

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

BAHMAN KHODAYARI,

Plaintiff and Appellant,

v.

CHARLES MASHBURN,

Defendant and Respondent.

B231779

(Los Angeles County
Super. Ct. No. BC448748)

ORDER MODIFYING OPINION
[NO CHANGE IN JUDGMENT]

THE COURT:*

It is ordered that the opinion filed herein on November 15, 2011, be modified as follows:

1. On page 7, the second paragraph should be modified as follows:

“As we explain below, we conclude that (1) all appellant’s causes of action are based on alleged legal malpractice resulting in appellant being found in violation of probation, which in turn caused the harm for which he seeks compensation -- his incarceration and the restitution payment his brother made on his behalf for which the brother now seeks repayment; (2) the policy rationale of

the actual innocence requirement mandates that appellant show actual innocence of the probation violations, and obtain post-violation exoneration; (3) because appellant did not comply with these requirements, and has not shown that he can, the demurrer was properly sustained without leave to amend.”

There is no change in the judgment.