

**11-35125**  
**IN THE UNITED STATES COURT OF APPEAL**  
**FOR THE NINTH CIRCUIT**

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**WASHINGTON STATE REPUBLICAN )**  
**PARTY, *et al.*, )**  
**)**  
**Appellants, )**  
**)**  
**vs. )**  
**)**  
**WASHINGTON STATE GRANGE, *et al.*, )**  
**)**  
**Defendants & Appellees. )**  
**)**

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**DECLARATION OF ORRIN GROVER**  
**TO FILE OUT OF TIME**

I, the undersigned, declare as follows:

1. My name is Orrin Grover. I am the attorney for the Appellants, Libertarian Party of Washington, Ruth Bennett and John Stuart Mills.

2. **Background.** This case involves the appeal from the judgment of the United States District Court for the Western District of Washington in Case No. 2:05-cv-000927-JCC. There

are two parallel appeals under the same title, Case Nos. 11-35122 and 11-35123. The same judgment is under appeal in the parallel cases.

3. **Original Scheduled Date.** Under the most recent scheduling order of this Court, Appellant's Opening Brief was due June 20, 2011.

4. **Previous Extensions.** There has been one previous extension for fourteen days pursuant to Circuit Rule 32-2-2[a] from May 23, 2011 to June 6, 2011. There was also an extension to June 20, 2011, due to a death in counsel's family

5. **Due Date.** Presently, the Appellants Opening Brief in this appeal was due on June 20, 2011.

6. **Reason for Request.** Leave is requested based on the following circumstances:

a. I am a sole practitioner. My principal assistant is my wife who has been unavailable following the death of her mother on May 21, 2011

b. I completed preparation of the Appellants' Opening Brief late on June 20, 2011. After proofing and cite checking, counsel prepared to file the brief on the ECF website at 11:35 PM. I attempted to sign onto the ECF website using the Firefox browser. After several attempts, I was finally able to sign on but the browser then froze. After trying to proceed to the filing window, I logged off and closed the browser. I then tried to log on through my Safari browser. While I was successful in reaching the filing screen, by that time, it was past midnight.

c. At that point, realizing that I would have to prepare the accompanying motion, I logged off to prepare an appropriate motion.

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Under Rule 1E of the Oregon Rules Of Civil Procedure,  
I hereby declare that the above statements are true to the best of  
my knowledge and belief, and that I understand they are made for  
use as evidence in court and are subject to penalty for perjury.

Dated at Woodburn, Oregon, this 21<sup>st</sup> day of June, 2011.

ORRIN L. GROVER, P.C.  
/s/ Orrin L. Grover  
ORRIN L. GROVER, OSB NO. 78010  
Attorney for Appellants  
LIBERTARIAN LP OF  
WASHINGTON STATE, RUTH  
BENNETT, and J. S. MILLS  
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## CERTIFICATE OF SERVICE

I hereby certify that on June 21, 2011, I caused to be electronically filed the foregoing Declaration of Orrin Grover with the Clerk of the Court using the CM/ECF system that will send notification of such filing to all counsel of record.

ORRIN L. GROVER, P.C.  
/s/ Orrin L. Grover  
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