

Filed 3/6/12

**CERTIFIED FOR PUBLICATION**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

SAM DURAN et al,  
Plaintiffs and Respondents,  
v.  
U.S. BANK NATIONAL ASSOCIATION,  
Defendant and Appellant.

---

A125557 & A126827

(Alameda County  
Super. Ct. No. 2001-035537)  
**ORDER MODIFYING OPINION  
AND DENYING REHEARING**  
[NO CHANGE IN JUDGMENT]

**THE COURT:**

It is ordered that the opinion filed herein on February 6, 2012, be modified in the following particulars:

1. On page 74, at the end of the first paragraph of the Disposition, footnote 80 is added, which will read:

The parties in their briefs on appeal did not address the status of the award of overtime restitution to the named plaintiffs and the individual RWG members in the event of a reversal of judgment. This remains an issue for the trial court.

There is no change in the judgment.

The petition for rehearing is denied.

Date: March 6, 2012

---

Marchiano, P. J.

Trial Court

Alameda County Superior Court

Trial Judge

Honorable Robert B. Freedman

For Defendant and Appellant

CARLTON DiSANTE & FREUDENBERGER LLP  
CAROTHERS DiSANTE & FREUDENBERGER LLP  
Timothy M. Freudenberger, Esq.  
Alison L. Tsao, Esq.  
Kent J. Sprinkle, Esq.

For Plaintiffs and Respondents

Ellen Lake, Esq.

WYNNE LAW FIRM  
Edward J. Wynne, Esq.  
J.E.B. Pickett, Esq.

*DURAN v. U.S. BANK NATIONAL ASSOCIATION, A125557 & A126827*