

**CERTIFIED FOR PARTIAL PUBLICATION**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

COURT OF APPEAL - SECOND DIST

**F I L E D**

JAN 15 2016

JOVANA HERNANDEZCUEVA,  
Individually and as Successor-in-  
interest, etc.

Plaintiff and Appellant,

v.

E.F. BRADY COMPANY, INC.,

Defendant and Respondent.

B251933

(Los Angeles County  
Super. Ct. No. BC475956)

JOSEPH A. LANE Clerk

~~Deputy~~ Clerk

ORDER MODIFYING OPINION

[NO CHANGE IN JUDGMENT]

THE COURT:\*

It is ordered that the opinion filed herein on December 22, 2015 be modified as follows: On page 23, lines 11 through 18, delete:

“However, the contention fails under the collateral source rule, which bars a defendant from shielding itself from liability for injuries by identifying a source of compensation for the plaintiff that is wholly independent of the defendant. (*Anheuser-Busch, Inc. v. Starley* (1946) 28 Cal.2d 347, 349; *McKinney v. California Portland Cement Co.* (2002) 96 Cal.App.4th 1214, 1221-1227.) The record is devoid of

evidence that the Hernandezcuevas may receive compensation from any bankruptcy trust related to E. F. Brady. Accordingly, we reject the contention.”

And substitute:

“However, the contention fails, as amicus curiae has identified no evidence that the Hernandezcuevas have received compensation from any bankruptcy trust. (See *McCall v. Four Star Music Co.* (1996) 51 Cal.App.4th 1394, 1399 [under California law, tortfeasor is not relieved of liability to plaintiff under judgment by joint tortfeasors’ partial payment of plaintiff’s damages]; *Yates v. Nimeh* (N.D. Cal. 2007) 486 F.Supp.2d 1084, 1087-1088 [same]; *Winzler & Kelly v. Superior Court* (1975) 48 Cal.App.3d 385, 393 [unsatisfied judgment against tortfeasor does not shield joint tortfeasors from liability to plaintiff]; *Paulus v. Crane* (2014) 224 Cal.App.4th 1357, 1367 [plaintiff’s potential future recovery from asbestos bankruptcy trusts supported no reduction of damages tortfeasor owed under judgment]; *Hellam v. Crane* (2015) 239 Cal.App.4th 851, 872-873 [same].)”

The modification does not change the judgment.

  
\*EPSTEIN, P. J.,

  
MANELLA, J.

  
COLLINS, J.