



Written by [Bob Adelman](#) on April 8, 2015

Trinity Church Lawsuit Threatens Walmart's Freedom to Sell Guns

If Walmart's [appeal](#) of a court's ruling last November fails, it would not only set the stage for huge changes in how corporate America runs its operations, but also represent a victory for anti-gunners interested in removing guns from Walmart's shelves.



New York's Trinity Wall Street Church (interior shown), a historic, well-endowed (with an estimated \$2 billion in assets), and politically liberal church, asked Walmart in early 2014 to include a proposal in its proxy materials for the company's annual meeting. On the surface, the proposal seemed innocuous enough. All the church (which owns about \$280,000 worth of Walmart stock) wanted was to make a slight change in the company's board of directors charter:

[to provide] oversight concerning the formulation and implementation of ... policies and standards that determine whether or not the Company should sell a product that:

Especially endangers public safety and well-being;

Has the substantial potential to impair the reputation of the Company; and/or

Would reasonably be considered by many [to be] offensive to the family and community values integral to the Company's promotion of its brand.

The giveaway was in the church's introduction to its proposal and its explanation of why it must be included along with other proxy materials: "... whether or not the company should sell guns equipped with magazines holding more than ten rounds of ammunition ('high capacity magazines') and to balance the benefits of selling such guns against the risks that these sales pose to the public and to the Company's reputation and brand value."

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But, according to Trinity's rector, the Reverend James Cooper, the church isn't really "anti-gun" (according to a letter he posted on the church's website) nor did it really intend to end the sale of "assault" weapons by Walmart.

No, of course not. The church's intentions were much more benign:

On critical issues such as the sale of products that may threaten the safety or well-being of communities, corporate boards must exercise their oversight role to assure balance among customer, shareholder, and societal interests.



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Besides, said Cooper, it's his church mission to change society to fit its particular social outlook:

Now and in the future, Trinity's pastoral mission will maintain its focus on issues that the parish believes are critical to the welfare of communities and society, under the broad umbrella of justice and fairness that our faith represents.

Nothing in Cooper's remarks gave any credit to either the free market in which Walmart operates for determining the "balance" he refers to, or the customers who are voting with their wallets every day at every Walmart in the land (and across the globe) for products that assure that precious balance. The church's "societal" interests would require governmental intervention if Walmart fails to include the church's proposal.

Walmart decided that running the business included making such decisions internally, and informed Trinity Church and the Securities and Exchange Commission (SEC) of its decision not to include Trinity's proposal in its 2014 proxy materials.

The SEC looked into the matter and concluded that Walmart was certainly acting within its rights to make such decisions internally based upon customer needs and company profitability, and issued a "no action" letter.

That wasn't good enough for Trinity, which filed suit. It claimed that, as a shareholder, it had every right to propose such a change to the company's charter, and the judge agreed. In his decision last November in *Trinity Wall Street v. Wal-Mart Stores, Inc.*, U.S. district court judge for the District of Delaware Leonard Stark wrote:

Trinity has shown that its Proposal should not be excluded from Wal-Mart's proxy materials....

Trinity will be irreparably harmed if it is ... deprived of the opportunity to put its Proposal before Wal-Mart's shareholders for a vote at its next [2015] annual meeting....

Granting [Trinity's demand] serves the public interest by providing Wal-Mart's shareholders the opportunity to vote on Trinity's Proposal.

Walmart appealed Judge Stark's ruling, and the decision by the three-judge U.S. Circuit Court of Appeals is expected momentarily.

Michael Hammond, legislative counsel for Gun Owners of America (GOA), knows exactly what's going on here:

It's ... an ongoing effort by people who have been unable to use the political process to achieve political ends and are now trying to destroy corporations in order to achieve those political ends.

If the appeals court rules in favor of Trinity instead of Walmart, it would create a precedent that would change how corporations operate, by including those "special societal interests" of liberal churches such as Trinity and giving them a de facto seat at the corporate table. Bernard Sharfman, an adjunct professor at George Mason University, made it clear that including such outside interests would adversely affect operations:

[Those kinds of decisions need] to be made by the board of directors. What is in the best interests of the corporation ... is embedded [in] the board. That's why you have a board of directors, to make those decisions.

If Trinity doesn't like the way Walmart operates, it should sell its 3,500 shares of the company stock. But because the church is engaging in blatantly political activity that is none of its business, Hammond



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said Trinity should change its nonprofit status to reflect its real intentions and purposes by declaring itself a “temple of political liberalism as opposed to a temple for the worship of God.”

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