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Counsel for Defendants-Appellees

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

POWELL'S BOOKS, INC., et al.

Plaintiffs-Appellants,

v.

JOHN KROGER, et al.

Defendants-Appellees.

U.S.C.A. Nos. 09-35153

AFFIDAVIT OF MICHAEL A. CASPER

STATE OF OREGON)
) ss.
County of Marion)

I, Michael A. Casper, being first duly sworn, do depose and say:

1. I am an assistant attorney general for the State of Oregon and one of the attorneys representing the state in this litigation.
2. The state's appellee's brief is due on August 24, 2009. The state seeks a 32-day extension until September 25, 2009, in which to file its appellee's brief. This is the first request for a time extension.

3. An extension is being requested for two reasons. First, additional time is needed because we are responding to multiple briefs. In addition to appellant's brief in this case, our brief will also respond to the appellant's brief in case 09-35154, as well as the arguments presented in an amicus brief.

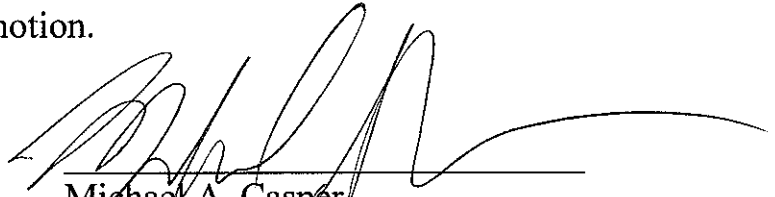
4. Additionally, a heavy caseload prevents me from completing our brief in this case before the current due date. I have recently completed and filed briefs in several older cases, including *State v. Guinn*, Oregon Court of Appeals case number A138846 (filed 7/29/2009); *Ward v. Nooth*, Oregon Court of Appeals case number A141591 (filed 7/31/2009); *State v. Vanalstine*, Oregon Court of Appeals case number A138897 (filed 8/6/2009); and *Bell v. Public Employees Retirement Board*, Oregon Court of Appeals case number A140350 (filed 8/7/2009). In addition to this case, I have been and/or will be working on the following cases which are due in the coming weeks: *State v. Levias*, Oregon Court of Appeals case number A138429 (currently due 8/12/2009); *State v. Abrams*, Oregon Court of Appeals case number A136953 (currently due 8/19/2009); *State v. Wickersham*, Oregon Court of Appeals case number A137051 (currently due 8/19/2009).

5. This case is not scheduled for oral argument.

6. The state's attorneys have exercised due diligence and I anticipate

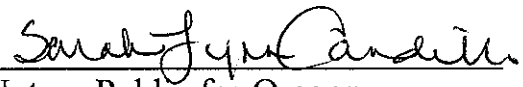
that the state will file its appellee's brief within the time sought.

7. I have contacted Michael Bamberger, attorney for appellant. He states that he does not object to this motion.


Michael A. Casper
Assistant Attorney General

SUBSCRIBED AND SWORN to before me this 10th day of August,
2009.




Notary Public for Oregon
My Commission Expires: July 19, 2013