

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT

BRENTON R. SMITH et al.,

Plaintiffs and Respondents,

v.

ADVENTIST HEALTH SYSTEM/WEST et al.,

Defendants and Appellants.

F055923

(Kings Super. Ct. No. 08C0069)

**ORDER MODIFYING OPINION
AND DENYING REHEARING
[NO CHANGE IN JUDGMENT]**

It is ordered that the opinion filed herein on March 4, 2010, and reported in the Official Reports (182 Cal.App.4th 729) be modified in the following particulars:

1. On page 750, at the end of footnote 14, after the word “CMStaff” add the following:

Contrary to Adventist Health’s position, we conclude the letter is ambiguous. Because this appeal only concerns a preliminary injunction, the parties will have the opportunity during the further proceedings that take place in the superior court to develop the historical facts of how the interpretation was formed and by whom—assuming they deem those facts to be relevant to their disputes.

2. On page 753, at the end of footnote 15, add the following paragraph:

Our conclusion regarding the rules of law that govern the interpretation of section 4.5-10 of the Bylaws does not imply that a contract

exists between Smith and any defendant. Whether a contract exists is a question that need not be decided in this appeal.

There is no change in the judgment. The appellants' petition for rehearing is denied.

DAWSON, J.

WE CONCUR:

LEVY, Acting P.J.

KANE, J.