

**CERTIFIED FOR PUBLICATION**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

SHASHIKANT JOGANI,

Plaintiff and Appellant,

v.

HARESH JOGANI et al.,

Defendants and Respondents.

B181246

(Los Angeles County  
Super. Ct. No. BC290553)

ORDER MODIFYING OPINION  
AND DENYING REHEARING

[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on July 10, 2006, be modified as follows:

On page 23, at the end of the first full sentence (“In short, Shashi did not successfully assert his prior position.”), add a new footnote 4, which reads:

<sup>4</sup>We do not decide whether the settlements in *Cappucci* or *Weyerhauser* constitute prior success because the parties have not raised that issue on appeal.

The subsequent footnote will have to be renumbered.

There is no change in the judgment.

Respondents' petition for rehearing is denied.

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SPENCER, P. J.

MALLANO, J.

ASHMANN-GERST, J.\*

\* Associate Justice of the Court of Appeal, Second Appellate District, Division Two, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.