

FOR PUBLICATION

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

ALEX MERUELO; LISET MERUELO,
Petitioners-Appellants,

v.

COMMISSIONER OF INTERNAL
REVENUE,
Respondent-Appellee.

No. 11-70015

Tax Ct. No.
624-04

ORDER

Filed November 14, 2012

Before: M. Margaret McKeown and N. Randy Smith,
Circuit Judges, and Roger T. Benitez, District Judge.*

ORDER

The Opinion filed on August 16, 2012, slip op. 9401, and appearing at 691 F.3d 1108, is amended as follows:

At slip op. 9419, line 8, please replace the sentence that currently states, <Lastly, even if we were to hold that the NOD must have been “accepted as filed,” and such a determination is a factual inquiry, the Meruelos’ argument

* The Honorable Roger T. Benitez, District Judge for the U.S. District Court for Southern California, sitting by designation.

still fails,> with the following sentence: <Lastly, even if we were to hold that the partnership return must have been “accepted as filed,” and such a determination is a factual inquiry, the Meruelos’ argument still fails.>

With this amendment the panel has voted unanimously to deny the petition for panel rehearing. Judge McKeown and Judge N.R. Smith have voted to deny the petition for rehearing en banc, and Judge Benitez has so recommended.

The full court has been advised of the petition for rehearing en banc and no active judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 35.

The petition for rehearing and the petition for rehearing en banc are DENIED.

No further petitions for rehearing or rehearing en banc may be filed in response to the amended opinion.