



July 10, 2002

The Honorable Bill Lockyer
California State Attorney General
Department of Justice
1300 I Street, Ste. 1740
Sacramento, CA 95814

Dear Attorney General Lockyer:

The Civil Justice Association of California by this letter is requesting that you initiate a full investigation of private attorney abuse of California's Unfair Competition Law (Business and Professions Code Sec. 17200 et seq.).

Our request comes as evidence mounts of egregious "legal shakedowns" by attorneys filing mass-produced representative actions based on questionable allegations of wrongdoing or founded on administrative actions which have already been concluded by a regulatory agency.

Two current examples are mass filings against 1) hundreds of auto repair shops in Southern California and 2) approximately 140 ethnic food stores across the state. In each case the private attorneys appear to be engaged in informal "settlement" demands under which a defendant is verbally or by letter given an opportunity to pay several thousand dollars to the attorneys in exchange for being dropped as a defendant.

In neither example does there appear to be any evidence of a consumer who said he or she had been economically harmed or deceived, or complained to the attorneys of the activity, or who would share in the money the attorneys are attempting to collect from their defendants. We have provided additional information on these examples in the attached pages.

We cannot believe that anyone in a position to help stop this activity can stand by while businesses are being victimized under a law intended originally to protect them.

You are aware of our long standing concern with private attorney misuse of Sec. 17200. The state Law Revision Commission, judicial opinions, and law review articles have also remarked on inappropriate use of 17200 by private attorneys. This misuse is not limited to the kind of cookie-cutter claims typified by the examples above. Rather, the Unfair Competition Law is being misused by a significant number of private lawyers as a means of generating attorneys' fees without creating a corresponding public benefit in situations, including the following:

- (1) Filing a lawsuit for a client who has not used the defendant's product or service, viewed the defendant's advertising, or had any other business dealing with the defendant;

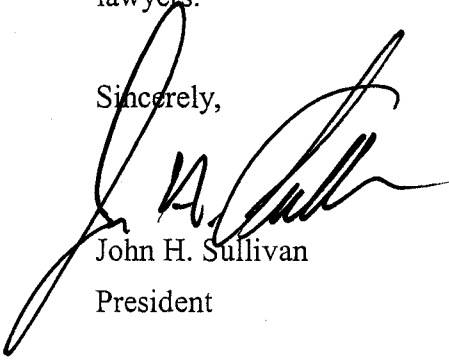
- (2) Filing a lawsuit with no evidence of past or present harm resulting from an activity which a defendant has already voluntarily terminated;
- (3) Filing repetitive claims on behalf of the general public over issues and activities that have already been resolved by a prior action by a government agency or other action on behalf of the general public;
- (4) Adding, for tactical advantage, an Unfair Competition Law claim to another lawsuit, thereby subjecting a defendant to unjustified and unfair economic harassment. (Indeed, attorneys have held seminars on "How Business and Professions Code 17200 Can be a 'Value Added' Component of Your Litigation.")

We are not seeking to eliminate the ability of private attorneys to bring 17200 actions. We are not seeking to restrict you or district attorneys from using the law.

But we believe that the integrity of California's civil justice system and the national perception of its fairness are going to accelerate downward every day that atrocious misuse of 17200 is tolerated by those in a position to advocate for and bring about reform.

We look forward to learning your views on these two examples and of your thoughts and plans for restoring the Unfair Competition Law to a tool to benefit consumers and businesses, not lawyers.

Sincerely,



John H. Sullivan
President

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Attachments