

CERTIFIED FOR PUBLICATION
COURT OF APPEAL, FOURTH APPELLATE DISTRICT
DIVISION ONE
STATE OF CALIFORNIA

CHARLES E. JONES et al.,

Plaintiffs and Respondents,

v.

IVOR J. JACOBSON et al.,

Defendants and Appellants.

D057302

(Super. Ct. No. 37-2008-00058449-
CU-FR-CTL)

NO CHANGE IN JUDGMENT

THE COURT:

The opinion filed May 5, 2011, is modified as follows:

At DISCUSSION 1. *Enforcement of an Arbitration Provision by Nonsignatories*
(slip opn. p. 13): replace the numeral 1 with a Roman I

At DISCUSSION I., D. *Enforcement of Arbitration Provision by Nonsignatories*
(slip opn. p. 20): replace with *Enforcement of Arbitration Provision by the SG Appellants*

At DISCUSSION I, D., 2. *Analysis* (slip opn. p. 24), last paragraph, after first sentence beginning with "Here, the SG appellants" and ending with "employee of SGSA.": insert footnote 12; footnote 12 text reads: "The SG appellants waited until oral argument in this court to argue that they, as opposed to Debreu and Aubray, were agents of SGSA, an argument they repeated in their petition for rehearing. However, issues and

arguments not addressed in the briefs on appeal are deemed forfeited. (See *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1463; *Boehm & Associates v. Workers' Comp. Appeals Bd.* (2003) 108 Cal.App.4th 137, 148.) Moreover, our review of the record shows the SG appellants also did not argue in the trial court in connection with their motion *and* amended motion to compel arbitration that they were the agents of SGSA. Instead, they relied exclusively on the doctrine of equitable estoppel to assert in both motions that as nonsignatories they were entitled to enforce the arbitration provision. For this separate and independent reason, we conclude the agency issue is forfeited on appeal. (See *In re Marriage of Falcone & Fyke* (2008) 164 Cal.App.4th 814, 826; *Children's Hospital & Medical Center v. Bonta'* (2002) 97 Cal.App.4th 740, 776-777.)" Renumber remaining footnotes sequentially.

At DISCUSSION 3. *Equitable Estoppel* (slip opn. p. 25): replace the numeral 3 with a Roman II

At DISCUSSION II. *Equitable Estoppel, C. Third Party Beneficiaries of the Account Agreement* (slip opn. p. 28): replace the subheading letter C with a Roman III

The Motion Requesting Judicial Notice in Support of Petition for Rehearing;
Memorandum is denied.

The petition for rehearing is denied.

There is no change in the judgment.

BENKE, Acting P. J.

Copies to: All parties