

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

KURT IVERSEN,

Plaintiff and Appellant,

v.

CALIFORNIA VILLAGE
HOMEOWNERS ASSOCIATION,

Defendant and Respondent.

B220863

(Los Angeles County
Super. Ct. No. LC080387)

ORDER MODIFYING DISSENTING
OPINION

NO CHANGE IN JUDGMENT

The dissenting opinion filed March 23, 2001 is modified as follows:

1. On page 5 of the dissenting opinion, at the end of the second paragraph and as part of that paragraph, add the following language:

And in *Tverberg v. Fillner Construction, Inc.* (Feb. 24, 2011, A120050) __ Cal.App.4th __, __, the Court of Appeal applied a similar analysis to an independent contractor himself who was injured due to the negligence of a general contractor. In *Tverberg*, the Court of Appeal explained that the independent contractor who personally sustained injuries, hired by a subcontractor, could sue the general contractor who affirmatively contributed to the dangerous condition on the jobsite and rely on a violation of California Occupational Safety and Health regulations to establish a breach of a duty of care. Defendant's analysis cannot be squared with *Tverberg*, a case involving a direct claim by

an independent contractor premised on a breach of a California Occupational Safety and Health regulation.

2. On page 7, line 7 of the dissenting opinion, insert after 928 and before the period of the parenthetical citation:

; see *Cortez v. Abich* (2011) 51 Cal.4th 285, 292

TURNER, P. J.