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December 6, 2007

The Hon. G. Philip Arnold  
Circuit Court  
100 S Oakdale  
Medford, OR 97501

Re: *Doe v. Medford School District 549C*, Case No. 07-3756-E-2

Dear Judge Arnold:

I have received your November 29, 2007 letter.

Your letter demonstrates the care and sensitivity you have exercised throughout this case. You are correct, the denial of our motion for preliminary injunction did not necessarily resolve the issues, but given that there are no disputed facts and your reasoning used in denying our motion for preliminary injunction, I do not see how I can effectively respond to defendant's ORCP 21 motion other than to ask you to reconsider your holding that ORS 166.170 does not prohibit the district from enacting or enforcing its Policy Code: GBJ.

I, of course, disagree with your holding.

The district's Policy Code: GBJ is in every sense an ordinance. An ordinance, like a rule, like a law, like a regulation, like a statute, and like Policy Code: GBJ prohibits specified conduct.

Moreover, ORS 166.170(2) should be read in context of ORS 166.170(1) and HB 2784 (codified as ORS 166.170, 166.173, and 166.174). HB 2784 made crystal clear, that state government and not local governments has occupied the field of firearms regulation in Oregon.

The district's Policy Code: GBJ is an example of exactly the type of local regulation the state legislature has forbidden.

The above arguments have already been made by me and have been rejected by you. The issues presented by the district's motion to dismiss have been fully briefed and argued.

The only argument that has not been made by me that I would make now is that Black's definition for "ordinance" should be read in conjunction with its definitions for the words "municipal," "municipal corporation," and "municipality." Pursuant to the Black's definitions for those words, the Medford School District 549C is a municipal corporation. While state law may define Medford School District 549C to be something other than a municipal corporation, Black's does not. Since I have

already argued that the Black's definition for "ordinance" supports our position that the district's Policy Code: GBJ is an ordinance as much as does the Webster's definition for "ordinance," I acknowledge you have rejected my reasoning.

I do not believe Mrs. Katz is waiving any of her procedural or statutory arguments by acquiescing in the district's request that its motion for dismissal be finalized by an appealable judgment.

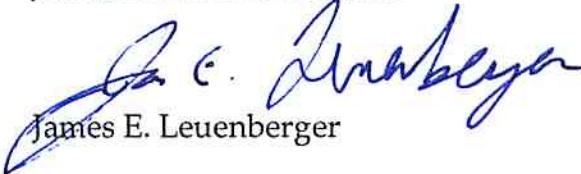
If I am wrong in thinking that you have carefully considered all the arguments made in writing and orally and you have determined that we are wrong and the district is right, then I would like an argument on the district's motion to dismiss and I ask for leave to appear by telephone at the hearing.

On the other hand, if I am correct that you carefully considered all the arguments made in writing and orally and you have determined that we are wrong and the district is right, then we acquiesce to the district's request that its motion for dismissal be finalized by an appealable judgment.

I ask that this letter be made a part of the Circuit Court record.

Sincerely,

JAMES E. LEUENBERGER PC



James E. Leuenberger

cc: Shirley Katz, Timothy Gerking