

# MORRISON FOERSTER

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Introduction (00:00):

Now, back to The Drive with Steve Jaxon, live and local on crystal clear FM at 103.5 in Santa Rosa and 94.5 in Petaluma.

Steve Jaxon (00:12):

Alrighty, it's 3:52 on your Monday drive. Coming up, Dr. Dave McCune Drive's senior political analyst will join us. Cannabiz with Nick Haston, Lanny Davis live from LA, Comedian Will Durst, and a whole lot more yet to come. Joining us right now is attorney Alexis Amezcua. Amezcua?

Alexis Amezcua (00:33):

Thank you. Amezcua. Good enough.

Steve Jaxon (00:34):

Amezcua. Thank you for being with us. A federal jury ruled today in a lawsuit against the city of Rohnert Park, over violations of the U.S. and California constitutions. Wow. Now that's some deep stuff. Explain away if you would.

Alexis Amezcua (00:51):

Sure. So my client Mr. and Mrs. Barajas are long time Rohnert Park residents, and they claimed that a search done by Rohnert Park police department in 2014 violated their rights to be free from an unreasonable search of their home, and a federal jury unanimously found in their favor.

Steve Jaxon (01:12):

A federal jury. That's fascinating. How did it become a federal case?

Alexis Amezcua (01:17):

Well because there are federal constitutional claims at issue. The Fourth Amendment permits a person, or rather protects a person from unreasonable searches of their home and invasions of that sort of privacy. So we brought a federal lawsuit in San Francisco court, and we said, "You know, this is a violation of several federal and state laws." And the jury ultimately awarded damages to my clients, Mr. and Mrs. Barajas and punitive damages against one of the officers who had entered their home and, what we say, in a way that violated the constitution.

Steve Jaxon (01:54):

Wow. And these were three Rohnert Park police officers?

Alexis Amezcua (01:57):

These were three Rohnert Park police officers. The jury found that all three of them and, also separately, that the city of Rohnert Park was liable for violating our client's Fourth Amendment rights and their rights

under the California constitution to be—have their privacy protected. Punitive damages was awarded against one of the police officers in an amount of \$70,000.

Steve Jaxon (02:23):

Wow. So they were looking for this couple's son who was on probation. They did that. They had no search warrant, and the couple stated that their son wasn't home, but they entered the home anyway, without the consent of the parents.

Alexis Amezcua (02:39):

That's right. That's right. So two officers came to the front door and said, "You know, let us in. We're looking for your son who's on probation." My client went to their front door and said, "Well, let me see a warrant," and had some questions. You know, "why are you here?" My client, Mr. Barajas was there with his wife, Elva Barajas and their adult children. The probationer himself wasn't in the home, and that's what Mr. Barajas has said to the police over and over again. And while they were having a conversation at the front door with the two police officers that had knocked on the front door, they suddenly noticed within seconds that there was a third officer who was already in the house who was standing feet from them. Obviously, our clients were extraordinarily startled. Their daughter testified that she felt like her privacy had been invaded. Like she felt naked in her own home. She didn't know where this officer came from. And this officer testified that he had actually entered the home with his gun drawn, although his partner said that there was no reason for it.

Steve Jaxon (03:44):

Wow. Fascinating story. And one I had not heard much about. What was the son on probation for?

Alexis Amezcua (03:51):

For—it was a misdemeanor claim and possession. You know, no one disputes that he'd had issues with drugs for some time. But that wasn't part of this case. This case was about the constitutional rights of his parents, who themselves were not on probation and were very hard working members of this community. Mr. Barajas has worked as a garbage collector and truck driver for 45 years for the city of Rohnert Park and felt as a homeowner that he deserved better than this.

Steve Jaxon (04:26):

Fascinating stuff. What happens next? I mean, besides the fact that this one officer is supposed to pay damages in the amount of 7,000 bucks.

Alexis Amezcua (04:37):

Excuse me, 70,000. 7-0.

Steve Jaxon (04:38):

That's what I meant. I meant to say 70. I'm sorry!

Alexis Amezcua (04:42):

Okay. Just want to make sure we're clear on the record about that. Well next is, you know, we're going to seek injunctive relief, which means now that we have a jury having found that the city and the individual officers are liable, we're going to go to the judge and say that the judge actually has to direct the city of Rohnert Park to change its policies. As of now, it doesn't even have a written policy related to how one searches a home for someone who's on probation.

Steve Jaxon (05:09):

Jeez.

Alexis Amezcua (05:09):

So we're going to seek injunctive relief, looking for affirmative steps and changes to be made by the city of Rohnert Park. And we're also going to look for our fees because the federal and state claims, once you've won them, permit the prevailing party to seek their attorney's fees.

Steve Jaxon (05:28):

Okay. Well thank you for the time. Interesting story. And just it's—it's not good to hear about things like this. Attorney Alexis Amezcua.

Alexis Amezcua (05:41):

Thank you so much.

Steve Jaxon (05:42):

All right. Thank you for taking the time. Have a great day.

Alexis Amezcua (05:44):

You too.

Steve Jaxon (05:46):

All right.