

IN THE SUPREME COURT OF CALIFORNIA

HECTOR ALVARADO,)	
)	
Plaintiff and Appellant,)	
)	S232607
v.)	
)	Ct.App. 4/2 E061645
DART CONTAINER CORPORATION)	
OF CALIFORNIA,)	Riverside County
)	Super. Ct. No. RIC1211707
Defendant and Respondent.)	
_____)	

ORDER MODIFYING OPINION

THE COURT:

The opinion in this matter filed on March 5, 2018, and appearing in the California Official Reports at 4 Cal.5th 542, is modified as follows:

1. On page 551 of the published opinion, a footnote is inserted at the end of the sentence that reads: “Plaintiff’s formula turns out to be marginally more favorable to employees; the key distinction between the two formulas is whether the bonus is allocated to *all* hours worked, or only to the *nonovertime* hours worked.” The new footnote, which is numbered as footnote 2, reads: “Defendant’s formula and plaintiff’s formula have one thing in common: both use the *pay period* as the basis for calculating an employee’s regular rate of pay. In other words, neither party suggests that regular rate of pay should be calculated on a *workweek* basis, which might result in an employee having two or more regular

rates of pay in a single pay period. This opinion follows the lead of the parties in using the pay period as the basis for calculating regular rate of pay, but we did not grant review to decide whether, under California law, regular rate of pay is properly calculated on a pay-period basis or a workweek basis, and nothing in this opinion should be interpreted as deciding that question.”

2. On pages 551, 553, 555, 561, 564–565, 567, 570, and 572 of the published opinion, current footnotes 2 through 12 are renumbered as footnotes 3 through 13.

This modification does not affect the judgment.

The request for clarification and/or modification of the opinion, filed by amicus curiae California Employment Law Council on March 22, 2018, is denied.