Case 3:06-cv-01802-MHP

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1 HAROLD J. McELHINNY (CA SBN 66781) MATTHEW I. KREEGER (CA SBN 153793) 2 KRISTINA PASZEK (CA SBN 226351) HMcElhinny@mofo.com 3 MKreeger@mofo.com KPaszek@mofo.com MORRISON & FOERSTER LLP 4 425 Market Street 5 San Francisco, California 94105-2482 Telephone: (415) 268-7000 6 Facsimile: (415) 268-7522 7 Attorneys for Defendant TARGÉT CORPORATION 8 9 UNITED STATES DISTRICT COURT 10 NORTHERN DISTRICT OF CALIFORNIA 11 SAN FRANCISCO DIVISION 12 13 NATIONAL FEDERATION OF THE BLIND, Case No. C 06-01802 MHP the NATIONAL FEDERATION OF THE 14 BLIND OF CALIFORNIA, on behalf of their **DECLARATION OF MATTHEW I.** members, and Bruce F. Sexton, on behalf of KREEGER IN SUPPORT OF 15 himself and all others similarly situated, TARGET CORPORATION'S MOTION TO SHORTEN TIME 16 Plaintiffs, NO HEARING REQUESTED 17 v. Judge: Hon. Marilyn Hall Patel 18 TARGET CORPORATION. 19 Defendant. 20 21 22 23 24 25 26 27 28 DECL. OF MATTHEW I. KREEGER IN SUPPORT OF TARGET'S MOTION TO SHORTEN TIME CASE No. C-06-01802 MHP sf-2279811

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- I am a partner in the law firm of Morrison & Foerster LLP, counsel of record for Defendant Target Corporation ("Target") in the above-captioned case. I am admitted to practice before the United States District Court for the Northern District of California. I have personal knowledge of the facts set forth in this declaration.
- Plaintiffs' motion for class certification is scheduled to be heard on Thursday, April 12, 2007 at 2:30 pm.¹
- 3. Target is filing, concurrent with the instant motion to shorten time, a motion for summary judgment against Plaintiff Bruce F. Sexton. Based on the filing date of the motion (March 8, 2007) and on the Court's outgoing message regarding available hearing dates, the next available hearing date for Target's summary judgment motion is Monday, April 16, 2007.
- It would be considerably more convenient and efficient to hear the class certification motion and the summary judgment motion on the same day (April 12, 2007) because the questions raised by the two motions overlap so significantly. A combined hearing would permit the Court to consider those intermingled issues together.
- For example, at issue in both motions is whether Plaintiff Bruce F. Sexton has 5. suffered any legally cognizable harm. Target contends that Mr. Sexton has not suffered a legally cognizable injury, as defined by the Court in the September 6, 2006 Order on Defendant's Motion to Dismiss. As a result, Target is entitled to summary judgment on Mr. Sexton's claims. For the same reason, as demonstrated in Target's opposition to Plaintiffs' motion for class certification, Plaintiffs have failed to show that Mr. Sexton's claims are typical, or that Mr. Sexton can adequately represent the purported class. Considering both motions together would be efficient.
- On Friday, March 2, 2007, I contacted Roger Heller, counsel for Plaintiffs, by telephone and proposed that the parties file a stipulated request that the Court hear Target's summary judgment motion concurrently with Plaintiffs' motion for class certification on April 12, 2007.

¹ Plaintiffs' bifurcation motion will also be heard on April 12, 2007 at 2:30 pm.

1	7. On Monday, March 5, 2007, Mr. Heller responded by email and reported that
2	Plaintiffs declined to stipulate to an earlier hearing date on the summary judgment motion. Mr.
3	Heller explained Plaintiffs' position that because merits discovery has been stayed, Target's
4	summary judgment motion is improper. A true and correct copy of Mr. Heller's email is attached
5	as Exhibit A.
6	8. The requested time modification would have no effect on the schedule for the case.
7	Target's summary judgment motion, filed on March 8, 2007, is being filed 35 days prior to the
8	requested hearing date, complying with Civil Local Rule 7-2. Plaintiffs would still have 14 days
9	to file their opposition, if any, to Target's motion.
10	9. No other time modifications have been requested or ordered in this case.
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12	I declare under penalty of perjury under the laws of the United States that the foregoing is
13	true and correct.
14	Executed this 8th day of March, 2007, at San Francisco, California.
15	/s/ Matthew I. Kreeger
16	/s/ Matthew I. Kreeger
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