

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION TWO

MOHAMMAD KASHMIRI et al.,
Plaintiffs and Respondents,

v.

THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA,
Defendant and Appellant.

A113662

(San Francisco City & County
Super. Ct. No. CGC-03-422747)
ORDER MODIFYING OPINION
[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on November 2, 2007, and previously modified on November 15, 2007, be modified as follows:

(1) On page 30, the following sentences should be added as a new paragraph at the end of footnote 12:

“In its petition for rehearing the University claims that it did make this argument in the lower court and it points to the pages in the record where this argument was raised. We note, however, that the University did not cite to these pages in the record when arguing this issue in its opening brief before this court. The University also never addressed in its reply brief respondents’ argument that it had waived this issue because it had failed to raise it below. We cannot be expected to comb through more than 1550 pages in the record to determine whether the University did in fact raise this argument. By failing to address respondents’ argument of waiver, the University forfeited this issue. In any event, as discussed above, this issue fails on its merits.”

(2) On page 22, in the second sentence of the last full paragraph, the phrase continuing *statements* is changed to continuing *students*. The sentence should read:

“The pivotal question is whether the statements in the catalogues and on the University’s website not to raise the PDF for continuing students became a term of the implied-in-fact contract between the professional student subclass and the University.”

There is no change in the judgment.

Date: _____

Haerle, Acting P.J.

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| Trial Court: | San Francisco Superior Court |
| Trial Judge: | Hon. James L. Warren |
| Attorneys for Defendant and Appellant: The Regents of the University of California | University of California Office of General Counsel Charles F. Robinson Jeffrey A. Blair Christopher M. Patti Michael R. Goldstein James Ernst Holst Howard Rice Nemerovski Canady Falk & Rabkin Jerome B. Falk, Jr. Ethan P. Schulman Keith D. Kessler |
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