

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THOMAS T. LEE,

Plaintiff and Appellant,

v.

BLUE SHIELD OF CALIFORNIA,

Defendant and Respondent.

B190441

(Los Angeles County
Super. Ct. No. BC 317303)
(Edward Ferns, Judge)

ORDER MODIFYING OPINION

[NO CHANGE IN JUDGMENT]

THE COURT:

IT IS ORDERED that the opinion filed herein on September 7, 2007, be modified in the following particulars:

On page 9, at the end of the last full paragraph before DISPOSITION, after the sentence ending “review hearing process” add footnote 4 and add the following text as footnote 4:

We are aware that Lee’s original complaint included a cause of action for a writ of mandate but that he did not include that cause of action in his first or second amended complaints, but do not believe that fact affected the trial

court's right to treat the declaratory relief cause of action as a petition for writ of mandate once it became clear a judgment would otherwise have to be entered for the defendant.

This modification does not constitute a change in the judgment.

VOGEL, Acting P.J.

JACKSON, J.*

* (Judge of the L. A. Sup. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.)