

Turturici challenges lawsuit

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Murder
SANTA CRUZ — David Turturici of Aptos, who fatally shot Summit resident Rick Foster early last year, has challenged a wrongful death lawsuit filed by Foster's family but has dropped his own claim against Foster's estate.

In papers filed this week in Santa Cruz County Superior Court, Turturici's civil attorney, Allen Ruby of San Jose, moved for a dismissal of nearly all of the claims made by the Fosters against Turturici, his family and his business.

Ruby said much of the wrongful death suit should be thrown out because it's "ambiguous" and lacks evidence that Turturici's family had anything to do with the death of Foster. However, the defense has not specifically asked for a dismissal of the claims against Turturici himself.

Turturici, 42, shot Foster, 38, in the

early morning hours of Feb. 8, 1996 on Highway 1 after a traffic dispute that began in Los Gatos and ended in Capitola. Turturici claimed he shot Foster in self-defense after the two men scuffled over Turturici's handgun.

One year later, in the county's first trial involving a freeway killing, Turturici was acquitted on charges of murder and voluntary manslaughter, but the jury deadlocked on a lesser charge of involuntary manslaughter.

Last month, the District Attorney's Office announced it will retry Turturici for involuntary manslaughter with enhancements of using a gun without a license and firing a weapon from a vehicle.

Sal Sunseri, one of the San Jose attorneys representing the Foster estate, said Friday that Turturici's response to the wrongful death claim "lacks merit."

On Feb. 7, as the jury was reading its verdict in Turturici's criminal trial, Fos-

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ter's mother, Lorelee Foster; his ex-wife, Theresa Foster, and his two children, ages 6 and 8 filed suit.

The defendants named in the complaint were: Turturici's parents, Benny and Helen Turturici; his brother, Douglas Turturici; his business partner, Edward Wehr and his San Jose restaurant, Bellino.

The suit alleged that Turturici should be held liable because he negligently and maliciously took Foster's life.

Turturici's parents were named because they allegedly helped their son spoil evidence — after the shooting Turturici fled and drove to his parents house, where he washed blood from his car.

Douglas Turturici was named because there's evidence that he helped hide the weapon from police, according to Chris

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Rudy, another lawyer for the Fosters. And Wehr and Bellino were named in the suit because Turturici testified that he bought the gun for protection while carrying cash for the restaurant.

But the defense team countered that there's no hard evidence connecting anyone to the shooting other than Turturici, so none of the other defendants should be held liable.

In addition, the defense wants

Lorelee Foster dismissed as a plaintiff because she was not truly dependent on her son financially, which is required by law of plaintiffs in wrongful death actions, Rudy said.

Sunseri disputed that assertion, saying Lorelee Foster had been regularly receiving checks from her son until his death.

Superior Court Judge Sam Stevens scheduled a hearing on the arguments for May 19.

Meanwhile, on March 31, Turturici quietly dropped his personal injury lawsuit against Foster's estate. He had filed the claim in Santa Clara County court in February while the jury was still out in his Santa Cruz criminal trial.

That complaint stated that Turturici should be reimbursed because Foster instigated the incident. The lawsuit was never served on the defendants and was dropped without comment.