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9 **UNITED STATES DISTRICT COURT**  
10 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

11 RICHARD ENOS, JEFF BASTASINI,  
LOUIE MERCADO, WALTER GROVES,  
12 MANUEL MONTEIRO, EDWARD  
ERIKSON, VERNON NEWMAN, JEFF  
13 LOUGHRAN and WILLIAM EDWARDS,

14 Plaintiffs,

15 vs.

16  
17 ERIC HOLDER, as United States Attorney  
General, and ROBERT MUELLER, III, as  
18 Director of the Federal Bureau of  
Investigation,

19 Defendants.  
20

CASE NO.: 2:10-CV-02911-JAM-EFB

**ERRATA MEMORANDUM and  
DECLARATION OF COUNSEL**

Re: Table of Contents & Table of  
Authorities

Date: May 4, 2011  
Time: 9:30 a.m.  
Place: Courtroom 6, 14<sup>th</sup> Floor  
Judge: Hon. John A. Mendez

21  
22 Attached hereto are the missing TABLE OF CONTENTS and TABLE OF  
23 AUTHORITIES from Plaintiffs' MEMORANDUM OF POINTS AND  
24 AUTHORITIES IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS.

25 I, Donald Kilmer, declare as follows:

- 26 1. I am attorney of record for Plaintiffs in this matter.  
27 2. I was working diligently in my office on the final draft of Plaintiffs' opposition  
28 memorandum during the late afternoon of April 20, 2011.

1 3. At approximately 5:30 p.m. the power went out in my building. After some  
2 investigation, it was determined that the power was out in the surrounding  
3 buildings.

4 4. Luckily we keep rolling backups of all work at my office, so I took my back up  
5 of the memorandum and went to my home to finish the brief.

6 5. There was some difficulty putting the final touches on the brief due to the  
7 inaccessibility of the office server where all the research for this case was  
8 kept. I was also unable to obtain a scanned copy of the ATF Form 4473  
9 (5300.9) that was to e part of my Request for Judicial Notice for the same  
10 reason.

11 6. The reason for this Errata Memorandum and late filing of the Table of  
12 Contents, Table of Authorities is that the computer I have at home does not  
13 have the program for generating these tables and I was unable to secure a  
14 copy of the ATF Form 4473 suitable for filing. (The one on the ATF website  
15 is a secure document.)

16 7. The brief itself was timely filed on April 20, 2011.

17 8. I apologize to the Court and Opposing Counsel for any inconvenience or  
18 confusion this (one-day) late filing of the Table of Contents, Table Authorities  
19 and Request for Judicial Notice may cause.

20 I declare under penalty of perjury under the laws of the United States and  
21 California, that the forgoing is true and correct and that this declaration was  
22 executed in San Jose, CA.

23 Date: April 21, 2011

24 /s/ Donald E. J. Kilmer, Jr.  
25 Attorney for the Plaintiffs

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