

CERTIFIED FOR PUBLICATION

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

MICHAEL CLAUDIO,

Plaintiff and Appellant,

v.

REGENTS OF THE UNIVERSITY OF
CALIFORNIA,

Defendant and Respondent.

C046744

(Super. Ct. No. CV011331)

ORDER MODIFYING OPINION
AND DENYING REHEARING

[NO CHANGE IN JUDGMENT]

THE COURT:

The opinion in this matter, filed November 22, 2005, is modified in the following respect:

On page 2, at the end of the fourth sentence, following the word "attorney," add the following new footnote 1:

In a petition for rehearing, the University contends plaintiff was never told by the University that he had been fired. However, in his letter to the University of April 17, 1999, which was admitted for the truth of matters stated therein, and which we discuss in detail, *post*, plaintiff wrote that the University had told him on four occasions that he had been fired. For purposes of summary judgment, we take

plaintiff's evidence as true. (E.g., *Balen v. Peralta Junior College Dist.* (1974) 11 Cal.3d 821, 825.) The University's argument fails.

The addition of this new footnote 1 requires the renumbering of all subsequent footnotes.

This modification does not change the judgment.

The petition for rehearing is denied.

 SIMS , Acting P.J.

 DAVIS , J.

 CANTIL-SAKAUYE , J.