

No. 09-35153, 09-35154

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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POWELL'S BOOKS, INC., et al.,

*Plaintiffs-Appellants,*

v.

JOHN KROGER, et al.,

*Defendants-Appellees.*

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AMERICAN CIVIL LIBERTIES UNION OF OREGON, et al.,

*Plaintiffs-Appellants,*

v.

JOHN KROGER, et al.,

*Defendants-Appellees.*

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On Appeal from the United States District Court  
for the District of Oregon  
Hon. Michael W. Mosman  
Case No. CV-08-501-MO

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**NOTICE OF FILING ON JUNE 4, 2009 OF  
PLAINTIFFS-APPELLANTS' MOTION FOR RECONSIDERATION OF  
THE ORDER ON THEIR MOTION TO FILE A SINGLE EXCERPT OF  
RECORD AND FOR COMBINED ORAL ARGUMENT, AND  
PLAINTIFFS-APPELLANTS' MOTION FOR AN EXTENSION OF TIME**

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On June 3, 2009, this Court entered an Order (the “June 3 Order”), which consolidated the appeals in 09-35153 and 09-35154.

On June 4, 2009, Plaintiffs-Appellants Powell’s Books, Inc., et al. in 09-35153 and Plaintiffs Appellants ACLU of Oregon, et al. in 09-35154 filed the annexed Motion for Reconsideration (the “Motion for Reconsideration”) of the June 3 Order. The Motion for Reconsideration bore the captions and case numbers of both appeals (09-35153 and 09-35154) but, through, inadvertence, was filed only in 09-35154. Respondents on both appeals are the same; the filing in 09-35154 thus gave Respondents notice of the motion on both appeals. Plaintiffs-Appellants in both 09-35153 and 09-35154 respectfully request that the Motion for Reconsideration be treated as filed on June 4, 2009 in both appeals.

Dated June 8 2009.

STOEL RIVES LLP

s/ P. K. Runkles-Pearson (with permission)

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## CERTIFICATE OF SERVICE

United States Court of Appeals Docket Number: No. 09-35154

I hereby certify that I electronically filed the foregoing NOTICE OF FILING ON JUNE 4, 2009 OF PLAINTIFFS-APPELLANTS' MOTION FOR RECONSIDERATION OF THE ORDER ON THEIR MOTION TO FILE A SINGLE EXCERPT OF RECORD AND FOR COMBINED ORAL ARGUMENT, AND PLAINTIFFS-APPELLANTS' MOTION FOR AN EXTENSION OF TIME with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on June 8, 2009.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated June 8 2009.

SONNENSCHN NATH &  
ROSENTHAL LLP

*s/ Michael A. Bamberger*  
Michael A. Bamberger