

CERTIFIED FOR PARTIAL PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT

BRANDI R. FOX,

Plaintiff and Appellant,

v.

ETHICON ENDO-SURGICAL, INC.,

Defendant and Respondent.

F041148

(Super. Ct. No. 0654613-9)

**ORDER MODIFYING OPINION AND
DENYING REHEARING
[NO CHANGE IN JUDGMENT]**

THE COURT:

It is ordered that the opinion filed herein on November 4, 2003 (___ Cal.App.4th ___), be modified in the following respects:

On page 4, line 5 of the typewritten opinion, delete the word “the” and add the words “this type of Ethicon,” so that the sentence reads:

Dr. Gladen further testified that the bowel had been stapled using an Ethicon GIA-type stapler, the stapler had been furnished by the hospital, and he had experienced occasions where this type of Ethicon stapler was used and subsequent leaks occurred.

There is no change in judgment.

Respondent's petition for rehearing is denied.

VARTABEDIAN, J.

WE CONCUR:

DIBIASO, Acting P. J.

CORNELL, J.