE WITNESS: Sorry.

14 BY MR. PLUNKETT:

15 Q. When you would browse on Target.com and you  
16 would go to an area like Home, I believe your testimony  
17 is that the links on the page were frustrating and it  
18 was frustrating to navigate.

19 My question is whether or not you nonetheless  
20 attempted to search on that page for links to more  
21 specific product categories like towels.

22 A. Uh-huh.

23 MR. KONECKY: Vague and ambiguous, overbroad.

24 THE WITNESS: I think what happened, the  
25 process that I went through was to browse broad

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1 categories and then it reminded me of more specific  
2 things that I might want. That's not usual --  
3 generally the way I would like to browse a website.  
4 But once I found that I had a specific thing in mind,  
5 because of that trigger, I think what I did is  
6 search. I think that would be accurate to say. That  
7 was a long process, and it wasn't fun.

8 BY MR. PLUNKETT:

9 Q. Were you able to look at product descriptions  
10 on Target.com?

11 MR. KONECKY: Objection; overbroad.

12 THE WITNESS: It seemed to me that I -- I was  
13 able to see certain parts of the product description  
14 and it seemed to me that there was missing parts. But  
15 since I couldn't tell whether they were there or not, I  
16 don't know.

17 BY MR. PLUNKETT:

18 Q. I'm going to ask you about some of the other  
19 features on Target.com to see whether or not you have  
20 attempted to access and use them. One of the features  
21 on Target.com is a Store Locator. Have you ever  
22 attempted to use that feature?

23 A. I don't recall using that feature.

24 Q. Another feature is the Wedding Registry.  
25 Have you ever attempted to use that?

1 efficiently.

2 Q. And other than attorneys, who did you have  
3 those conversations with?

4 A. I've had conversations with friends and  
5 acquaintances.

6 Q. Okay. What was the nature of those  
7 conversations?

8 A. The nature of the conversations were about  
9 whether they were able to access Target more  
10 efficiently than I had.

11 Q. Okay. And what did they say to you?

12 MR. KONECKY: Objection; overbroad, vague and  
13 ambiguous.

14 BY MR. PLUNKETT:

15 Q. I don't want to take them one at a time any  
16 more than anybody else wants me to. So if you could  
17 just describe to me generally what they said, but if  
18 there are significant differences, please identify  
19 them.

20 A. Most people said that they've had  
21 difficulties navigating through Target.com's website.

22 Q. Have you ever talked to another blind person  
23 or legally blind person who was able to make a purchase  
24 on Target.com without the assistance of a sighted  
25 person?

1 A. My sister was married last May, and she had  
2 certain gifts in her own profile. I may have come  
3 across Target.com then.

4 Q. Do you recall attempting to make a purchase  
5 from a wedding registry on Target.com?

6 A. I don't recall.

7 Q. Do you ever attempt to use the Baby Registry  
8 on Target.com to either register or to make a purchase?

9 A. No, I don't -- I don't have any babies.

10 Q. Did you ever try to purchase a product off  
11 the Baby Registry for someone else?

12 A. No, I don't think so.

13 Q. When you experienced some of the difficulties  
14 you described on Target.com, did you ever attempt to  
15 contact somebody who is either an expert in JAWS or the  
16 product -- the JAWS product maker to try to figure out  
17 how you might work around that problem?

18 A. Could you repeat the question?

19 Q. Yeah.

20 When you encountered difficulties on  
21 Target.com, did you ever attempt to talk to the makers  
22 of JAWS or to someone who may be more familiar with  
23 JAWS to see if there was a work-around?

24 A. I spoke to many people about -- about whether  
25 JAWS would be able to use Target.com's website more

1 A. I have never talked to somebody who has told  
2 me that they have been able to make a purchase at  
3 Target.com.

4 Q. Did the people you talked to describe similar  
5 difficulties -- withdraw.

6 Did the people you talked to describe  
7 difficulties that were similar to the ones you've  
8 described today?

9 A. I don't know if they went into so much detail  
10 as I described today, but it seems to me that they  
11 described similar situations.

12 Q. All right. Have you ever tried to use a  
13 screen reader other than JAWS to access Target.com?

14 A. I have not used any other screen reader  
15 than -- other than JAWS to access Target.com.

16 Q. Did you at any point try to contact  
17 Target.com about any of the difficulties you were  
18 experiencing on the website?

19 A. I was under the impression that people --  
20 other people who -- who have -- other people have had  
21 been contacting Target.

22 Q. What do you mean by that?

23 A. I mean that I -- if ever I had the  
24 inclination to -- to complain to Target.com, I was  
25 under the impression that -- I already knew that other

1 people would be -- were -- or were looking into doing  
2 that -- going through that process.

3 Q. What other people? Are you talking about in  
4 the litigation?

5 A. I'm talking about the other people like  
6 people in the National Federation of the Blind.

7 Q. Okay. Well, I guess my question is a little  
8 different, and that is: When you personally were using  
9 Target.com to try to make purchases and you encountered  
10 difficulties, did you ever attempt to contact  
11 Target.com in that context to try to get help  
12 completing your purchase?

13 MR. KONECKY: Objection; vague and ambiguous.  
14 He's already testified that -- well, I'm not going to  
15 repeat his testimony, but your question is vague and  
16 ambiguous.

17 THE WITNESS: Could you ask the question  
18 again?

19 MR. PLUNKETT: Can you read it back.  
20 (Record read as follows:

21 "QUESTION: Well, I guess my question is a  
22 little different, and that is: When you  
23 personally were using Target.com to try to  
24 make purchases and you encountered  
25 difficulties, did you ever attempt to contact

1 Target.com in that context to try to get help  
2 completing your purchase?")

3 THE WITNESS: I would say the only attempt I  
4 have made is through the National Federation of the  
5 Blind --

6 MR. PLUNKETT: All right.

7 THE WITNESS: -- to contact Target.

8 BY MR. PLUNKETT:

9 Q. If you had wanted to contact Target.com while  
10 you were using the website to ask for help in  
11 completing a purchase, would you know how to do that?

12 MR. KONECKY: Objection; incomplete  
13 hypothetical, calls for speculation. It's also vague  
14 and ambiguous given the prior testimony.

15 THE WITNESS: I'm pretty confident that I  
16 could have found a way to contact Target to let them  
17 know that I was having problems with their site if  
18 that's what you're asking.

19 MR. PLUNKETT: That's what I'm asking.

20 BY MR. PLUNKETT:

21 Q. How would you go about contacting them?

22 MR. KONECKY: Other than through the NFB?

23 MR. PLUNKETT: Yes.

24 THE WITNESS: I don't know. I could call  
25 them. I could e-mail them. I would have to do some

1 research on that.

2 BY MR. PLUNKETT:

3 Q. Did you ever do any research on that or, for  
4 example, attempt to obtain their 800 number or an  
5 e-mail address for customer support?

6 MR. KONECKY: Objection; vague and ambiguous.

7 THE WITNESS: I don't recall ever doing that  
8 research, but I do know that I went through the NFB to  
9 make a complaint and I assume they have that  
10 information.

11 MR. PLUNKETT: Thank you very much for your  
12 time today. Those are all the questions I have.

13 MR. KONECKY: Deposition is concluded.  
14 (At 4:50 P.M., the deposition proceedings  
15 concluded.)  
16  
17  
18

19 \_\_\_\_\_  
20 BRUCE F. SEXTON  
21  
22  
23  
24  
25

1 CERTIFICATE OF REPORTER  
2

3 I hereby certify that the witness in the  
4 foregoing deposition, BRUCE F. SEXTON, was by me duly  
5 sworn to testify to the truth, the whole truth and  
6 nothing but the truth, in the within-entitled  
7 cause; that said deposition was taken at the time and  
8 place herein named; that the deposition is a true  
9 record of the witness's testimony as reported by me, a  
10 duly certified shorthand reporter and a disinterested  
11 person, and was thereafter transcribed into typewriting  
12 by computer.

13 I further certify that I am not interested in  
14 the outcome of the said action, nor connected with nor  
15 related to any of the parties in said action, nor to  
16 their respective counsel.

17 IN WITNESS WHEREOF, I have hereunto set my  
18 hand this 26th day of May, 2006.  
19  
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22 CHRISTINE L. JORDAN, CSR #12262  
23 STATE OF CALIFORNIA  
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