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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

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

Plaintiffs,

v.

JOHN KROGER, et al.,

Defendants.

Civil No. CV08-0501-MO

MOTION TO STAY ATTORNEY FEE
AND COST PROCEEDINGS

Plaintiffs ACLU of Oregon, Cascade AIDS Project, Planned Parenthood of the
Columbia-Willamette, and Candace Morgan ("ACLU Plaintiffs") and plaintiffs Powell's Books,
Inc.; Old Multnomah Book Store Ltd. d/b/a Annie Bloom's Books; Dark Horse Comics, Inc.;

Colette's: Good Food + Hungry Minds LLC; Bluejay, Inc. d/b/a Paulina Springs Books; St. John's Booksellers LLC; American Booksellers Foundation for Free Expression; Association of American Publishers, Inc.; Freedom to Read Foundation Inc.; and Comic Book Legal Defense Fund ("Bookseller/Media Plaintiffs") respectfully seek a stay of all proceedings concerning attorney fees and costs pending action by the Ninth Circuit Court of Appeals on ACLU Plaintiffs' Petition for Attorney Fees filed December 28, 2010 (No. 09-35154, Docket # 68) and on Bookseller/Media Plaintiffs' Application for Attorneys' Fees and Expenses filed December 27, 2010 (No. 09-35153, Docket # 73). Counsel have conferred with Michael Casper, counsel for defendants, and he does not object to this motion.

On January 7, 2009, this Court entered a judgment against all plaintiffs. ACLU Plaintiffs and Bookseller/Media Plaintiffs filed separate appeals, and the Ninth Circuit Court of Appeals reversed in a consolidated opinion. Bookseller/Media Plaintiffs and ACLU Plaintiffs filed timely motions for attorneys' fees and expenses with the Ninth Circuit on December 27 and 28, 2010, respectively. Those motions are pending. For efficiency's sake, each set of plaintiffs sought fees and expenses for both the district court and appellate court proceedings. Plaintiffs do not know whether the Ninth Circuit will choose to decide all of the fees together or remand to this Court to decide all or part of such fees and expenses.

To avoid any confusion, all plaintiffs respectfully request that this Court defer any proceedings related to attorneys' fees or costs until after the Ninth Circuit rules on the pending applications, so that, if the Ninth Circuit finds that this Court should determine some or all of

the fee applications, plaintiffs may submit their applications to this Court within ten days of entry of such remand order.

DATED: January 4, 2011.

STOEL RIVES LLP

s/ P.K. Runkles-Pearson

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