

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

WELLS FARGO BANK MINNESOTA,
NATIONAL ASSOCIATION,

Plaintiff and Respondent,

v.

B.C.B.U. et al.,

Defendants and Appellants.

G035470

(Super. Ct. No. 03CC02347)

ORDER DENYING PETITION
FOR REHEARING AND
MODIFICATION OF OPINION;
NO CHANGE IN JUDGMENT

It is ordered that the opinion filed herein on September 27, 2006, be modified in the following particular:

On page 15, at the end of the last sentence of the first full paragraph, add the following footnote:

^{“fn} In a late petition for rehearing, B.C.B.U. raises a new argument, that section 9403 does not apply because it became operative on July 1, 2001, after the December 2000 assignment to Wells Fargo. Unfortunately, like the petition for rehearing which raised it for the first time, it comes too late (the petition for rehearing was 7 days late). An argument may not be raised for the first time in a petition for rehearing. (See, e.g., *Reynolds v. Bement* (2005) 36 Cal.4th 1075, 1092.) Moreover, section 9403 is

based on former section 9206 (set out in footnote 6 above), and the former rule was the same as the present one, that is, a waiver of defenses against an assignee is enforceable save for defenses good against a holder in due course.”

This does not effect a change in judgment.

The petition for rehearing is DENIED.

BEDSWORTH, ACTING P. J.

WE CONCUR:

O’LEARY, J.

IKOLA, J.