



COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO
CIVIL DIVISION

NOV 24 2014
Robert C. Winkler, Judge

WAL-MART STORES, INC., et al.,

Plaintiffs,

v.

: Case No. A1406453
:
:
: Judge Robert C. Winkler
:
:
:

ENTERED
NOV 24 2014

UNITED FOOD & COMMERCIAL
WORKERS INTERNATIONAL UNION, et
al.,

Defendants.

: ORDER GRANTING PLAINTIFFS'
: MOTION FOR A PRELIMINARY
: INJUNCTION
:

This matter came before the Court on Plaintiffs' (collectively "Walmart") motion for a preliminary injunction. This Court held an evidentiary hearing on November 17, 2014. Appearing for Plaintiffs was Robert W. Hojnoski and Michael M. Mahon of Reminger Co., L.P.A, and Douglas Janicik of Steptoe & Johnson, LLP. Appearing for Defendants was Eben O. McNair, IV, James G. Porcaro, and Jessica S. Monroe of Schwarzwald McNair & Fusco, LLP.

The Court, having reviewed Plaintiffs' motion and all evidence provided therewith, and having considered the testimony, Affidavits, and exhibits offered by the parties, as well as all supplemental briefs and memoranda, and being otherwise sufficiently advised, makes the following specific findings of fact:

1. Walmart operates approximately 175 stores throughout Ohio in multiple formats, including discount stores, Supercenters, and Sam's Clubs.
2. Defendants and their agents, representatives, and supporters (except for current Walmart employees) have unlawfully trespassed onto and into Walmart's private property and stores across Ohio, with activity ranging from a single or few individuals trespassing onto

Walmart's property repeatedly, to larger-scale demonstrations at numerous stores.

3. Defendants and their agents, representatives and supporters (except for current Walmart employees) have committed and continue to threaten to commit unlawful acts on Walmart's private property. Walmart's evidence establishes that Defendants, their agents, representatives and supporters have engaged in multiple disruptive demonstrations on private property in the possession and control of Walmart, interfering with Walmart's use and enjoyment of its private property and the conduct of its business operations. These demonstrations have included, but are not limited to, the use of "flash mobs," handbilling, placards, singing, chanting, stomping, yelling, sound amplification (such as bullhorns or megaphones), "video bombs," manager confrontations, picketing, and the blocking of ingress and egress to and from Walmart's private property.

4. Walmart has repeatedly notified Defendants, their agents and representatives (except for current Walmart employees) that any privilege or license for them or their followers to enter onto Walmart's private property for the purpose of engaging in any activity other than shopping has been revoked. Notwithstanding this revocation for any disallowed purpose, Defendants, their agents, and representatives (except for current Walmart employees) have continued to trespass onto Walmart's private property and conduct demonstrations on Walmart's private property. This court specifically finds that each of Defendants' (and its agents' and representatives') entries onto Walmart's private property following Walmart's oral and written notices to Defendants revoking any privilege to enter onto Walmart's private property for purposes other than shopping constitutes an "unauthorized entry" onto Walmart's private property, and that the number of unauthorized entries by Defendants amounts to a continuing trespass.

5. In addition to Defendants repeated and continuing acts of trespass onto Walmart's private property across the State of Ohio, this Court also finds, based on the evidence presented, that Defendants have committed or are likely to commit acts of nuisance in the exterior parking lots, aprons and sidewalks of Walmart's building-only leased stores, to include interference and disruption with Walmart customers' or associates' access to, or ability to move around on or enter/exit Walmart's private property.

6. As a result of these unauthorized entries, Walmart has been disturbed in the safety, shopping experience and working environment that it can provide to its employees and customers working and shopping in its stores. Defendants' activities have also damaged Walmart's reputation and goodwill, increased its security costs, created a potential for violence, prevented Walmart associates from doing their jobs, and caused a loss of productivity due to Walmart's need to monitor and control Defendants' trespassory activities. The cumulative effect of the harms wrought by Defendants on Walmart has thereby deprived Walmart of an adequate remedy at law to address Defendants' continuing trespass and continued threats to enter onto and into Walmart's private property to engage in their demonstrations and other disruptive conduct.

7. The court further finds that, absent the entry of a Preliminary Injunction, Defendants' unauthorized entries onto Walmart's private property throughout the State of Ohio are likely to continue in the future and a substantial and irreparable injury to Walmart and its property would be unavoidable. The evidence establishes greater injury will be inflicted upon Walmart by the denial of this Preliminary Injunction than will be inflicted upon Defendants by the granting of relief, as Defendants can conduct lawful demonstrations on public property adjacent to Walmart's private property.

8. The court further finds that "Walmart's private property" means:

a. the area inside its retail stores and other facilities in Ohio; and

b. the apron sidewalks, parking lots, and other areas on any parcel of property in Ohio that Walmart controls as owner or lessee, which includes Store Nos. 1239, 1264, 1289, 1330, 1331, 1333, 1368, 1407, 1410, 1416, 1427, 1429, 1433, 1441, 1443, 1445, 1448, 1463, 1478, 1495, 1504, 1519, 1521, 1539, 1564, 1594, 1595, 1622, 1628, 1724, 1839, 1857, 1863, 1894, 1911, 1913, 1927, 1937, 1986, 1990, 2035, 2063, 2073, 2078, 2098, 2115, 2124, 2149, 2191, 2193, 2197, 2209, 2250, 2266, 2275, 2309, 2313, 2316, 2323, 2350, 2359, 2362, 2400, 2426, 2429, 2441, 2506, 2541, 2542, 2572, 2605, 2613, 2666, 2725, 2774, 2910, 2966, 3206, 3250, 3251, 3262, 3282, 3293, 3300, 3342, 3445, 3447, 3486, 3502, 3515, 3571, 3580, 3581, 3608, 3641, 3656, 3722, 3749, 3765, 3783, 3784, 3792, 3809, 3840, 3860, 4255, 4282, 4342, 4479, 4750, 4846, 4947, 4962, 4963, 5028, 5029, 5030, 5066, 5083, 5104, 5184, 5185, 5203, 5285, 5309, 5355, 5374, 5385, 5387, 5409, 5410, 5466, 5471, 5499, 5857, 6242, 6302, 6305, 6307, 6308, 6314, 6317, 6322, 6326, 6327, 6375, 6380, 6407, 6450, 6517, 6528, 6544, 8131, 8132, 8136, 8139, and 8152.

9. The Court further finds that “Associate” means a current Walmart employee.

WHEREFORE, IT IS HEREBY ORDERED AND DECREED THAT:

1. Walmart has met the requirements for the issuance of a preliminary injunction in this matter, and Walmart’s motion is hereby GRANTED.

2. Effective as of the date of this Order, Defendants, their parents, subsidiaries, and affiliates, as well as their non-Walmart associate officers, employees, and agents, and all other non-Walmart associate persons who act in concert with Defendants, or at their direction and control, are hereby enjoined and restrained, directly or indirectly, from:

a. entering onto Walmart’s private property in the State of Ohio 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;

b. entering onto Walmart's private property in the State of Ohio without permission for any purpose other than shopping for and/or purchasing merchandise at Walmart's stores;

c. interfering with, obstructing, or blocking Walmart's and its customers' access to, and use of, easements granted to Walmart across apron sidewalks and parking lots at Store Nos. 1503, 1707, 1718, 1750, 1812, 1895, 2199, 2211, 2361, 2447, 2471, 2726, 2914, 3812, 4609, 5082, 6404, and 6556, located in Ohio for which Walmart has a building-only lease; and

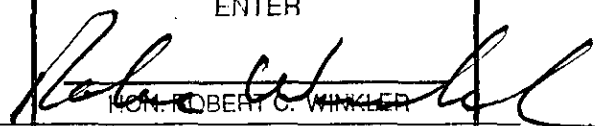
d. engaging in any nuisance conduct off Walmart's private property which disrupts and/or interferes with Walmart customers' or associates' access to, or ability to move around on or exit, Walmart private property in the State of Ohio.

3. Defendants shall immediately post this Order for a Preliminary Injunction on Defendants' websites, Facebook pages, Twitter sites, and any other internet and/or social media outlets under their control or used by Defendants.

4. Walmart shall post a bond in the amount of \$10,000 for the payment of any damages to which Defendants may be entitled should Defendants ultimately prevail in this action after the expiration of this Preliminary Injunction.

DATED this 24th day of November, 2014.

IT IS SO ORDERED.

COURT OF COMMON PLEAS
ENTER

HON. ROBERT C. WINKLER
The Honorable Robert C. Winkler
Judge, Court of Common Pleas
THE SUPREMACY OF THE CONSTITUTION
TO PARTIES PURSUANT TO CIVIL
AS COSTS HEREIN.