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CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

BEN SOIFER, Plaintiff and Appellant, v. CHICAGO TITLE COMPANY et al., Defendants and Respondents.	B217956 (Los Angeles County Super. Ct. No. BC405970) ORDER MODIFYING OPINION [NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on August 10, 2010 is modified as follows:

On page 7, please delete the entire paragraph beginning: Prior to the enactment of Insurance Code sections 12340.10 and 12340.11, and replace with the following:

Prior to the enactment of Insurance Code sections 12340.10 and 12340.11, caselaw had held that a preliminary title report is the equivalent of an abstract of title, and that a title insurer could be liable in negligence for its failure to list all recorded encumbrances in a preliminary title report. (*Southland, supra,* 231 Cal.App.3d at p. 535.) However, in 1981, the Legislature enacted Insurance Code sections 12340.10 and

12340.11 in order to "make a formal distinction between" a preliminary title report and an abstract of title. (*Southland, supra,* 231 Cal.App.3d at p. 536.) From that time onward, a preliminary title report "[would] no longer be treated or considered to have the legal consequence of an abstract of title. If a current representation as to the status of title is required then an abstract can be ordered and separately purchased." (*Ibid.*) The change in law was sought by the California Land Title Association. (Sen. Com. on Insurance and Indemnity, analysis of Assem. Bill No. 334 (1981-1982 Reg. Sess.) as amended April 29, 1981.) It was deemed necessary in order to "assure that the title insurers are able to charge appropriate premiums for foreseeable liablity, rather than as [was] the case under [then-]current case law. Since the premiums or fees charged for preliminary reports are much less than those for abstracts, the result of such decisions [was] to impose liability on the insurers to an extent beyond which they have computed the premium charge (i.e., an unfunded liability)." (Cal. Dept. of Insurance, Enrolled Bill Rep. on Assem. Bill No. 334 (1981-1982 Reg. Sess.) prepared for the Governor (May 30, 1981), p. 2.)

[There is no change in the judgment.]