



California Supreme Court Ruling Suggests Easier Opportunities to Create Organizational Standing Under the UCL

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Key Takeaway

The Supreme Court of California's recent *CMA v. Aetna* ruling provides a blueprint of the facts needed for organizations to allege standing under section 17204 of the UCL.

In July 2023, the Supreme Court of California held that diversion of resources from an organization, as a result of the organization's efforts to combat a particular policy, is enough to create standing for the organization to sue under California's Unfair Competition Law (UCL).¹ However, the diversion of resources cannot be effectuated through litigation or preparation for litigation.² Here, the Court addressed whether the California Medical Association (CMA) had standing to sue Aetna under section 17204 of the UCL, and whether the CMA's allegations met the standing requirement of "suffered injury in fact," in addition to "lost money or property as a result of the unfair competition[.]"³

The CMA sued Aetna in 2010 to enjoin the implementation of Aetna's Network Intervention Policy, arguing that this policy violated the UCL. Aetna contended that the CMA did not have organizational standing to sue under the UCL.⁴ Aetna argued that the CMA only had associational standing, since the diversion of resources used to combat the policy only conferred standing on doctors who were members of the CMA, not the CMA itself.⁵ The lower courts granted Aetna's motion for summary judgment on this issue.⁶

On appeal, the Supreme Court of California focused on "whether diversion of staff time can qualify as an 'injury in fact' and loss of 'money or property' within the meaning of section 17204."⁷ It also focused on "whether an organization that chose to divert staff time to counteract the defendant's business practice can be said to have lost that staff time [because of] ... that practice."⁸

The CMA Court observed that to meet the loss of money or property requirement for standing under section 17204, "[a] showing of economic injury requires only that the plaintiff allege or prove 'a personal, individualized loss of

money or property in any nontrivial amount ... a specific measure of the amount of this loss' [would be unnecessary]."¹¹

Against this backdrop, the California Supreme Court held that diversion of organizational resources to combat a particular policy could create standing under section 17204. Although historically it had been difficult in California to allege facts sufficient to create organizational standing under section 17204, the CMA ruling appears to have made it substantially easier for organizations to marshal facts that trigger standing under the UCL.

¹¹ *Cal. Med. Ass'n v. Aetna Health of Cal. Inc.*, 532 P.3d 250 (Cal. 2023).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

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