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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

STATE OF OREGON,)
)
 Plaintiff,)
)
 vs.)
)
 CARL BRENT WORTHINGTON,)
)
 Defendant.)
 _____)

Case No.: 08-00403

DEFENDANT’S SUPPLEMENTAL
MEMORANDUM IN SUPPORT OF
PRETRIAL MOTION TO DISMISS THE
INDICTMENT, AND FOR OTHER RELIEF

Hearing Date: January 7, 2009

STATE OF OREGON,)
)
 Plaintiff,)
)
 vs.)
)
 RAYLENE MARIE WORTHINGTON,)
)
 Defendant.)
 _____)

Case No.: 08-00404

DEFENDANT’S SUPPLEMENTAL
MEMORANDUM IN SUPPORT OF
PRETRIAL MOTION TO DISMISS THE
INDICTMENT, AND FOR OTHER RELIEF

Hearing Date: January 7, 2009

Defendants CARL BRENT WORTHINGTON and RAYLENE MARIE
WORTHINGTON have filed a motion seeking to dismiss the Indictment, and for other relief.
The State filed a pleading opposing Mr. and Mrs. Worthington’s motion. The purpose of this
Memorandum is to amend one of the points which were made in our original moving papers and
to respond to some of the arguments and assertions which have been raised by the State. Except
where necessary, we will rely on the points and authorities which were presented in our initial

1 pleading, and will incorporate same by reference.

2 **A. CORRECTION TO THE MEMORANDUM WHICH WAS FILED IN SUPPORT OF**
3 **THE MOTION TO DISMISS ON NOVEMBER 21, 2008.**

4 Subsequent to the filing of the motion to dismiss, counsel has become aware that the
5 Memorandum which was filed herein contains an error which we would like to correct at the
6 present time.

7 Page 41 of the Memorandum contains the following sentence:

8 Mr. and Mrs. Worthington are lifelong members of the Followers of Christ (See attached
9 Declarations), a federally and State recognized Church (see attached copy of 501(c)(3)
10 status), situated in Oregon City, Clackamas County, Oregon, who are of the sincere belief
11 that their religious conscience forbids the use of secular medical doctors and secular
12 medicine, instead using the application of religious medical prayer, anointing with oil,
13 and the laying on of hands. [lines 6-12, emphasis added]

12 Instead, after further consultation with our clients, we now realize that one word in that sentence
13 was incorrect. The corrected sentence should read as follows:

14 Mr. and Mrs. Worthington are lifelong members of the Followers of Christ (See attached
15 Declarations), a federally and State recognized Church (see attached copy of 501(c)(3)
16 status), situated in Oregon City, Clackamas County, Oregon, who are of the sincere belief
17 that their religious conscience teaches against the use of secular medical doctors and
18 secular medicine, instead using the application of religious medical prayer, anointing with
19 oil, and the laying on of hands. [emphasis added]

18 The reason for this correction to our previously filed Memorandum is that counsel has discussed
19 the issues in this case further with our clients and with others associated with the Followers of
20 Christ Church, and we are advised that the Church does not actually forbid its members from use
21 of secular medicine. Families within the Church are free to choose secular medicine, and if they
22 make that choice, they are not ostracized or shunned for making such a choice.

1 **B. BY FAILING TO COUNTER THE CORE ARGUMENTS ADVANCED IN THE**
2 **MOTION TO DISMISS THE INDICTMENT, THE STATE CONCEDES THAT THE**
3 **OREGON CONSTITUTION MANDATES PROTECTION OF THE INDIVIDUAL'S**
4 **RIGHT TO WORSHIP ALMIGHTY GOD ACCORDING TO THE DICTATES OF THE**
5 **INDIVIDUAL'S CONSCIENCE.**

4 The State concedes much in its responsive pleading. To begin, the State concedes the
5 fundamental and vital nature of the rights of Mr. and Mrs. Worthington which are sought to be
6 protected by the motion to dismiss. Indeed, there can be no denial that the rights of Mr. and Mrs.
7 Worthington to freedom of worship and family privacy and autonomy are among the most
8 cherished of freedoms that exist in this State and Nation.

9 Significantly, the State does not contest the core material which is presented in our
10 moving papers. The Memorandum of Law which was filed on behalf of Mr. and Mrs.
11 Worthington establishes that the Oregon Constitution provides an adamant and forceful level of
12 protection for religious freedom, which goes far beyond the level of protection guaranteed by the
13 First Amendment to the United States Constitution. In keeping with the “original intent”
14 paradigm which applies to Constitutional analysis in this State, our Supreme Court requires
15 litigants and the trial courts to examine the terminology of Article I, Sections 2 and 3, of the
16 Oregon Constitution, and study the period in which the Founding Fathers established the Oregon
17 Constitution, and review applicable caselaw. Our Memorandum establishes that the Founders
18 chose strong and adamant language designed to protect the freedom of worship in this State, and
19 there can be no doubt that the mid-19th Century was a period in which there was great concern
20 about the need to give protection to religious expression. We have established beyond any doubt
21 that the Founding Fathers were determined to safeguard the rights of religious minorities from
22 domination by the majoritarian powers of the day. Further, we have demonstrated that the
23 caselaw supports our arguments.

24 Evidently, the State recognizes that it cannot dispute the core points we have raised in our
25 moving papers. First, the State’s response to the motion filed by Mr. and Mrs. Worthington fails
26 to parse the language of the Constitutional provisions at issue. Second, the State’s response does

1 not contain any analysis of the historical background which led to the establishment of the
2 Oregon Constitution. Third, the State's response lacks any reference to the stated views of the
3 Founding Fathers. For these reasons, the State's response does not even attempt to persuade that
4 our arguments are mistaken concerning the intent of the Founding Fathers. Accordingly, the
5 State's response must be viewed as a concession of the core points which we made.

6 The only reference to the intent of the Founders of the Oregon Constitution which appears
7 in the State's submission is the unsupported assertion that, if the Founders were around today,
8 they would believe that the government must give protection to children, even when such action
9 interferes with religious liberty [see, State's memorandum, at 11]. The State's contention lacks
10 any support in the Constitutional text or the historical record.

11 Even granting that the State has an interest in protecting the vulnerable, it is obvious that
12 the prosecution of Mr. and Mrs. Worthington will not accomplish the protection of a single child.
13 No one in this State is more aggrieved by the death of Ava Worthington than Ava's parents. The
14 Defendants herein, Mr. and Mrs. Worthington, are the ones who have suffered the loss of their
15 daughter, and they are now being prosecuted for alleged acts of omission that the State asserts
16 were the cause of Ava's death. And yet the prosecution of Mr. and Mrs. Worthington will not
17 save Ava, or any other child. What this prosecution does is transgress upon the right of Mr. and
18 Mrs. Worthington to the freedom of worship and family privacy and autonomy which is
19 guaranteed by the Constitution of this State and Nation.

20 Moreover, when the State makes an argument based on what policies the Founders would
21 have preferred, were they alive today, the State ignores the paradigm of Constitutional analysis
22 which is mandated by our Supreme Court. Indeed, the State's argument negates the very concept
23 of a Constitution in its elevation of the policies of the day over the timeless values that are
24 enshrined in our founding documents. It is not for us to ask ourselves what the Founders would
25 have preferred if they were alive today. Our Supreme Court requires us to examine the words
26 chosen by the Founders when they established our Constitution, in the context of the times in

1 which they lived. The premise of the State’s argument, which proposes that we speculate on the
2 policies the Founders would have chosen, were they alive today, completely ignores the
3 methodology of Constitutional analysis which is mandated by the Oregon Supreme Court. The
4 Constitution that we have today, which was adopted by the 1857 Constitutional Convention,
5 must be applied by its terms alone, taking into account the striking and adamant language which
6 is contained in Article I, Sections 2 and 3, and consistent with the moral values and principles
7 that were prevalent in that age.

8 If the State wishes to interfere with the private conduct of parents in their religious
9 upbringing of their children, it must face the fact that such power is contrary to the words of the
10 Oregon Constitution, and the values and principles of the Founding Fathers. The Oregon
11 Constitution prohibits government from interfering with the individual’s exercise of the
12 individual right to freedom of worship. The purpose of the Oregon Constitution of 1857 is not to
13 vindicate the right of the State to regulate the activities of the family insofar as religious worship
14 is concerned. Those who seek to turn the tables on the Founding Fathers, and elevate the
15 interests of the State to a level above the rights of the family to practice its religion according to
16 the family’s own religious and moral values, will first have to change the Constitution. For,
17 taking the Constitution as it is, it is clear that the prosecution of Mr. and Mrs. Worthington
18 cannot be allowed.

19 Oregon’s tradition of protecting the individual’s right to freedom of religious expression,
20 as applied to personal choices relating to medical treatment, has been recognized throughout
21 Oregon history. For example, 80 years ago, the Oregon Supreme Court wrote the following:

22
23 It would be unfair to a person who believed his disease could be cured by prayer to
24 deprive him of the ministrations of those of his religion who were willing to try that
25 means of curing him. It would be unfair to prevent a member of that large and respectable
26 part of the community who believe, as do the Christian Scientists, that disease is a mental
state primarily and can be cured or prevented by mental treatment and without the use of
medicine, from calling in a Christian Science practitioner to treat him according to the
practice of that body. And it was the intent of the statute to permit that sort of treatment

1 without exposing the person so treating the patient to the penalties of the law. To do
2 otherwise would come too close to interference with religious tenets to be safe or
practicable.

3 State v. Chue, 130 Or 99, 109 (1929). Corresponding to Oregon’s deep tradition of deference
4 toward faith healing practices, Chapter 677 of the Oregon Revised Statutes, which is the general
5 regulatory scheme that applies to the licensing of the medical profession in this State, contains a
6 specific exemption for:

7 (5) The domestic administration of family remedies.
* * * *

8 (7) The practice of the religion of persons who endeavor to prevent or cure disease or
9 suffering by prayer or other spiritual means in accordance with the tenets of any church.
10 Nothing in this chapter interferes in any manner with the individual’s right to select the
practitioner or mode of treatment of an individual’s choice, or interferes with the right of
the person so employed to give the treatment so chosen if public health laws and rules are
complied with.

* * * *

11 (11) The practice or use of massage, Swedish movement, physical culture, or other
12 natural methods requiring use of the hands.

13 See, ORS 677.060. Chapter 677 is specifically referenced in the statute which defines the term
14 “neglect or maltreatment”, as part of Oregon’s criminal homicide statutes [see, ORS
15 163.115(6)(b)], which term is one of the elements of the crime of Manslaughter in the Second
16 Degree (count 1 of the Indictment), as defined in ORS 163.125(1)(c)(B).

17 The State makes the novel argument that its prosecution of Mr. and Mrs. Worthington is
18 justified because of the “compelling” interest with respect to the State’s enforcement of criminal
19 laws [see, State’s memorandum, at 7]. This assertion is nothing more than an egregious example
20 of argumentative bootstrapping. Enforcing laws, whether criminal or civil, is never a compelling
21 interest for purposes of justifying an intrusion on constitutional rights. Were it otherwise, all
22 constitutional rights would be for naught because every unconstitutional law could be defended
23 on this ground. Only laws that are themselves substantively consistent with the Constitution may
24 be enforced. Thus, the United States Supreme Court has overturned criminal convictions for
25 violating the Free Exercise Clause, a result that cannot be squared with the State’s assertion that
26

1 enforcing criminal laws is itself a compelling government interest. See, e.g., Cantwell v.
2 Connecticut, 310 U.S. 296 (1940); Wisconsin v. Yoder, 406 U.S. 205 (1972).

3 Inasmuch as the State is utterly unable to establish that Mr. and Mrs. Worthington’s
4 reliance on their Constitutionally protected freedom of religious worship is trumped by the
5 government’s interest in prosecution, we urge that the motion should be granted in all respects.

6 **C. THE STATE MISCONSTRUES DECISIONS OF OREGON’S APPELLATE COURTS**
7 **IN ITS RESPONSIVE PLEADING.**

8 The Memorandum which was filed in support of the motion by Mr. and Mrs.
9 Worthington contains extensive analysis of the decision issued by the Oregon Supreme Court in
10 Meltebeke v. BOLI, 322 Or 132 (1995). In Meltebeke, the Court reviewed its prior caselaw
11 which applies the religious freedom provisions of the Oregon Constitution and held: “A person
12 against whom a sanction is to be imposed for conduct that constitutes a religious practice must
13 know that the conduct causes an effect forbidden by law.” Meltebeke, supra, 322 Or 132, 151
14 (emphasis in original). Leaving no doubt about the impact of the Constitutional provisions here
15 at issue, the Supreme Court further explained: “When a person engages in a religious practice,
16 the state may not restrict that person’s activity unless it first demonstrates that the person is
17 consciously aware that the conduct has an effect forbidden by the law that is being enforced.”
18 Meltebeke, supra, 322 Or at 152. Thus, in accordance with the explicit reasoning and holding of
19 the Supreme Court in Meltebeke, the Oregon Constitution imposes a scienter requirement,
20 pertaining to the knowledge of the accused, whenever the State seeks to punish or regulate a
21 person’s religious practice.

22 Drawing from the explicit language in Meltebeke, we maintain that the State’s
23 prosecution of our clients herein, which is premised on a theory of criminal negligence and not
24 one of knowledge, contravenes Mr. and Mrs. Worthington’s right to freedom of worship as
25 guaranteed by the Oregon Constitution. In response, the State raises a series of contentions [see,
26 State’s memorandum, at 8-10] in support of its position that Meltebeke is inapplicable to the

1 instant prosecution, none of which are accurate and some of which border on being frivolous.

2 We shall address the State's contentions seriatim.

3 First, the State notes that Meltebeke involved an employment matter, while the instant
4 matter pertains to a criminal prosecution. This point, such as it is, actually undermines the
5 State's argument. In a criminal prosecution, the individual's most precious interest of personal
6 freedom is placed in jeopardy; the consequences of a criminal prosecution exceed those present
7 in an employment discrimination litigation by several orders of magnitude. There is no reason
8 why the religious freedom guarantees which are found in Article I, Section 2 and 3, should be
9 more applicable in the employment context than with respect to a criminal prosecution.

10 Second, the State notes that Meltebeke arose from allegations of religious discrimination
11 in the employment context. However, there is nothing in the sweeping language of the Supreme
12 Court's analysis which limits the application of the Meltebeke holding to a case of employment
13 discrimination. Clearly, in Meltebeke, the Supreme Court speaks of the need to protect all
14 religious practice from State interference. Beyond question, the religious beliefs and conduct
15 which guide Mr. and Mrs. Worthington in the care they give to their children is at the very core
16 of the values which the Meltebeke decision protects.

17 Third, the State offers the perverse and illogical contention that the Meltebeke decision
18 does not protect Mr. and Mrs. Worthington because they are being prosecuted on a theory of
19 criminal negligence, predicated on alleged acts of omission. However, it is clear that the State is
20 prosecuting Mr. and Mrs. Worthington for their conduct in engaging in spiritual healing, which is
21 an integral part of their religious worship. The State ignores the fact that the Oregon Criminal
22 Code applies to conduct of all kinds, including acts of omission. See, ORS 161.085. It would be
23 absurd to deny the religious freedom provisions which are contained in the Oregon Constitution
24 to a person whose conduct is alleged to run afoul of a criminal statute merely because the alleged
25 conduct involves an omission to act rather than an act itself.

26 Fourth, the State asserts that Meltebeke contains no "less restrictive means" requirement.

1 This contention is a non sequitur, and in no way negates the central holding of Meltebeke, which
2 is directly applicable to the instant matter, which requires that the State must establish that a
3 person who is being penalized for conduct that constitutes a religious practice must have
4 knowledge concerning the harmful nature of the underlying conduct. Indeed, the scienter
5 requirement, established in Meltebeke and Smith, requires the dismissal of the indictment, which
6 is predicated on a less exacting theory of criminal negligence.

7 Fifth, the State claims that applying the unambiguous requirements of Meltebeke to the
8 instant prosecution would somehow constitute an establishment of religion, by granting to a
9 religious person a privilege that is not granted to a non-religious person. The State's argument
10 misses the point. In Meltebeke, the Supreme Court held that the State may not, consistent with
11 Oregon's sweeping guarantees concerning the freedom of religion, penalize an individual for a
12 religious practice, unless the State proves that the individual had knowledge concerning the harm
13 that would be caused by such religious practice. Nothing in Meltebeke constitutes an
14 establishment of religion. To the contrary, the scienter requirement which was recognized in
15 Meltebeke, and which followed the Court's previous decision in Smith, is designed to give
16 proper weight to the freedom of worship that is mandated by Oregon's Constitution. To the
17 extent that a balance needs to be struck between competing interests, the Supreme Court did so
18 already in Meltebeke. Moreover, the State's assertion that every accommodation which is
19 offered toward religion constitutes a violation of the Establishment Clause flies in the face of
20 widespread practices whereby religious institutions are exempt from taxation laws. See, Walz v.
21 Tax Commission of City of New York, 397 U.S. 664 (1969) (holding that exemption from
22 property tax for church property does not violate Establishment Clause, even though secular
23 groups must pay tax). If the State's argument carried the day, and there were no Constitutionally
24 based protection to religious practices, Meltebeke would have been decided differently.

25 Finally, the State asserts that applying the scienter requirement of Meltebeke to the instant
26 prosecution would put a prosecutor in the impossible position of trying to determine whether a

1 defendant is motivated by religious principles. This contention, within the context of the instant
2 proceedings, borders on frivolous. All law enforcement personnel who participated in the
3 investigation which led to the prosecution of the instant charges against Mr. and Mrs.
4 Worthington were aware, from the very beginning, of the sincere religious practices of Mr. and
5 Mrs. Worthington, and their church. The State has never doubted that the practices of Mr. and
6 Mrs. Worthington arise from their religious faith. The teaching of Meltebeke is clear: In
7 accordance with the religious freedom protections contained in Article I, Sections 2 and 3, if the
8 State desires to prosecute Mr. and Mrs. Worthington for their religious practices, the State must
9 do so on a theory of knowledge rather than criminal negligence.

10 There are other ways in which the State misapplies and misconstrues appellate caselaw.
11 The State contends that the motion by Mr. and Mrs. Worthington is somehow precluded by the
12 ruling by the Court of Appeals in the case of State v. Hays, 155 Or App 41 (1998), which upheld
13 a conviction for criminally negligent homicide. However, for the reasons stated in footnote #33
14 of our opening Memorandum, the Hays case is not dispositive to the issues which are being
15 litigated herein. On its face, Hays did not address the religious freedom provisions which are
16 contained in Article I, Sections 2 and 3, of the Oregon Constitution.

17 Similarly, the State's reliance on State ex rel v. Jensen, 54 Or App 54 (1981), is entirely
18 misplaced. Jensen does not involve the prosecution of persons for past acts of commission or
19 acts of omission; that case involves efforts of the State to safeguard the health of an actual living
20 person. It does not follow, merely because the State may have a legitimate interest in fostering
21 the health of an actual living human being, that the State may prosecute parents for past acts or
22 omissions which are integral to their religious worship activities. Moreover, nothing in the
23 Jensen decision negates our position that, consonant with Meltebeke and Smith, the State must
24 establish the mens rea of knowledge whenever it seeks to prosecute an individual for acts that are
25 integral to religious worship.

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D. THE STATE HAS FAILED TO CONTEST THE ARGUMENT THAT HB 2494 WAS MOTIVATED BY LEGISLATIVE HOSTILITY TOWARD MR. AND MRS. WORTHINGTON’S CHURCH.

In our original motion papers, we included extensive excerpts from the record of the legislative history which led to the enactment of HB 2494, the legislation which repealed the affirmative defense of faith-healing from Oregon’s statutory framework that pertains to the crime of Manslaughter in the Second Degree. The material we presented establishes that the enactment of HB 2494 was prompted by hostility toward the Followers of Christ Church in Oregon City, of which Mr. and Mrs. Worthington are members. We urge that the Indictment be dismissed, because it is premised upon legislation that was motivated by animus toward Mr. and Mrs. Worthington’s church.

In their responsive pleading, the State rejects the contention of Mr. and Mrs. Worthington that this legislation was intended to single out their church and punish the religious worship that is conducted therein. However, unlike our Memorandum, which presents the verbatim testimony which was given in relation to HB 2494, the State ignores the record and insists – without support – that the legislation was not an attack on the Followers of Christ Church. The State has not produced any evidence to counter our argument that HB 2494 was motivated by animus toward Mr. and Mrs. Worthington’s church, and therefore the motion to strike down this legislation must be granted and the indictment dismissed.

Indeed, the State cannot escape the position which was taken by the Clackamas County District Attorney soon after the enactment of HB 2494. On August 25, 1999 (exactly 9 days after HB 2494 was signed into law by the Governor), District Attorney Terry Gustafson sent a letter to the Followers of Christ Church. In her letter, a copy of which was included as an Exhibit to the Motion to Dismiss which was filed with the Court, District Attorney Gustafson stated that HB 2494 was enacted “because of the death of a 11-year old member of your church.” Thus, there

1 can be no denying that HB 2494 is a law that was specifically targeted at the worship activities of
2 the Followers of Christ Church. As much as the State might wish away this concession by
3 District Attorney Gustafson, it is clear from the legislative history that HB 2494 was targeted at
4 Mr. and Mrs. Worthington's church.

5
6 **E. THE STATE HAS FRUSTRATED THE SELECTIVE PROSECUTION MOTION**
7 **WHICH WAS MADE ON BEHALF OF MR. AND MRS. WORTHINGTON BY**
8 **REFUSING TO DISCLOSE THE PROSECUTION OR NON-PROSECUTION OF**
9 **SIMILARLY SITUATED INDIVIDUALS.**

10 Mr. and Mrs. Worthington maintain that they are the victims of selective and vindictive
11 prosecution on account of their religious beliefs and practices. We contend that the only thing
12 that separates Mr. and Mrs. Worthington from other parents who have lost their child due to
13 natural causes is that Mr. and Mrs. Worthington are members of the Followers of Christ Church.
14 Other parents whose children have died of pneumonia have not been criminally investigated
15 and/or prosecuted. Only members of the Followers of Christ Church are facing prosecution in
16 such situations.

17 In a letter which we delivered to the State contemporaneous to the filing of the Motion to
18 Dismiss, Mr. and Mrs. Worthington requested discovery concerning the investigation and/or
19 prosecution of similarly situated individuals. The State has denied the request of Mr. and Mrs.
20 Worthington for discovery concerning the investigation and/or prosecution of similarly situated
21 individuals. Our letter, and the State's response, are attached hereto as an Exhibit.

22 Previously, Mr. and Mrs. Worthington moved to compel discovery. A second motion to
23 compel is being filed on behalf of Mr. and Mrs. Worthington arising from the State's refusal to
24 furnish the defense with documentation pertaining to the prosecution or non-prosecution of
25 similarly situated individuals.

26 We incorporate by reference the motions to compel discovery that have been filed on
behalf of Mr. and Mrs. Worthington, and hereby renew our request that the Court grant an Order
compelling discovery of the information which is listed in our letter to the District Attorney's

1 Office, dated November 21, 2008. The State must be compelled to turn over to the defense the
2 records of investigations and/or prosecution of similarly situated individuals, so that Mr. and
3 Mrs. Worthington will be in a position to fully and fairly litigate the selective prosecution motion
4 which was filed herein.

5 **F. CONCLUSION**

6 Based on the original motion and memorandum, and the exhibits which were filed herein,
7 as well as the arguments presented herein, and based on the evidence to be established at the
8 hearing which shall be conducted herein, we submit that the Indictment should be dismissed. In
9 the alternative, we request that the Court grant such other and further relief as shall may be just
10 and appropriate, including the granting of the motions to compel discovery which have been filed
11 on behalf of Mr. and Mrs. Worthington.

12
13 Respectfully submitted this 6th day of January, 2009

14 _____
15 MARK C. COGAN
16 Attorney for Defendant Carl Brent Worthington

17 _____
18 JOHN W. NEIDIG
19 Attorney for Defendant Raylene Marie Worthington
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******* CERTIFICATE - TRUE COPY *******

I hereby certify that the forgoing copy of DEFENDANT’S SUPPLEMENTAL MEMORANDUM IN SUPPORT OF PRETRIAL MOTION TO DISMISS THE INDICTMENT, AND FOR OTHER RELIEF is a complete and exact copy of the original.

DATED: January 6, 2009

Mark C. Cogan, OSB# 92016
Attorney for Defendant

******* CERTIFICATE OF SERVICE *******

I hereby certify that I caused to be served the forgoing DEFENDANT’S SUPPLEMENTAL MEMORANDUM IN SUPPORT OF PRETRIAL MOTION TO DISMISS THE INDICTMENT, AND FOR OTHER RELIEF on the following person, by personal delivery of same, on the date subscribed below:

Clackamas County District Attorney
Clackamas County Courthouse
807 Main Street
Oregon City, Oregon 97045

DATED: January 6, 2009

Mark C. Cogan, OSB# 92016
Attorney for Defendant