

CLIENT NEWS BRIEF

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**COURT UPHOLDS CITY COUNCIL'S RIGHT TO
REMOVE DISRUPTIVE MEMBER OF THE PUBLIC**

In Norse v. City of Santa Cruz (9th Cir. Nov. 3, 2009) __F.3d__, the United States Court of Appeals for the Ninth Circuit held that government officials do not violate the First Amendment when they limit speech at a public meeting according to subject matter and duration, and order the removal of a member of the public engaging in disruptive conduct.

In 2002, the Mayor of the City of Santa Cruz ("City") had Robert Norse removed from a City Council meeting. Norse's removal from the meeting was based on his giving a Nazi salute in support of a disruptive member of the public who refused to leave the podium after the Mayor ruled the speaker's time had expired and the public comment portion of the meeting had ended. Although the Mayor did not initially notice the salute, other Council members were offended by the gesture and brought it to the Mayor's attention. The Mayor ordered Norse to leave the meeting, and Norse was arrested when he refused. Norse later sued the City, the Mayor and the City Council members, alleging a violation of his First Amendment rights.

The court held that the Mayor's ejection of Norse from the meeting was reasonable and that Norse's First Amendment rights were not violated. The court also held that presiding government officials have great discretion in enforcing reasonable rules for the orderly conduct of public meetings. Furthermore, officers presiding over public meetings are not required to condone conduct which fosters or encourages disruption. This is not to say, however, that such discretion is unlimited. If such rules are enforced by government officials in a manner that suppresses a particular viewpoint, a constitutional violation may be found. In the case at hand, the court found that Norse's salute had little to do with the message content of the speaker whose time had expired. Instead, his salute was to protest the Mayor's good faith efforts to maintain order by enforcing the City Council's public comment time limit rule, and was intended to support and further the disruptive conduct.

The holding and reasoning of this case is applicable to public meetings of school boards and other public entities. Should you have any questions regarding the Norse decision, dealing with disruptive conduct at public meetings, or free speech laws in general, please contact any one of our seven offices statewide.

As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.



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