

CERTIFIED FOR PUBLICATION

COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

KARA HODGSON et al.,

Plaintiffs and Appellants,

v.

BANNER LIFE INSURANCE COMPANY et al.,

Defendants and Respondents.

C041384

(Super. Ct. No.
00AS02784)

ORDER MODIFYING
OPINION AND DENYING
REHEARING

[CHANGE IN JUDGMENT]

APPEAL from a judgment of the Superior Court of Sacramento County, Joe S. Gray, J. Reversed in part and affirmed in part.

Mart & deVries, Douglas K. deVries; Law Offices of Robert K. Scott and Robert K. Scott for Plaintiffs and Appellants.

Galton & Helm and Michael F. Bell for Defendants and Respondents Banner Life Insurance Company.

Epstein Becker & Green and Lawrence J. Rose for Defendants and Respondents BISYS Insurance Services and Poage Center Insurance Services.

THE COURT:

It is ordered that the opinion filed herein on December 15, 2004, be modified as follows:

1. On page 3, the second full sentence, reading "We shall reverse the judgment," is deleted and the following language is inserted in its place:

We shall reverse the judgment in favor of Banner. We affirm the judgment in favor of Poage.

2. In the first full paragraph on page 23, the second sentence, reading "Accordingly, the judgment of the trial court must be reversed," is deleted and the following sentence inserted in its place:

Accordingly, the judgment of the trial court must be reversed as to Banner.

3. On page 23, the Disposition is deleted and the following paragraph is inserted in its place:

The order of the trial court granting summary judgment in favor of Banner and the judgment thereafter entered are vacated. The judgment in favor of Poage is affirmed. The matter is remanded to the trial court with directions that it enter an order granting Hodgson's motion for summary judgment against Banner. Poage shall recover its costs on appeal. Hodgson shall recover costs on appeal against Banner.

This modification changes the judgment.

Poage's petition for rehearing is denied.

BY THE COURT:

RAYE, Acting P.J.

HULL, J.

BUTZ, J.