

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

FLAGSHIP THEATRES OF PALM
DESERT, LLC,

Plaintiff and Appellant,

v.

CENTURY THEATRES, INC. et al.,

Defendants and Respondents.

B211597

(Los Angeles County
Super. Ct. No. SC090481)

ORDER MODIFYING OPINION
AND DENYING REHEARING

[NO CHANGE IN JUDGMENT]

THE COURT:

IT IS ORDERED that the opinion filed herein on August 31, 2011, be modified in the following particulars:

1. On page 10, at the end of the citation in the second full paragraph, insert after “p. 489” the following, so that it now reads:

(*Id.* at p. 489; see generally 2A Areeda et al., Antitrust Law (3d ed. 2007)

¶ 337, pp. 82-96.)

2. On page 11, first full paragraph, insert a new footnote 8 after the quoted sentence ending with “reason” and before the citation “(*Id.* at pp. 342-344.)” Add as

footnote 8 the following footnote text, which will require renumbering of all subsequent footnotes:

We note that some lower courts have not used the term “antitrust injury” consistently, sometimes employing it “comprehensively to include injury-in-fact caused by the defendant” or the “impact on competition” of the defendant’s alleged conduct. (2A Areeda et al., Antitrust Law (3d ed. 2007) ¶ 337a, p. 83; see generally *id.*, pp. 83-84 & fns. 3, 4 [collecting cases].) We, however, “use that term in the precisely focused sense of *Brunswick*.” (*Id.*, pp. 83-84.)

On page 20, fourth line from the top, delete the text beginning with “If it is, then still further questions arise ” and ending with the citation “Sullivan & Grimes, *supra*, § 3.4b1, pp. 106-107.)”

This modification does not have an effect on the judgment.

The petition for rehearing is denied.

MALLANO, P. J.

ROTHSCHILD, J.

JOHNSON, J.