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November 28, 2018

Via: **E-File**

Office of the Clerk
United States Court of Appeals
For the Ninth Circuit
95 Seventh Street
San Francisco, California 94103-1526

Re: *Rodriguez, et al., v. City of San Jose, et al.* | Case No.: 17-17144

Dear Clerk:

Attached is a copy of the Oral Argument Notice in the above-entitled case. The description, posted on the Court's website contains factual errors. It says:

Appeal from the district court's summary judgment in a 42 U.S.C. § 1983 action arising from the City of San Jose's confiscation and retention of firearms registered to plaintiff and her husband.

It is an undisputed fact of the case that the firearms being retained by the City of San Jose are currently registered solely (and in compliance with California Law) to the Plaintiff/Appellant Lori Rodriguez. Her husband is not a party to this lawsuit. Furthermore, implying that he has guns currently registered to him (though retained by the City of San Jose) is tantamount to a public accusation that Lori's husband still owns firearms and therefore may be committing a crime in California.

The registration status of the firearms at the time of seizure is hardly relevant. In only that respect, is the Notice a true, but still ambiguous statement. I contacted counsel for appellees in this matter to attempt a joint request for correction. They declined to participate in this effort.

A proposed correction:

Appeal from the district court's summary judgment in a 42 U.S.C. § 1983 action arising from the City of San Jose's confiscation and retention of firearms registered to a lawful gun owner who lives with a temporarily prohibited person.

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Plaintiff/Appellants submit this request for correction of the false statements and ambiguities in the existing Notice; and to negate any possibility of an implied admission through silence.

Sincerely,

/s/ Donald Kilmer

Donald E. J. Kilmer, Jr.
Attorney for Appellants

enc: Oral Argument Notice - James R. Browning U.S.

cc: clients via email
Ms. Laskowska, Deputy City Attorney for San Jose via e-file

United States Court of Appeals for the Ninth Circuit Calendar for James R. Browning U.S. Courthouse, San Francisco

Oral Argument Notice

Note: Calendar entries may change up until the hearing date. Please remember to check the docket report for updates. Case synopses are prepared by court staff for the convenience of the reader.

2019-01-14 9:30 am Courtroom 3, 3rd Floor Rm 307, James R. Browning U.S. Courthouse, San Francisco					
Case No.	Title	Nature	Origin	Time / Side	
15-73094	Eladio Monroy-Martinez v. Jefferson Sessions, III - A citizen of Mexico petitions for review of the Board of Immigration Appeals' dismissal of Immigration Judge's denial of his untimely motion to reopen.	Immigration	BIA	10 min	
15-73869	Fernando Menendez-Gonzalez v. Jefferson Sessions, III - A native and citizen of Peru petitions for review of the Board of Immigration Appeals' denial of his motion to reopen sua sponte	Immigration	BIA	10 min	
15-73285 15-73870	Benito Meza-Diveni v. Jefferson Sessions, III - A citizen of Mexico petitions for review of the Board of Immigration Appeals' decisions denying his motions to reopen and to reconsider.	Immigration	BIA	15 min	
17-17153	Jonee Fonseca v. Karen Smith - Appeal from the dismissal of a complaint against the Director of the California Department of Public Health, alleging that the California Uniform Determination of Death Act, a statute that defines death in California, is unconstitutional on its face. [2:16-cv-00889-KJM-EFB]	Civil	E. CA	15 min	
17-17144	Lori Rodriguez v. City of San Jose - Appeal from the district court's summary judgment in a 42 U.S.C. § 1983 action arising from the City of San Jose's confiscation and retention of firearms registered to plaintiff and her husband. [5:15-cv-03698-EJD]	Civil	N. CA	20 min	

Location Address

U.S. Court of Appeals for the Ninth Circuit
James R. Browning U.S. Courthouse
95 Seventh Street
San Francisco CA 94103