



**CIRCUIT COURT OF MARYLAND FOR
ANNE ARUNDEL COUNTY**
8 Church Circle, PO Box 71
Annapolis, Maryland 21404-0071

Main: 410-222-1397
Civil: 410-222-1431
Criminal: 410-222-1420
Juvenile: 410-222-1427
TTY for Deaf: 410-222-1429
Maryland Relay Service: 711

Case Number: 02-C-13-181974

To: GEORGE WISZYNSKI, ESQUIRE
UFCW INTERNATIONAL UNION
1775 K STREET NW
WASHINGTON DC 20006

WALMART STORES INC, ET AL VS UNITED FOOD AND COMMERCIAL WORKERS INTER

WAL-MART STORES, INC., ET AL

Plaintiff

v.

UNITED FOOD AND COMMERCIAL
WORKERS INTERNATIONAL
UNION, ET AL

Defendant

* IN THE
* CIRCUIT COURT
* FOR
* ANNE ARUNDEL COUNTY
* CASE NO.: 02-C-13-181974

* * * * *

PERMANENT INJUNCTION

The Court, having considered the parties' briefing and evidence in connection with Plaintiffs' and Defendants' Motions for Summary Judgment, the Second Amended Complaint and Answer thereto, and the entire record in this case, and following the presentation of arguments by both parties on March 3, 2015, this Court granted Plaintiffs' Motion for Summary Judgment in its entirety and denied Defendants' Motion for Summary Judgment in its entirety. Having thus resolved all disputes between the parties and leaving nothing further to be done in this matter, and after a determination of the merits, it is hereby

ORDERED, that Plaintiffs Wal-Mart Stores, Inc., Wal-Mart Stores East, LP and Sam's East, Inc. are hereby granted a Permanent Injunction against Defendants United Food and Commercial Workers International Union, Organization United for Respect at Walmart ("OURWalmart"), Jobs with Justice, Alan Hanson and Silvia Fabela at all Walmart and Sam's Club private property throughout the State of Maryland, it is further

ORDERED, that Defendants, and their parents, subsidiaries, and affiliates, their non-Walmart associate officers, employees, and agents, and all other non-Walmart

Filed 03-16-15 JB

associate persons who act in concert with, or on behalf of, or at the direction or control of, Defendants, are enjoined and restrained, directly and indirectly, from:

1. Entering on Walmart's private property in the State of Maryland to engage in activities such as picketing, patrolling, parading, demonstrations, chanting, "flash mobs," handbilling, solicitation, customer disruptions, manager delegations or confrontations, or associate engagement for a non-shopping purpose;
2. Entering on Walmart's private property in the State of Maryland without permission for any purpose other than shopping for and/or purchasing merchandise at Walmart's stores;
3. Interfering with, obstructing or blocking Walmart's and its customers' access to, and use of, easements and/or right-of-ways granted by Walmart across or upon apron sidewalks and parking lots adjacent to stores for which Walmart has a "building-only" lease; and
4. Engaging in any nuisance conduct off Walmart's private property which disrupts and/or interferes with Walmart customers' or associates' access to, or ability to move around on or exit, Walmart private property in the State of Maryland; it is further

ORDERED, that Walmart has properly and lawfully notified Defendants (and all other persons identified in Paragraph 1 herein) that they have no right to come onto its private property to engage in any non-shopping activity, and they commit a trespass subject to this Judgment each and every time they come onto Walmart's private property

to engage in non-shopping conduct, regardless of whether they are personally or individually told to leave while on-site; it is further

ORDERED, that "Walmart's private property" means

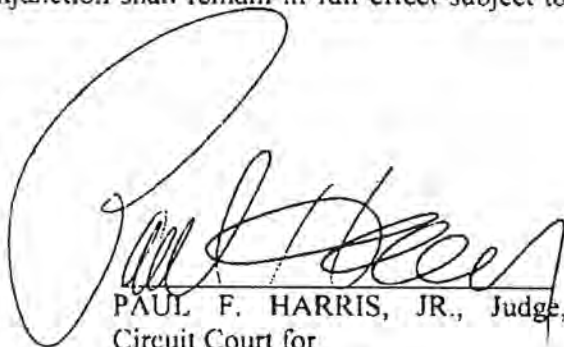
1. The area inside its retail stores and other facilities in Maryland; and
2. The apron sidewalks, parking lots, and other areas on any parcel of property in Maryland that Walmart controls as owner or lessee; it is further

ORDERED, that "associate" means a current Walmart employee; it is further

ORDERED, that as the prevailing party, Walmart may be entitled to an award of its costs in prosecuting this action, and shall submit to this Court an itemized statement of its reasonable costs, within 14 days of the date of this Order, which may be awarded by a separate order; it is further

ORDERED, that Defendants shall immediately post this Judgment on Defendants' websites, Facebook pages, Twitter sites, and any other internet and/or social media outlets under their control or used by Defendants; it is further

ORDERED, that this Permanent Injunction shall remain in full effect subject to further Order of this Court.



PAUL F. HARRIS, JR., Judge,
Circuit Court for
Anne Arundel County

WAL-MART STORES, INC., ET AL

Plaintiff

v.

UNITED FOOD AND COMMERCIAL
WORKERS INTERNATIONAL
UNION, ET AL

Defendant

* IN THE

* CIRCUIT COURT

* FOR

* ANNE ARUNDEL COUNTY

* CASE NO.: 02-C-13-181974

* * * * *

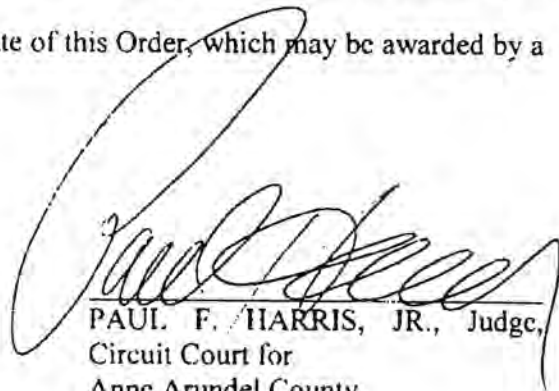
ORDER

This matter having been heard and considered, it is this 4 day of March, 2015, by the Circuit Court for Anne Arundel County, Maryland hereby,

ORDERED, that Plaintiffs' Motion for Summary Judgment is GRANTED; it is further

ORDERED, that Defendants' Motion for Summary Judgment is DENIED; it is further

ORDERED, that as the prevailing party, Walmart may be entitled to an award of its costs in prosecuting this action, and shall submit to this Court an itemized statement of its recoverable costs within 14 days of the date of this Order, which may be awarded by a separate Order.


PAUL F. HARRIS, JR., Judge,
Circuit Court for
Anne Arundel County

Filed 03-16-15 JB

WAL-MART STORES, INC., et al.

PLAINTIFFS,

vs.

UNITED FOOD AND COMMERCIAL
WORKERS INTERNATIONAL UNION,
et al.

DEFENDANTS.

) IN THE

) CIRCUIT COURT

) FOR

) ANNE ARUNDEL COUNTY

) MARYLAND

) CASE NO. C-13-181974

**FINDINGS OF FACT AND CONCLUSIONS OF LAW ON
ORDER GRANTING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND
DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

The Court, having considered the parties' briefing and evidence in connection with Plaintiffs' and Defendants' Motions for Summary Judgment; Plaintiffs' Complaint and Defendants' Answer thereto; and the entire record in this case, including the affidavits and evidence Walmart submitted in support of its Motion for Preliminary Injunction, which this Court granted on November 26, 2013; and following the presentation of arguments by both parties on March 3, 2015, this Court makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Walmart operates approximately 60 retail stores and facilities throughout Maryland in multiple formats, including discount stores, Supercenters, and Sam's Clubs.
2. Walmart's invitation to its customers is solely to patronize its stores and purchase merchandise, not to congregate, meet friends, give speeches, perform dance numbers, or linger on the premises. Specifically, Walmart stores have spaces to allow customer flow, shopping, navigation, and merchandise stocking, not public demonstrations or events. The entrance and exit areas at the Walmart stores are also designed to encourage the free flow of persons coming into the store to shop and are not designed to encourage people to congregate in those areas or

Filed 03-16-15 JB

engage in public demonstrations. Walmart does not allow any group to engage in non-shopping, non-business-related demonstrations on its private property.

3. Defendant United Food and Commercial Workers Union, International (“UFCW”) is a national labor organization whose stated mission is to represent grocery, retail, meat packing, and food processing workers. Defendant Organization United for Respect at Walmart (“OURWalmart”) is a labor organization under the National Labor Relations Act (“NLRA”) and a subsidiary of the UFCW.

4. OURWalmart’s members and followers include individuals who do not work at Walmart. UFCW and OURWalmart expressly disclaim any intent to have Walmart recognize or bargain with UFCW or OURWalmart as the representative of Walmart associates.

5. Defendant Jobs With Justice is a national network of local coalitions of labor unions, faith groups, community organizations, and student activists.

6. Defendants Alan Hanson and Sylvia Fabela are UFCW employees.

7. Walmart is seeking injunctive and declaratory relief against only third parties who do not work for Walmart.

8. On October 14, 2011, October 8, 2012, November 15, 2012, and April 4, 2013, Walmart gave formal, written notice to Defendants and their counsel that Defendants, and their non-associate officers and directors, employees, agents, UFCW Locals, and third-party supporters (referred to as “allies,” and collectively herein as “Defendants”), are not authorized or permitted to come onto Walmart’s private property to engage in any activity other than shopping, including such disruptive activities as picketing, patrolling, parading, “flash mobs,” demonstrations, handbilling, solicitation, customer disruptions, and manager confrontations. Those notices informed Defendants that any privilege or license they thought they had to enter

onto Walmart's private property for the purpose of engaging in any activity other than shopping had been revoked. Defendants, through their legal counsel, received those notices.

9. Despite Walmart's written and oral on-site demands that they stop, Defendants have repeatedly entered onto Walmart's property in Maryland—without any permission or authorization—and engaged in some form of demonstration during normal business hours, with activity ranging from a handful of individuals trespassing onto Walmart's private property to mass demonstrations at its stores. Defendants have planned, coordinated, funded, conducted, and/or personally participated in at least 25 demonstrations on Walmart's private property. These demonstrations have lasted anywhere from 15 to 20 minutes to over an hour (or more).

10. Defendants' demonstrations occurred in the immediate vicinity of customers who are shopping for or purchasing Walmart merchandise and Walmart employees and business invitees who are working, which disrupted and interfered with Walmart's business. Defendants' demonstrations caused an extremely loud, distracting and tense environment

11. During their demonstrations, Defendants blocked customer access at various times to shopping and service areas inside Walmart stores. Customers with shopping carts had to swerve to get around the demonstrators or take an alternative route to the cash registers or front entrance. Defendants also caused shoppers to stop and focus at various times on the demonstrators' conduct and noise instead of shopping. Defendants marched en masse, chanted loudly, blew whistles and horns, played loud music, and used bullhorns or megaphones. They videotaped their demonstrations on Walmart's private property without permission. Shoppers with merchandise in their carts looked at the demonstrators, left their carts, and walked out of the store. As Defendants marched into and out of Walmart stores, Defendants blocked customers from entering and exiting. Demonstrators yelled at customers and also used profanity.

12. Defendants' demonstrations also interfered with Walmart associates' ability to serve customers, as demonstrators attempted to give associates handbills and talk to them about Defendants' organizations on the sales floor.

13. Defendants' demonstrations in Walmart's parking lots and sidewalk areas blocked vehicle and pedestrian traffic as customers entered and exited the store and parking lot. Defendants also planned and conducted a demonstration that blocked a major intersection on Highway 450 by a Walmart store in Landover Hills, causing a traffic jam on Highway 450 and in Walmart's parking lot and preventing Walmart customers from entering and exiting Walmart's parking lot.

14. Walmart managers received numerous customer complaints about Defendants' conduct. Defendants' demonstrations also pulled Walmart managers away from their normal duties and required them to monitor the crowd of demonstrators' behavior and clean up after them. Moreover, there were also increased security risks due to the proximity of customers and managers to demonstrators, some of whom became aggressive when confronted.

15. Although local law enforcement responded to many of Defendants' demonstrations in Maryland, their presence did not prevent Defendants' trespasses, the disruption to customers shopping and Walmart's business operations, and Defendants' blocking or interference with ingress and egress. Often times, law enforcement arrived at the store after Defendants finished their demonstration or when Defendants were already on their way out the store. And even when law enforcement ejected Defendants, they simply returned later to conduct additional demonstrations.

16. As Captain Joseph Hoffman explained, when large crowds demonstrate on a business's private property, uninvited and without permission, the police monitor the event from

a crowd control perspective, but they must pick their battles, and they will not typically arrest anyone for trespassing if they can avoid it, in part because doing so can make the crowd turn violent.

17. Numerous times during the demonstrations described above, Walmart's on-site managers and police officers asked the demonstrators to leave Walmart's property, which requests were ignored. Indeed, Defendants instruct their demonstrators that, if a police officer or manager tells them to leave, they should refer the officer or manager to the "action lead," who will then address the issue with the police officer or manager. Even if a police officer continues to tell demonstrators to leave, Defendants' instructions state, the action lead should call the UFCW attorney for guidance. Demonstrators are told to leave only when "the officer nevertheless threatens to arrest you." According to Defendants, a demonstrator is not trespassing "unless a manager with the appropriate authority orders you to leave and you refuse. If you leave when ordered, you have not trespassed." Even then, demonstrators are encouraged to require verification from law enforcement that the manager instructing them to leave has the "required authority."

18. Defendants threaten to commit similar demonstrations on and around Walmart's property in Maryland. They have promised that absent an injunction, it is their intent to continue to hold demonstrations inside Walmart stores and on the parking lots and sidewalks adjacent to Walmart stores and facilities, including parades, rallies, picketing, song and dance routines by cash registers, handbilling, and manager confrontations.

19. "Walmart's private property" means (i) the area inside its retail stores and other facilities in Maryland; and (ii) the apron sidewalks, parking lots, and other areas on any parcel of property in Maryland that Walmart controls as owner or lessee.

20. At a few stores or other facilities located within a shopping center or building that contains other retail shops or businesses, Walmart has granted reciprocal cross-easements over portions of its parking lot and sidewalk areas (which it owns or controls as lessee) to provide access to those shops and businesses' customers and employees for the purpose of shopping and conducting business at those establishments. Those cross-easements do not permit Defendants (or any other group) to use Walmart's parking lot and sidewalk areas for any reason other than to shop for and purchase merchandise (or to conduct authorized business) at other retail shops or businesses located in the shopping center.

CONCLUSIONS OF LAW

21. Defendants engaged in multiple disruptive demonstrations on private property in the possession and control of Walmart, and threaten to do so again, interfering with Walmart's use and enjoyment of its private property and the conduct of its business operations.

22. Walmart has lawful possession and control of the interior of its stores and other facilities in the State of Maryland as property owner or lessee with the right to exclude. Walmart has lawful possession and control of its adjacent apron sidewalk areas and parking lots in the State of Maryland with the right to exclude where Walmart owns or leases the apron sidewalk area and parking lot.

23. Each of Defendants' entries onto Walmart's private property following Walmart's oral and written notices to Defendants revoking any privilege that they thought they had to enter onto Walmart's private property for purposes other than shopping constitutes a trespass, and the number of such unauthorized entries by Defendants amounts to a continuing trespass enjoined under Maryland law.

24. Walmart retains the right to exclude trespassers from property it owns or leases

even where it grants specific business-use easements or rights-of way to neighboring tenants in a shopping center. Beyond the easement holder's right to use the easement in accordance with its terms, Walmart, as the owner or lessee of the tract of land, has the right to exclude others from its land to protect itself from trespass. Indeed, a trespass occurs where use of the easements over Walmart's parking lots and sidewalks is for other than their intended purpose, e.g., provide access to other retail establishments.

25. Walmart's private property in Maryland is not a public forum subject to First Amendment protections. Walmart has the right to operate its stores and other facilities free from the illegal conduct of others and thus to exclude those who engage in such conduct. Thus, Walmart has the right to extend a limited invitation to the public and to prohibit a person from exercising in its store what would be a protected right of free speech if asserted on a public sidewalk.

26. Defendants' blocking or interference with vehicle and pedestrian traffic on public roadways adjacent to Walmart stores, and in parking lots and on sidewalk areas adjacent to the few Walmart stores in Maryland at which Walmart leases only the building but has a nonexclusive right to use the adjacent parking lot and sidewalk area, constitute an enjoicable nuisance. Walmart has established a "special injury" to entitle it to an injunction against demonstrations on public property (like Defendants' act of civil disobedience on Highway 450) that block or interfere with its customers' access to Walmart stores and parking lots.

27. Absent a permanent injunction, Walmart has no adequate remedy for Defendants' threat of continued trespasses and nuisance conduct. The right to carry on one's lawful business without obstruction is a property right, and its protection is a proper object for the granting of an injunction.

28. Defendants have threatened similar demonstrations on Walmart's property in the future, so seeking redress in the courts for each offense at the time it occurs is unduly burdensome, highly impractical, and likely futile. Walmart would have to bring multiple suits in multiple jurisdictions across the State of Maryland to address Defendants' continued acts of trespass and nuisance. In the meantime, as Walmart litigated those numerous suits, Defendants would continue to violate Walmart's property rights in Maryland.

29. It is nearly impossible to determine, in terms of damages, the impact of Defendants' trespassory and nuisance-causing demonstrations on Walmart's business. There is simply no way even to estimate how many Walmart customers have been deterred by the Defendants' illegal activities. As a result of Defendants' demonstrations, Walmart has been disturbed in the shopping experience that it can provide to its customers. Defendants' demonstrations have damaged Walmart's reputation and goodwill, and that loss of customer goodwill is neither easily calculable nor compensable. Similarly, Walmart has suffered lost sales, but they defy precise calculation.

30. Defendants' demonstrations have required Walmart to redirect its security resources, prevented Walmart managers from doing their jobs, and caused a loss of manager productivity due to Walmart's need to monitor Defendants' trespassory activities and attempt to deal with customer concerns.

31. Defendants' demonstrations have also created a potential for violence. Every act of trespass has the potential for violence if the trespass is a breach of the peace, and acts of repeated trespass arising out of a failure to leave after a proper request, which repeatedly occurred in this case, are breaches of the peace. Defendants' loud shouting and chanting and blocking of customer traffic while inside and outside Walmart stores were also a breach of the

peace.

32. The cumulative effect of the harms wrought by Defendants on Walmart and its business has deprived Walmart of an adequate remedy at law to address Defendants' continuing trespass and nuisance conduct and continued threats to enter onto and into Walmart's private property to engage in their demonstrations and other non-shopping conduct.

33. Greater injury will be inflicted upon Walmart by the denial of its request for a permanent injunction than will be inflicted upon Defendants by the granting of such relief, as Defendants can conduct lawful non-blocking demonstrations with the same signs, chanting, and picketing on public property adjacent to Walmart's private property. Moreover, Defendants have no right to break the law.

34. Maryland's Anti-Injunction Act, Code Ann. Lab. & Empl. 4-301, *et seq.* ("Act"), does not apply to this case because Defendants' conduct does not give rise to a "labor dispute" within the meaning of the Act.

35. Even if the Act applies, in light of the factual findings and legal conclusions herein (*supra* at ¶¶ 9-33), Walmart has established all requirements for an injunction under section 4-314(3) of the Act, namely that:

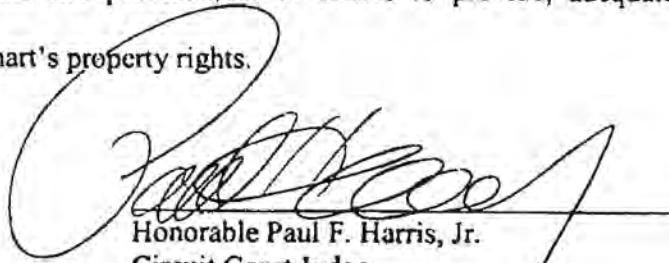
- i. Defendants have committed, and unless restrained, will continue to commit unlawful acts (trespass, disorderly conduct, breach of the peace, and nuisance);
- ii. absent a permanent injunction, Walmart's property will be substantially and irreparably injured;
- iii. greater injury will be inflicted on Walmart if a permanent injunction is not entered than will be inflicted on Defendants if a permanent injunction is

entered;

- iv. this Court is not granting any relief for which it lacks jurisdiction under section 4-307 of the Act;
- v. Walmart has no adequate remedy at law; and
- vi. law enforcement has not provided, or is unable to provide, adequate protection of Walmart's property rights.

Dated:

3-4-15



Honorable Paul F. Harris, Jr.
Circuit Court Judge