

CERTIFIED FOR PARTIAL PUBLICATION*

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

METIS DEVELOPMENT LLC et al.,

**Cross-complainants and
Respondents,**

v.

CORTLAND BOHACEK et al.,

Cross-defendants and Appellants.

A129650

ORDER MODIFYING OPINION

[NO CHANGE IN JUDGMENT]

(San Mateo County

Super. Ct. No. CIV 491482)

BY THE COURT:

It is ordered that the opinion filed herein on September 28, 2011, be modified as follows:

1. The first two sentences of the paragraph that begins on page 1 and continues onto page 2 are amended to read:

“In the published portion of our opinion, we conclude that the trial court erred in failing to issue a statement of decision under Code of Civil Procedure section 1291 and the appellate record does not support the denial of arbitration under Code of Civil Procedure section 1281.2, subdivision (c). In the unpublished portion of our opinion, we conclude that the waiver finding was erroneous.”

* Pursuant to California Rules of Court, rules 8.1105(b) and 8.1110, this opinion is certified for publication with the exception of parts II.B, II.C., and II.D.

2. On page 1, footnote * is amended to read:

“* Pursuant to California Rules of Court, rules 8.1105(b) and 8.1110, this opinion is certified for publication with the exception of parts II.B and II.C.”

3. On pages 23 through 26, part II.D. is ordered published.

This modification effects no change in the judgment.

Date _____

_____ P.J.