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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

RYAN O'NEAL,

Plaintiff and Respondent,

v.

CRAIG NEVIUS,

Defendant and Appellant.

B238640

(Los Angeles County
Super. Ct. No. SC113381)

**ORDER MODIFYING OPINION
AND DENYING PETITION FOR
REHEARING**

[No change in the judgment]

IT IS ORDERED that the opinion filed in the above-captioned matter on February 14, 2013, be modified as follows:

1. On page 10, add a footnote at the end of the sentence commencing with “Accordingly, we find no error” The footnote should read:

“In ruling on Nevius’s anti-SLAPP motion, the trial court recognized that O’Neal’s complaint “contains causes of action for intentional infliction of emotional distress and negligent infliction of emotional distress.” The court expressly stated that it “addressed only the defamation claim.” The anti-SLAPP motion challenged the emotional distress claims on the ground they stated insufficient facts to constitute a cause of action. Because the trial court did not address the sufficiency of the pleadings as to the emotional distress causes of action in the context of the anti-SLAPP motion, neither do we. We construe the trial court’s decision on the anti-SLAPP motion as to the

defamation claim to have been without prejudice to any appropriate procedure for testing the remainder of the pleadings.”

This modification effects no change in the judgment.

The petition for rehearing filed by Appellant on March 1, 2013, is denied.

BIGELOW, P. J.

GRIMES, J.