

Appeal No. 05-16079
PRO BONO

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

ROBERT-JOHN:FOTI; JOSEPH; KENNETH AUGUSTINE;
LEONARD NEUFELD,

Plaintiffs-Appellants,

vs.

McHUGH, Officer; UNITED STATES MARSHALS SERVICE;
FEDERAL PROTECTIVE SERVICES,

Defendants-Appellees.

On Appeal From the United States District Court for the
Northern District of California
Hon. Patricia J. Hamilton, District Judge
Case No. C-04-2567 PJH

***ERRATA TO PLAINTIFFS-APPELLANTS'
REPLACEMENT OPENING BRIEF***

October 2, 2006

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¹ This Court appointed Fenwick & West LLP *pro bono* counsel for Plaintiffs-Appellants Kenneth Augustine, Robert-John:Foti and Joseph Neufeld on June 1, 2006. Fenwick obtained signed engagement letters from Messrs. Augustine and Foti on June 9, 2006. The First Amendment Project, as *pro bono* co-counsel, obtained signed engagement letters from Messrs. Augustine and Foti on August 24, 2006. Despite repeated efforts, neither Fenwick nor the First Amendment Project has been unable to obtain a signed engagement letter from Mr. Neufeld. Accordingly, this *errata* is filed on behalf of Messrs. Foti and Augustine only.

INTRODUCTION

On September 29, 2006, Plaintiffs-Appellants filed their Replacement Opening Brief (the "Brief"). Due to difficulties with our word processing facilities, for which we apologize to the Court, the Brief did not contain a table of authorities, and contained an inaccurate certificate of compliance. Attached hereto are the Table of Authorities and a corrected Certificate of Compliance.

Dated: October 2, 2006

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CERTIFICATE OF COMPLIANCE

I certify that, pursuant to Fed. R. App. P. 32(a)(7)(C) and Ninth Circuit Rule 32-1, the Plaintiff-Appellant's Opening Brief filed on Friday, September 29, 2006 is proportionately spaced, has a typeface of 14 points or more, and contains 10,122 words (based on the word processing system used to prepare the brief).

Dated: October 2, 2006

FENWICK & WEST LLP

By: 
Evan R. Bennett

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KENNETH AUGUSTINE

CERTIFICATE OF SERVICE

I declare I am employed in the County of San Francisco, State of California.

I am over the age of eighteen years and not a party to the within-entitled action.

My business address is Embarcadero Center West, 275 Battery Street,

San Francisco, California 94111. I served the following document(s), in the

manner indicated below:

***ERRATA TO PLAINTIFFS-APPELLANTS' REPLACEMENT OPENING
BRIEF***

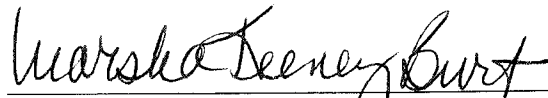
on the parties in the subject action by placing a true and correct copy thereof as

indicated below, addressed as follows:

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Marsha Keeney-Burt