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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

WAL-MART STORES, INC., a
Delaware corporation,

Plaintiff,

vs.

UNITED FOOD AND COMMERCIAL
WORKERS INTERNATIONAL UNION,
ORGANIZATION UNITED FOR
RESPECT AT WALMART, and DOES
1-10,

Defendants.

Case No. BC508587

Judge Ernest M. Hiroshige

**FINDINGS OF FACT AND ORDER
GRANTING MOTION FOR PRELIMINARY
INJUNCTION**

Date: November 13, 2013 .
Dept.: 54

On September 20, 2013, Plaintiff Wal-Mart Stores, Inc. ("WMSI"), and its related and wholly-owned operating companies¹ filed a motion seeking this Court to grant a preliminary injunction against United Food and Commercial Workers International Union ("UFCW") and Organization United for Respect at Walmart ("OURWalmart") (collectively,

¹ On September 19, 2013, Walmart submitted a Stipulation and Proposed Order regarding Plaintiff's Filing of First Amended Complaint, and First Amended Complaint ("FAC"). The FAC made technical amendments to the original complaint to add the following operating entities: Walmart Realty Company ("WRC"), Wal-Mart Real Estate Business Trust ("WMREBT"), Sam's West, Inc. ("SWI") and Wal-Mart Stores, East, LP ("WMSELP"). WMSI, WRC, WMREBT, SWI and WMSELP are collectively referred to herein as "Walmart."

1 "Defendants").

2 The Court held an evidentiary hearing from October 23, 2013 through October 31,
3 2013, pursuant to Labor Code section 1138.1. Appearing for Plaintiffs was Manatt,
4 Phelps & Phillips, LLP by Matthew Kanny and Yoanna Binder and Steptoe & Johnson,
5 LLP by Steven Wheeless. Appearing for Defendants was Gilbert & Sackman by Robert
6 Cantore.

7 The Court has considered the testimony, declarations, requests for judicial notice
8 and exhibits offered by the parties. Pursuant to Labor Code section 1138.1, in order to
9 obtain injunctive relief against picketing, Plaintiff must prove: (1) that unlawful acts have
10 been threatened and will be committed unless restrained or have been committed and
11 will be continued unless restrained; (2) that substantial and irreparable injury to
12 complainant's property will follow; (3) that as to each item of relief granted greater injury
13 will be inflicted upon complainant by the denial of relief than will be inflicted upon
14 defendants by the granting of relief; (4) that complainant has no adequate remedy at
15 law; and (5) that the public officers charged with the duty to protect complainant's
16 property are unable or unwilling to furnish adequate protection.

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1 **FINDINGS OF FACT**

2 The Court finds that Walmart has introduced evidence sufficient to carry its
3 burden on each of the factors enumerated in Labor Code sections 1138.1 and 1138.2.

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5 Specifically, the Court finds as follows:

6 1. Walmart operates over 250 stores throughout California in multiple formats,
7 including discount stores, Supercenters, Sam's Clubs and Neighborhood Markets
8 (collectively referred to herein as, "stores"), that the public has a limited invitation to the
9 stores to shop, and that the limited invitation to the public does not transform the stores
10 into a public forum.

11 2. Defendants and their agents, representatives and supporters (except for
12 current Walmart employees) have unlawfully trespassed inside Walmart's stores across
13 California, with their activity ranging from a single OURWalmart member trespassing into
14 a store daily, to large scale demonstrations at numerous stores.

15 3. Defendants and their agents, representatives and supporters (except for
16 current Walmart employees) have committed and continue to threaten unlawful acts
17 inside Walmart's stores, including, but not limited to, blocking ingress and egress and
18 aisle ways and customers' mobility inside the store, littering balloons and flyers
19 throughout stores, and blowing air horns, screaming and conducting flash mobs. As
20 used herein and as defined by the Merriam-Webster dictionary, a "flash mob" is "a group
21 of people summoned (as by email or text message) to a designated location at a
22 specified time to perform an indicated action before dispersing." As part of Defendants'
23 use of flash mobs inside Walmart's stores, Defendants have gathered and organized
24 demonstrators who have shown up unannounced and entered Walmart's stores to
25 demonstrate by marching around the store, performing loud songs and yelling chants or
26 slogans and exiting the store.

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1 4. Defendants' conduct substantially or irreparably injures Walmart by
 2 interfering with Walmart's ability to provide for a safe and pleasant shopping experience
 3 for its customers, damaging Walmart's reputation and goodwill, increasing security risks,
 4 increasing the opportunities for criminals to steal merchandise, creating a potential for
 5 violence, preventing Walmart associates from doing their jobs, and causing a loss of
 6 productivity due to Walmart's need to monitor and control Defendants' trespassory
 7 activities.

8 5. The evidence establishes that greater injury will be inflicted upon Walmart
 9 by the denial of this preliminary injunction than will be inflicted upon Defendants by the
 10 granting of relief, as Defendants are permitted to conduct lawful demonstrations outside
 11 of Walmart's stores.

12 6. Walmart has no adequate remedy at law, due to Defendants' repeated
 13 trespasses and continued threats to enter Walmart's stores to engage in their
 14 demonstrations and other disruptive conduct.

15 7. Public officers have been unable or unwilling to furnish adequate protection
 16 to Walmart's property, as law enforcement often showed up after Defendants had
 17 concluded their demonstrations, or declined to remove Defendants from Walmart's
 18 property during their demonstrations.

19 8. Walmart has made every reasonable effort to settle any legally cognizable
 20 labor dispute in question with Defendants, including unlawful trespasses into Walmart's
 21 stores and Walmart is in compliance with Labor Code § 1138.2.

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ORDER

Based on the evidence submitted and the above findings of fact, the Court hereby **ORDERS, ADJUDGES AND DECREES** that:

Defendants, and all of their agents, members, representatives, servants, assigns and persons acting on their behalf or in concert with them (except for current Walmart employees), ARE HEREBY ENJOINED FROM entering Walmart's stores (as referred to herein, "stores" include Walmart's: retail stores, Supercenters, Sam's Club locations and Neighborhood Markets) and facilities in the State of California to engage in unlawful activities, such as, picketing, patrolling, marching, parading, "flash mobs," demonstrations, handbilling, solicitation, manager confrontations², or customer disruptions, all of which are outside the scope of the Moscone Act, Cal. Code Civ. Proc. § 527.3.

Defendants immediately shall post this Order on Defendants' websites, Facebook pages, Twitter sites, and any other internet and/or social media outlets under their control.

IT IS SO ORDERED.

Dated: November 13, 2013



JUDGE ERNEST M. HIROSHIGE

² This order does not preclude OurWalmart representatives, limited to two, from accompanying their member Walmart Associates, one at a time, and enter Walmart to discuss with a Walmart manager, in a business- like manner using normal voice tones, that their member is unhappy with some labor condition at Walmart. Walmart may then schedule a meeting under Walmart's "Open Door Policy" precluding any OurWalmart representatives from being present during the discussion of the Associates' issue(s) per Walmart policy; subject to any NLRB review and decision about this Walmart procedure.