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April 13, 2010

Via Federal Express

Molly Dwyer, Clerk of Court
Office of the Clerk
U.S. Court of Appeals for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103

Re: Powell's Books, Inc. v. Kroger
09-35153

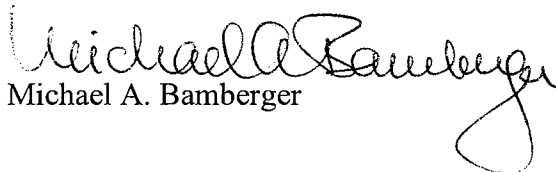
Dear Ms. Dwyer:

I am counsel who will be presenting argument for appellants in the above matter. In accordance with my telephone call with your staff yesterday, I confirm that I will be unavailable for oral argument on June 7, 2010. However, I am available for the remainder of the Portland, Oregon June term (June 8-11, 2010), as well as for the entire Portland July term (July 12-16, 2010).

Therefore I respectfully request that the above matter, as well as ACLU v. Kroger, 09-35154, which is to be argued together with 09-35153, not be scheduled for argument on June 7, 2010.

Thank you for the courtesy.

Sincerely yours,


Michael A. Bamberger

cc: Michael A. Casper
P.K. Runkles-Pearson