

Hermes Netburn Prevails in 1st Circuit Court of Appeals on behalf of the National Federation of the Blind

September 24, 2018

(Boston, MA. – September 2018) Hermes, Netburn, O'Connor and Spearing, P.C. is pleased to announce that the appellate court ruled in favor of the firm's clients, the National Federation of the Blind and other plaintiffs.

Hermes Netburn shareholder, in its complex commercial litigation department, Jeremy Y. Weltman, was a critical part of a multi-firm team representing the National Federation of the Blind and other Plaintiffs. Weltman states: "Even though technology for making printed text accessible to blind people is in widespread use, from audio feedback to Braille displays, the Container Store chose to utilize flat touchscreen point of service interfaces with no tactilely discernible buttons, essentially providing no accessible text options for blind customers." In violation of the Americans with Disabilities Act (ADA) and state civil rights laws, the store provided no useable tools for their blind patrons, but rather expected them to share personal financial information verbally with cashiers as they checked out.

In this victory, The Container Store tried to get the ADA violation lawsuit thrown out of court by saying the plaintiffs, by the very act of signing up for the store's loyalty program, inherently agreed to the inaccessible fine print terms that required any dispute to take place in private arbitration rather than in front of a judge or jury. Jeremy Y. Weltman's legal team ultimately prevailed and the 1st Circuit Court of Appeals ruled that loyalty program terms cannot be changed without actual notice and that any changes must make such terms accessible to all shoppers, including those who are blind. This decision opens the door for class-wide relief.