

Filed 6/27/18

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

ABBOTT LABORATORIES et al.,

Petitioners,

v.

THE SUPERIOR COURT OF ORANGE
COUNTY,

Respondent;

THE PEOPLE, *ex rel.* TONY
RACKAUCKAS, as Orange County
District Attorney,

Real Party in Interest.

D072577

(Orange County Super. Ct.
No. 30-2016-00879117-CU-BT-CXC)

ORDER DENYING REHEARING,
DENYING MOTION FOR JUDICIAL
NOTICE, AND MODIFYING OPINION

NO CHANGE IN JUDGMENT

THE COURT:

The petition for rehearing is denied. Justices Huffman and O'Rourke concur in the denial; Justice Dato would grant.

The motion for judicial notice is denied.

The opinion is modified as follows: The number "1560" is changed to "1566" so that the citation starting on line 5 of footnote 15 on page 33 now reads:

(People ex rel. Kennedy v Beaumont Investment, Ltd. (2003) 111 Cal.App.4th 102, 127-128, quoting People v Superior Court (Jayhill), supra, 9 Cal.3d at p. 288; see People ex rel. Harris v Sarpas (2014) 225 Cal.App.4th 1539, 1566.)

On page 1 of the dissent, the first and second paragraphs are deleted and inserted with the following language to now read:

As an intermediate appellate court, our primary role is to review final decisions of the superior court for prejudicial error. We generally avoid broad legal policy pronouncements, leaving that to the Supreme Court and the Legislature. Sometimes policy considerations can play an important part in our decisions, but even then we take pains to assure that the policy questions are squarely presented by the facts of the case and necessary to the decision we are required to render.

I believe the majority's decision to entertain the writ petition in this case violates each of these salutary guidelines. The majority then compound this error by deciding the ill-framed legal issue in a manner that will materially impair the interests of California consumers by fundamentally altering the structure of consumer protection laws in this state. For these reasons, I respectfully dissent.

This modification does not change the judgment.

HUFFMAN, Acting P. J.

Copies to: All parties

KEVIN J. LANE, Clerk of the Court of Appeal, Fourth Appellate District, State of California, does hereby Certify that the preceding is a true and correct copy of the Original of this document/order/opinion filed in this Court, as shown by the records of my office.

WITNESS, my hand and the Seal of this Court.



06/27/2018

KEVIN J. LANE, CLERK
By _____
Deputy Clerk