

No. 14-15408

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

LEONARD FYOCK, et al.,
Plaintiffs-Appellants,

v.

CITY OF SUNNYVALE, et al.
Defendants-Appellees.

Appeal from United States District Court for the Northern District of California
Civil Case No. 5:13-CV-05807-RMW (Honorable Ronald M. Whyte)

**MOTION OF AMICUS CURIAE PINK PISTOLS
PURSUANT TO NINTH CIRCUIT RULE 25-5(d)(2)
FOR LEAVE TO FILE UNTIMELY BRIEF**

Amicus curiae Pink Pistols hereby moves under Ninth Circuit Local Rule
25-5(d)(1) & (2) for leave to file the accompanying brief amicus curiae.

1. This brief was due on Friday, May 23, 2014.
2. Counsel for all of the parties graciously consented to the filing of this brief.
3. The Ninth Circuit's ECF system appeared to have crashed and was down
and not operating on and off during the day of May 23, 2014. See Ex. 1.
4. The amicus brief was finished and converted to pdf format and ready to file
at 8:55 PM Pacific time.
5. Registration with the Ninth Circuit ECF system was required before the brief
could be filed electronically.
6. Registration with the ECF system was submitted at 7:43 PM Pacific time.

7. The PACER.gov website indicated that the registration was “pending.” See Ex. 2.
8. The registration remained “pending,” thereby preventing the filing of the brief right through, and past, 11:59 PM Pacific time. See Ex. 3.
9. Due to the system’s inability to process ECF registration at that time, the amicus brief could not be filed in a timely fashion.
10. The undersigned counsel for amicus Pink Pistols informed the parties of the problem by email and emailed them the accompanying amicus brief on May 24, 2014, after registration and filing were unsuccessful on May 23, 2014.
11. The Plaintiffs-Appellants have consented to the late filing of this brief.
12. The Defendants-Appellees were notified of the problem on May 24, 2014, were served with the brief by email at that same time, and graciously responded that they had received the brief. Defendants-Appellees have informed amicus Pink Pistols that they may or may not object to the late filing of the brief with this Court, and that they will make their decision once they have received this motion.
13. As soon as the courthouse reopened this morning following the three-day Memorial Day holiday weekend, the ECF registration that had been pending since Friday evening was successful.

14. Amicus Curiae Pink Pistols moves the Court for leave to file its amicus brief today because timely registration with the Court's ECF system and electronic filing on May 23, 2014 was not allowed by the ECF system.

Respectfully submitted,

Dated: May 27, 2014

s/ Brian S. Koukoutchos

Brian S. Koukoutchos

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Counsel for Amicus Curiae Pink Pistols

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on May 27, 2014.

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: May 27, 2014

s/ Brian S. Koukoutchos

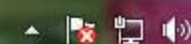
Brian S. Koukoutchos

Attorney for Amicus Curiae Pink Pistols

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Main Menu

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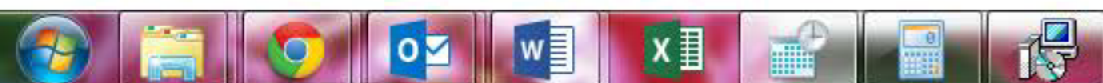
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Active

peals, Eighth Circuit

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peals, Ninth Circuit


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CMECF FAQs

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Date:Saturday May 24, 2014

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Second Circuit	Active
Fourth Circuit	Active
Fifth Circuit	Active
Sixth Circuit	Active
Seventh Circuit	Active
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