

FILED

December 4, 2003

UNITED STATES COURT OF APPEALS

FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 00-51119

ENCORE VIDEOS, INC.,

Plaintiff - Appellant,

versus

CITY OF SAN ANTONIO,

Defendant - Appellee.

Appeal from the United States District Court
for the Western District of Texas

Before SMITH and EMILIO M. GARZA, Circuit Judges, and CUMMINGS,* District Judge.

BY THE COURT:

We clarify our opinion, 330 F.3d 288, by stating the following: The opinion does not overrule *SDJ, Inc. v. City of Houston*, 837 F.2d 1268 (5th Cir. 1988). Indeed, no panel has the power to overrule the opinion of a previous panel. *Patterson v. Mobil Oil Corp.*, 335 F.3d 476, 485 (5th Cir. 2003). In addition, the ordinance at issue was found not to be narrowly tailored because of both its failure to make an on-site/off-site distinction and its low 20% inventory requirement.

* District Judge of the Northern District of Texas, sitting by designation.