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December 20, 2019

Ms. Maria R. Hamilton
John J. Moakley U.S. Courthouse
1 Courthouse Way
Boston, MA 02110

**RE: Caniglia v. Strom et al, No. 19-1764
Oral Argument Scheduled January 8, 2020**

Dear Ms. Hamilton:

Pursuant to Federal Rule of Appellate Procedure 28(j), I write to inform the Court of Rodriguez v. City of San Jose, 930 F.3d 1123, 1137-1141 (9th Cir. 2019), which holds that the Community Caretaking Function applies to non-vehicle activity. Rodriguez supports Appellees' argument that the warrantless seizure of Appellant and his firearms did not violate the Fourth Amendment because the Appellees acted reasonably pursuant to the Fourth Amendment and the Community Caretaking Function. Appellees' Brief, at §§ II.A. and II.C.

In Rodriguez, the police, like the instant Appellees, responded to a request from an individual to conduct a home-welfare check on the Plaintiff due to mental health problems. Rodriguez, 930 F.3d at 1127-29. As a result of the welfare check, the police seized the Plaintiff and multiple firearms. Id. The police, however, did not obtain a warrant to seize the firearms and the Plaintiff subsequently challenged the seizure as inconsistent with the Fourth Amendment. Id. see also Appellees Brief, at 11-15.

The Rodriguez Court held that a seizure of a firearm in the possession or control of a person who has been detained because of a mental health episode "responds to an immediate threat to community safety." Id. at 1138. In determining whether the seizure of the firearms without a warrant was proper under the Community Caretaking Function, the Court held that (1) the public safety interest; (2) the urgency of that public interest; and (3) the individual property, liberty, and privacy interests must be balanced based on all of the facts available to an objectively reasonable police officer. Id. at 1138; see Appellees Brief at 18-32. After balancing these factors, the Court concluded that the warrantless seizure of the firearms did not violate the Fourth Amendment. Rodriguez, 930 F.3d at 1140.

Appellees thus submit that Rodriguez supports Appellees' argument and it should be taken into consideration along with those cases cited in Appellees' Brief that have recognized that the Community Caretaking Function applies beyond the automobile context. See Appellees Brief at §§ II.A. and II.C.

Sincerely,



Marc DeSisto, Esq.
Attorney for the Appellees

cc: Thomas W. Lyons, Esq. (via email and regular mail)
Rhiannon S. Huffman, Esq. (via email and regular mail)