

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

NICHOLAS B. DELIA,  
*Plaintiff-Appellant,*

v.

CITY OF RIALTO, a Public Entity;  
CITY OF RIALTO FIRE DEPARTMENT,  
a Public Agency; STEPHEN C.  
WELLS, Individually and as the  
Fire Chief for the City of Rialto;  
MIKE PEEL, Individually and as  
Battalion Chief for the City of  
Rialto; FRANK BEKKER,  
Individually and as Battalion Chief  
for the City of Rialto; STEVE A.  
FILARSKY, Individually and as an  
Internal Affairs Investigator for  
the City of Rialto,  
*Defendants-Appellees.*

No. 09-55514  
D.C. No.  
2:08-cv-03359-R-  
PLA  
ORDER

On Remand from the United States Supreme Court

Filed June 19, 2012

Before: Alfred T. Goodwin, Johnnie B. Rawlinson,  
Circuit Judges, and Mark W. Bennett, District Judge.\*

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\*The Honorable Mark W. Bennett, United States District Judge for the Northern District of Iowa, sitting by designation.

**ORDER**

In light of the United States Supreme Court's decision in *Filarsky v. Delia*, \_\_\_ S. Ct. \_\_\_, 2012 WL 1288731 (Apr. 17, 2012), the judgment of the district court is affirmed. The mandate shall issue forthwith. *See* FED. R. APP. P. 4(b).

REMANDED