

**CERTIFIED FOR PUBLICATION**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

VARIAN MEDICAL SYSTEMS, INC., et al.,

Plaintiffs and Respondents,

v.

MICHELANGELO DELFINO et al.,

Defendants and Appellants.

H024214

(Santa Clara County  
Super. Ct. No. CV780187)

ORDER MODIFYING OPINION  
AND DENYING REHEARING

THE COURT:

It is the ordered that the opinion filed herein on November 13, 2002, is hereby modified as follows:

1. On page 33, the last sentence of the first full paragraph is changed to read as follows: "Thus, as it pertains to the named plaintiffs, paragraph 6 meets the *Madsen* standard and is permissible for that reason."

There is no change in the judgment. The petitions for rehearing are denied.

Dated \_\_\_\_\_

\_\_\_\_\_  
Premo, J., Acting P.J.

WE CONCUR:

\_\_\_\_\_  
Elia, J.

\_\_\_\_\_  
Wunderlich, J.