

No. 09-35153, 09-35154

**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.

AMERICAN CIVIL LIBERTIES UNION OF OREGON, et al.,

Plaintiffs-Appellants,

v.

JOHN KROGER, et al.,

Defendants-Appellees.

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

**PLAINTIFFS-APPELLANTS' MOTION FOR AN EXTENSION OF TIME
TO FILE REQUESTS FOR ATTORNEYS' FEES**

(names and addresses of counsel appear on the next page)

P.K. Runkles-Pearson, OSB No. 061911
pkrunkles-pearson@stoel.com
STOEL RIVES LLP
900 SW Fifth Avenue, Suite 2600
Portland, OR 97204
Telephone: (503) 224-3380
Facsimile: (503) 220-2480

Cooperating Attorney
ACLU Foundation of Oregon

*Attorney for Plaintiffs-Appellants
ACLU of Oregon, et al.*

Michael A. Bamberger
mbamberger@sonnenschein.com
Richard M. Zuckerman
rzuckerman@sonnenschein.com
SONNENSCHN NATH &
ROSENTHAL LLP
1221 Avenue of the Americas
24th Floor
New York, NY 10020
Telephone: (212) 768-6700
Facsimile: (212) 768-6800

*Attorney for Plaintiffs-Appellants
Powell's Books, Inc., et al.*

Michael Casper, OSB No. 062000
michael.casper@doj.state.or.us
Oregon Department of Justice
1162 Court Street NE
Salem, OR 97301-4096
Telephone: (503) 378-4402
Facsimile: (503) 378-3784

*Attorney for Defendants-Appellees
John Kroger, et al.*

Plaintiffs-Appellants Powell's Books, Inc., et al. in No. 09-35153 and Plaintiffs-Appellants ACLU of Oregon, et al. in No. 09-35154 respectfully request that this Court grant an extension of time in which to file for attorneys' fees.

Circuit Rule 39-1.6(a) provides that a request for attorneys' fees must be filed within 14 days of the expiration of the period for filing a petition for rehearing, unless a petition is filed. On September 24, 2010, Defendants-Appellees requested an extension of time to file a petition for rehearing, which was due on October 4, 2010. Plaintiffs-Appellants did not oppose that motion, so long as the time to file for attorneys' fees would also be extended. See Affidavit of Michael Casper filed September 24, 2010.

This Court has not yet ruled on Defendants-Appellees' motion. As matters currently stand, Plaintiffs-Appellants' attorney fee requests are due today (14 days after October 4, 2010). Plaintiffs-Appellants are filing this motion as a precaution in order to preserve their right to file attorney fee requests.

If Defendants-Appellees' motion is granted, Plaintiffs-Appellants request that the Court tie the deadline for attorney fee requests to the new deadline for a petition for rehearing in the manner described in Circuit Rule 39-1.6(a). If Defendants-Appellees' motion is denied, Plaintiffs-Appellants request that the Court allow them 14 days from the date the motion is denied to file attorney fee requests.

Dated October 18, 2010.

STOEL RIVES LLP

s/ P. K. Runkles-Pearson

P. K. Runkles-Pearson, OSB No. 061911

Attorney for Plaintiffs-Appellants

ACLU of Oregon, et al. in 09-35154

SONNENSCHN NATH &

ROSENTHAL LLP

s/ Michael A. Bamberger (with permission)

Michael A. Bamberger

Richard M. Zuckerman

rzuckerman@sonnenschein.com

Attorney for Plaintiffs-Appellants

Powell's Books, Inc., et al. in 09-35153

CERTIFICATE OF FILING SERVICE

United States Court of Appeals Docket Number: Nos. 09-35153, 09-35154

I hereby certify that I electronically filed the foregoing PLAINTIFFS-
APPELLANTS' MOTION FOR AN EXTENSION OF TIME TO FILE
REQUESTS FOR ATTORNEYS' FEES 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 October 18, 2010.

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 October 18, 2010.

STOEL RIVES LLP

s/ P. K. Runkles-Pearson

P. K. Runkles-Pearson, OSB No. 061911

Attorney for Plaintiffs-Appellants

ACLU of Oregon, et al. in 09-35154