

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

JEFFREY TVERBERG et al.,

Plaintiffs and Appellants,

v.

FILLNER CONSTRUCTION, INC.,

Defendant and Respondent.

A120050

(Solano County
Super. Ct. No. FCS028210)

ORDER MODIFYING OPINION
[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on February 24, 2011, and ordered to be published on March 25, 2011, be modified as follows:

Page 9, lines 7 through 11 of the first full paragraph beginning with “In a similar case,” and ending with “affirmative contribution.” are modified to read as follows:

The mere breach of an affirmative duty may be sufficient to establish an affirmative contribution to an injury. In the Tverbergs’ case, the evidence of affirmative contribution is much stronger than a mere breach of duty.

There is no change in the judgment.

Reardon, Acting P.J.