

Filed 2/10/11

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re the Marriage of
SANDRA and EDWARD FOSSUM.

SANDRA FOSSUM,
Respondent,

v.

EDWARD FOSSUM.
Appellant.

B214824

(Los Angeles County
Super. Ct. No. BD382683)

ORDER MODIFYING OPINION
(Scott M. Gordon, Judge)

[NO CHANGE IN JUDGMENT]

THE COURT:

IT IS ORDERED that the Concurring and Dissenting opinion by Justice Rothschild, as Acting Presiding Justice, filed on January 28, 2011, be modified in the following particulars:

1. On page 1, second paragraph, insert the following text before the end of the first sentence “(and the majority does not hold that it is self-executing),” so that the sentence now reads:

Assuming that Family Code section 1101, subdivision (g), does provide for a mandatory award of attorney fees, the statute is not self-executing (and the majority does not hold that it is self-executing).

2. On page 1, before the last sentence of the second paragraph, add a new sentence as follows:

I therefore disagree with the majority's decision not to treat the issue as forfeited.

3. On page 1, last sentence of the second paragraph, delete "therefore" between the words "should" and "affirm" so the sentence reads:

We should affirm the trial court's decision not to award attorney fees in connection with Sandra's breach of fiduciary duty.

This modification does not constitute a change in the judgment.

ROTHSCHILD, Acting P. J.