

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

JOHN DOE,
Plaintiff - Appellee,

v.

No. 10-2102

CITY OF ALBUQUERQUE,
Defendant - Appellant.

**UNOPPOSED MOTION TO CORRECT MISTAKEN
ELECTRONIC FILINGS OF APPELLANT'S OPENING BRIEF**

Appellant City of Albuquerque, by and through its counsel of record, Assistant City Attorneys Gregory S. Wheeler and Peter H. Pierotti, file this unopposed motion to correct mistaken electronic filings.

1. The Court ordered Defendant Appellant City of Albuquerque to file an amended opening brief to correct certain deficiencies, and this brief was due August 2, 2010 ("Amended Opening Brief").

2. The City mailed the Amended Opening Brief July 30, 2010 and filed that brief electronically July 30, 2010. The required attachments were not included and the City was asked to electronically file again on August 2, 2010, which the City did. However, there were problems with the City's software and other problems and the August 2, 2010 electronic filing was also in error.

3. Upon approval of this Motion, the City requests that the attached brief be filed. The body of the brief is the same as originally filed and mailed on July 30,

2010, but includes pages omitted in the improper scanning process, corrected page numbers, the required statement of compliance with word-text limitations, an update to the table of contents to include all sections, and the orders appealed from as attachments.

5. The City asks the Court to delete the mistaken electronic filings which occurred on July 30, 2010 and August 2, 2010, and that the timing of Appellee's Answer Brief be tracked from the new filing date.

4. Opposing counsel consents to this motion. The City apologizes to the Court for the mistakes and wants to thank opposing counsel for a good deal of patience and cooperation in this matter.

WHEREFORE, Appellant prays that the Court would grant this motion.

Respectfully Submitted,

CITY OF ALBUQUERQUE
Robert J. Perry
City Attorney

A handwritten signature in black ink, appearing to read "Gregory S. Wheeler", written over a horizontal line.

Gregory S. Wheeler
Peter H. Pierotti
Attorneys for Appellant
P. O. Box 2248
Albuquerque, New Mexico 87103
(505) 768-4500

I hereby certify that a true and accurate copy of the foregoing was served on August 10, 2010, to all counsel of record electronically through the CM/ECF process, and by mail to:

Brendan K. Egan
The Rothstein Law Firm
1215 Paseo de Peralta
Santa Fe, NM 87504
bkegan@rothsteinlaw.com

A handwritten signature in black ink, appearing to read "Peter Pierotti", written over a horizontal line.

Peter H. Pierotti