

No. 17-17144 [Dist Ct. No.: 5:15-cv-03698-EJD]

---

IN THE  
UNITED STATES COURT OF APPEAL  
FOR THE NINTH CIRCUIT

---

LORI RODRIGUEZ; et al.,  
*Plaintiffs - Appellants,*

vs.

CITY OF SAN JOSE; et al.,  
*Defendants - Appellees.*

---

APPEAL FROM THE  
UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

---

**UNOPPOSED MOTION BY PLAINTIFF-APPELLANTS  
TO SUBSTITUTE INSTITUTIONAL PLAINTIFF  
AFTER NAME CHANGE**

---

\*Donald E. J. Kilmer, Jr.  
CA State Bar No.: 179986  
3455 Jarvis Avenue  
San Jose, California 95118  
Voice: 408/264-8489  
Don@DKLawOffice.com

*\*Counsel of Record for Plaintiff - Appellants*

**Motion**

Pursuant to Federal Rule of Appellate Procedure 43(b), and this Circuit's General Orders, Appendix A(6), Plaintiff-Appellants herein request an order from the Court making a substitution of a party "for other causes."

The CALGUNS FOUNDATION, INC., one of the institutional plaintiff-appellants in this matter, has applied to, and been granted a name change from the California Secretary of State.

Attached is a true and correct copy of the Certificate of Amendment and Restatement of Articles of Incorporation filed with the California Secretary of State on or about July 11, 2019.

Plaintiff-Appellants hereby request an order substituting CALIFORNIA GUN RIGHTS FOUNDATION, INC for the THE CALGUNS FOUNDATION, INC.

Defendant-Appellees have been given notice of request and they do not oppose the substitution.

Respectfully Submitted on August 22, 2019,

/s/ Donald Kilmer  
Donald Kilmer,  
Attorney for Plaintiff-Appellants

**Declaration of Counsel**

I, Donald Kilmer, declare:

1. I am the attorney of record for Plaintiff-Appellants in this matter.
2. Attached is a true and correct copy of a Certificate of Amendment and Restatement of Articles of Incorporation filed with the California Secretary of State on July 11, 2019.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed On: August 22, 2019.

*/s/ Donald Kilmer*  
Donald Kilmer,  
Attorney for Plaintiff-Appellants

CERTIFICATE OF SERVICE

On August 22, 2019, I served the foregoing **UNOPPOSED MOTION BY PLAINTIFF-APPELLANTS TO SUBSTITUTE INSTITUTIONAL PLAINTIFF AFTER NAME CHANGE** by electronically filing it with the Court's ECF/CM system, which generated a Notice of Filing and effects service upon counsel for all parties in the case. I declare under penalty of perjury that the foregoing is true and correct.

Executed August 22, 2019,

*/s/ Donald Kilmer*

Attorney for Appellants

A0830889

C3098592

**CERTIFICATE OF AMENDMENT AND RESTATEMENT OF  
ARTICLES OF INCORPORATION**

**FILED** *MB*  
Secretary of State  
State of California

100 JUL 11 2019



The undersigned certify that:

1. They are the **president** and **secretary**, respectively, of THE CALGUNS FOUNDATION, a California Nonprofit Public Benefit Corporation.
2. The Articles of Incorporation of this corporation are amended and restated to read as follows:

**ARTICLE I**

**NAME**

The name of this corporation is CALIFORNIA GUN RIGHTS FOUNDATION.

**ARTICLE II**

**PURPOSES**

- A. This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law of California for charitable and public purposes.
- B. The specific purposes of this corporation shall be to protect, defend, and advance rights and liberties, including, without limitation, Californians' individual right to keep and bear arms; those codified and uncodified rights protected under the Constitution of the United States and the Constitution of the State of California; and all other charitable and educational activities as permissible under law.

**ARTICLE III**

**TAX-EXEMPT STATUS**

- A. This corporation is organized and operated exclusively for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.
- B. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (1) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code or (2) by a corporation contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code.

- C. No substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of any candidate for public office.

**ARTICLE IV**

**DEDICATION OF ASSETS**

The property of this corporation is irrevocably dedicated to charitable and educational purposes and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer, or member thereof or to the benefit of any private person. Upon the dissolution or winding up of the corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of this corporation shall be distributed to a nonprofit fund, foundation, or corporation which is organized and operated for materially the same purposes as under Article II, above, and which has established its tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

3. The foregoing amendment and restatement of Articles of Incorporation has been duly approved by the board of directors.
4. The corporation has no members.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

DATE: 7/9/19

  
Eugene Hoffman, President

  
Brandon Combs, Secretary