

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

SIMONA OSORNIO,

Plaintiff and Appellant,

v.

LAWRENCE WEINGARTEN, as Personal  
Representative, etc.,

Defendant and Respondent.

H027258

(Monterey County  
Super.Ct.No. M65034)

**ORDER MODIFYING OPINION  
AND DENYING APPLICATION  
FOR LEAVE TO FILE  
PETITION FOR REHEARING**

It is hereby ordered that the opinion filed herein on November 22, 2004, be modified as follows:

- 1) On page 28, delete footnote 28 and replace it with the following new footnote 28:

Weingarten also asserts that Osornio “nowhere alleges that she retained (or paid) Mr. Weingarten to prepare the Independent Certification.” This argument misses the mark, and, indeed, makes no sense because it is the *client*, not the beneficiary, who is required to retain independent counsel under section 21351(b).

The application of nonparty California Bankers Association for leave to file as *amicus curiae* a petition for rehearing is denied.

There is no change in the judgment.

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Walsh, J.\*

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Premo, Acting P.J.

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Bamattre-Manoukian, J.

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\*Judge of the Santa Clara County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.