

Filed 12/24/07

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

STACI ENGLE,

Plaintiff and Appellant,

v.

COPENBARGER AND COPENBARGER
et al.,

Defendants and Respondents.

G038351

(Super. Ct. No. 05CC10286)

ORDER MODIFYING OPINION;
CHANGE IN JUDGMENT

It is ordered that that the opinion filed herein on November 26, 2007, be modified in the following particular:

On page 6, delete the last paragraph that begins with “Since Engle accepted”, and replace it with the following:

“Since Engle accepted a section 998 offer to compromise that was silent on costs and fees, and she prevailed on statutory causes of action for which fees may be recovered, it was an abuse of discretion to deny fees on the ground that it was uncertain whether Engle prevailed on the statutory claims. The order appealed from is reversed, and the matter is remanded with directions to reconsider the fee motion in light of this opinion.”

This modification does effect a change in judgment.

BEDSWORTH, J.

WE CONCUR:

RYLAARSDAM, ACTING P. J.

ARONSON, J.