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TARGET CORPORATION
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO
10

11 TARGET CORPORATION, a Minnesota
Corporation,

12 Plaintiff,

13 v.

14 CANVASS FOR A CAUSE, a California
15 corporation; CANVASS FOR A CAUSE
INSTITUTE, a California corporation; and DOES
16 1-100,

17 Defendants.
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Case No. 37-2011-00086978-CU-
OR-CTL

**DECLARATION OF DANIEL
BROWN IN SUPPORT OF
TARGET CORPORATION'S EX
PARTE APPLICATION FOR A
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE**

Date: March 8, 2011
Time: 8:30 a.m.
Dept: 69

Complaint Filed: March 4, 2011
Trial Date: None Set

The Honorable Jeffrey B. Barton,
Judge Presiding

1 customers to enter and exit each retailer without lingering in the development. A true and correct
2 copy of an aerial view of the development as obtained from <http://maps.google.com>, which fairly
3 and accurately shows the building and development layout as they were depicted in February
4 2011, is attached as **Exhibit A**.

5 6. The Poway Target, like all Target stores, has a policy prohibiting all solicitors from
6 engaging in any expressive activities on store premises (the "No-Solicitation Policy"). A true and
7 correct copy of Target's No-Solicitation Policy is attached as **Exhibit B**.

8 7. For approximately three weeks, solicitors and petitioners ("solicitors") from Canvass for a
9 Cause have solicited donations in front of the Poway Target nearly every single day.

10 8. When Canvass for a Cause solicitors come, they typically come in pairs with clipboards,
11 stand within 10 feet of the main exit door, for much of the day, and ask guests leaving the store to
12 sign a pro-gay marriage petition or to make a donation using a credit card to an electronic credit
13 card reader attached to a phone.

14 9. Canvass for a Cause solicitors typically start by asking our customers if they support gay
15 marriage. If the answer is yes, they ask our customers to sign a petition and for a credit-card
16 donation. If the answer is no, they challenge the customers on their beliefs. Whenever our
17 customers say no, whether it is about making a donation, signing a petition, or about support for
18 gay marriage, the solicitors become angry and aggressive, continuing to challenge our customers
19 on their morals. I have seen them tell our customers not to vote if they are unhappy with the
20 customers' views.

21 10. When Canvass for a Cause solicitors arrive, our practice is to explain Target's No-
22 Solicitation Policy, provide them a copy of Target's No-Solicitation Policy, tell them that they are
23 trespassing on private property, and politely ask them to leave. This is our general practice with
24 all solicitors and activists who come on Target's premises.

25 11. We, employees of the Poway Target, have tried each time we have seen Canvass for a
26 Cause solicitors to remove them from store premises. I have informed Canvass for a Cause
27 solicitors of Target's No-Solicitation Policy but they assert that they have a free speech right to
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1 engage in their behavior and have refused to leave Target's premises. The Canvass for a Cause
2 solicitors do not leave when asked.

3 12. Canvass for a Cause's activities disrupt business. Their presence directly at the main
4 entrance and exit doors interferes with traffic entering and exiting the store and disrupts
5 customers' shopping experience.

6 13. Our store receives, on average, eight-to-ten complaints per day about Canvass for a Cause.
7 On some days, we receive up to twenty complaints about the group. Our guests complain that the
8 Canvass for a Cause solicitors are aggressive, that the guests feel harassed, and that the guests
9 don't feel safe or comfortable coming to our Target store. Many guests have stated that Canvass
10 for a Cause solicitors followed them out to their cars in the parking lot.

11 14. Multiple guests have told us that they will not shop at Target as long as Canvass for a
12 Cause is present. Some guests have told us that they are offended by the controversial pro-gay
13 marriage messaging of the solicitors, and that they assume Target promotes the same view. One
14 solicitor said that he will do everything he can to ensure that his friends and family also do not
15 shop at Target anymore. One guest informed us that they were going to return everything they
16 have bought because they were offended by the group. Many mothers with children have
17 complained about the sensitive nature of the solicitors' messaging.

18 15. On March 1, 2011, a Canvass for a Cause solicitor verbally berated a Target customer,
19 who was with a four-month old child. The solicitor followed the customer to her car and told her
20 that he would not let her pass until she gave up her credit card for a donation. Shortly after this,
21 the customer's husband returned to our store furious about the incident. He demanded that the
22 store call police or that he would "handle the solicitors [himself]." After I called law
23 enforcement, they arrived on the scene, spoke with the husband about the incident, and informed
24 the husband and our store that there was nothing they could do to remove the solicitors.

25 16. I have personally called law enforcement four times about Canvass for a Cause. In each
26 case, they have informed us that they have no ability to remove the solicitors. On at least two
27 occasions, they told us that the solicitors have a right to assembly. The solicitors are typically
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1 kind to our customers when law enforcement is present, and become rude and aggressive as soon
2 as law enforcement leaves.

3 17. In my eighteen months of experience working for Target, I have become familiar with
4 customer shopping habits. I have observed that customers choose to shop at a particular store
5 based on custom and habit. Based on my experience, when customers change their shopping
6 habits to avoid disruptions, they very often do not return to their original store. I also know based
7 on my experience that a store's success depends on customer goodwill and a desire to return to
8 the same store out of habit and loyalty. The disruptive solicitation activity of Canvass for a Cause
9 solicitors harms the Poway Target's relationship with its customers and erodes customer
10 goodwill.

11 I declare under penalty of perjury under the laws of the state of California that the
12 foregoing is true and correct. Executed in Poway, California on March 4, 2011.

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14 
15 **Daniel Brown**

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Google maps

To see all the details that are visible on the screen, use the "Print" link next to the map.



Target Corporation

About Target

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About Target : Solicitation Policy

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California Law
Salvation Army

Target Solicitation Policy

Target has a long-standing solicitation policy at our stores nationwide. In order to provide a distraction-free shopping environment for our guests, we do not allow solicitation or petitioning at our stores regardless of the cause being represented.

This policy does not diminish Target's support of communities. Since 1946, Target has given 5% of its income to communities. That adds up to over \$3 million each and every week. Our company has many other means by which it can support organizations whose programs fall within our corporate giving guidelines. For more information on these guidelines, please pick up the Community Giving brochure in your store's Guest Service area or visit the Community Giving section on Target.com.

Solicitation in California

Out of respect for our guests and their shopping experience, Target does not permit solicitation or petitioning in front of any of our stores, regardless of the cause or issue being represented. If you would like more information on the law surrounding this issue, please see the [California Law](#) section.

How We Enforce Our Policy

To ensure an enjoyable shopping experience in all of our stores, including California, we have taken the following steps to provide a distraction-free shopping environment.

1. We ask all solicitors and petitioners to respect our policy by ceasing their activities and leaving our property. However, frequently they refuse to comply.
2. We partner with local law enforcement agencies to assist us in having unwanted solicitors and petitioners removed from our property.
3. If a store is located in a mall that is required to accommodate petitioning, we partner with the mall management to designate an appropriate area for that activity other than our front door. In some cases, solicitors and petitioners refuse to abide by rules established by the mall manager.

We believe that many of these petitioners persist with their activity because they are paid for each signature they get. In some cases, we are pursuing legal action to stop petitioning and soliciting at our stores. Unfortunately, this is not a quick process and may not result in the immediate removal of unwanted disturbances.

What You Can Do

Target firmly believes that our guests should enjoy a distraction-free shopping experience in our stores. If you feel harassed or bothered by a solicitor or petitioner outside a Target store, please alert store personnel. We appreciate your patience and patronage as we continue to do everything we can to provide you with a respectful, distraction-free shopping experience.

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California Law

For many years, Target has enforced a no-solicitation policy at our stores nationwide to protect our guests from being subjected to persistent appeals when shopping at our stores. We believe we have this right since our stores are located on private property and are operated for the purpose of providing our guests with a comfortable shopping experience.

To challenge our solicitation policy, petitioners sometimes claim a right to gather signatures or engage in other expressive activity in front of a Target store based on *Robins v. Pruneyard Shopping Center*, a 1979 decision of the California Supreme Court. While that case found that California law provides some protection for "free speech" activities at shopping centers that constitute a public forum, it does not give petitioners unlimited access to retail property. The shopping center involved in the *Pruneyard* case was a large, regional mall with extensive public amenities and common areas for walking and gathering. The

court in that case determined that the mall was a public forum because it was the functional equivalent of a traditional town square. As a public forum, the mall was required to permit free speech activities in the common area, subject to reasonable time, place and manner restrictions established by the mall owner. There have been recent cases in this area of the law that have clarified the scope of the *Pruneyard* decision. Based on these cases, it is clear that the *Pruneyard* decision does not require Target to permit petitioning in front of its stores.

Costco Companies, Inc. v. Gallant 96 Cal. App. 4th 740 (2002)

This case involved a challenge to restrictions imposed by Costco on petitioning at its stores. In its decision, the court held that a store such as a Costco is not a "miniature downtown" and so is not a public forum. Since the relevant characteristics of a Target store and a Costco store are essentially the same, the court's analysis would also apply to a Target store. Therefore, an individual Target store is not a public forum, so that the *Pruneyard* case does not give people the right to petition at a Target store.

Albertson's v. Young 107 Cal. App. 4th 106 (2003)

This case further clarified that individual retailers within larger commercial developments are also not within the reach of the *Pruneyard* decision. In this case, the solicitor argued that he had a right to engage in expressive activity at the Albertson's store because the store was part of a large shopping center. The court rejected this argument stating "[t]o establish a right to solicit signatures at the entrance to a specific store, it must be shown that the particular location is impressed with the character of a traditional public forum for purposes of free speech." *Id.* at 122. As noted above, a Target store is not itself a public forum. Therefore, there is no right to solicit signatures at the entrance to a Target store, even if the store is located in a shopping center.

These cases make clear that Target stores are not themselves within the reach of the *Pruneyard* decision and that we do not need to allow people to use our property for expressive activity. Even in shopping malls that are within the reach of the *Pruneyard* decision, the right under *Pruneyard* is to use the common areas of the mall, not the area directly outside the Target store entrance. Individuals wishing to use the common areas within shopping malls should address the matter with the shopping mall owner or operator, not with Target.

We will continue to enforce our no-solicitation policy in all stores, including California, as we believe that these recent cases demonstrate our right to control access to our property and provide our guests with a comfortable, distraction-free shopping experience.

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Salvation Army

Target has a long-standing solicitation policy at our stores nationwide. In order to provide a distraction-free shopping environment for our guests, we do not allow solicitation or petitioning at our stores regardless of the cause being represented.

This policy does not diminish our support of The Salvation Army. Target and The Salvation Army work together in many ways throughout the year, including grants, volunteerism and in-kind donations to help those who need it most. In fact, Target kicked-off the 2007 holiday season with a \$1 million donation to The Salvation Army.

In addition, Target will offer a compilation CD, entitled "Songs for Greater Good," which includes various artists singing the season's most popular songs and a holiday ornament – both benefiting The Salvation Army – this holiday season. With the purchase of each CD, two dollars will go to support The Salvation Army. The CD is available at Target stores nationwide.

Any non-profit organization, including The Salvation Army, can apply for a grant through its local Target store. Store grants form the basis of Target's extensive commitment to supporting the communities in which it does business, and many local Salvation Army corps across the country benefit from Target store grants. Here are a few examples of grants provided to local Salvation Army chapters in 2007:

- Florence, AL – School for Performing Arts
- Indianapolis, IN – Family Violence Prevention
- Springfield, MA – Family Literacy Program
- Hampton, VA – Youth Music Appreciation Program
- Norristown, PA – Before and After School Program
- Southfield, MI – After School Reading Initiative
- Rockford, IL – Violence Prevention Program

Target has one of the largest and most respected corporate philanthropy programs in America, donating 5% of its income to communities—more than \$3 million per week—and hundreds of thousands of volunteer hours each year to non-profit organizations across the country. Forbes magazine recently ranked Target as the "Most Charitable Company in America."

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