



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

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LOS ANGELES, CALIFORNIA 90012-2713

LLOYD W. PELLMAN
County Counsel

April 4, 2003

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Syn. No. 87
3/4/03

TO: SUPERVISOR YVONNE BRATHWAITE BURKE, Chair
SUPERVISOR GLORIA MOLINA
SUPERVISOR ZEV YAROSLAVSKY
SUPERVISOR DON KNABE
SUPERVISOR MICHAEL D. ANTONOVICH

FROM: LLOYD W. PELLMAN
County Counsel

RE: **Attorney General's Lawsuit Against Attorneys Accused
of Abusing the State's Unfair Competition Law**

At your meeting of March 4, 2003, you instructed us to prepare a letter for your signatures in support of the Attorney General's lawsuit against attorneys accused of abusing the Unfair Competition Act.¹ We are enclosing a letter for your consideration.

You also instructed us to report on what additional steps could be taken to support the Attorney General's lawsuit, including possible intervention in the proceeding. While we conclude that the County may not intervene, we can report that Los Angeles County District Attorney Steve Cooley is active on a number of fronts.

The District Attorney's Office prepared amicus briefs in two lawsuits brought by the Trevor Law Group. One lawsuit involves automobile repair businesses. The other involves restaurants. The brief supported successful motions by defendants objecting to their joinder with numerous other auto dealers or restaurant owners in a single suit.

¹ Business and Professions Code §§ 17200, et seq.

The District Attorney's Office is cooperating with the State Bar investigation into the Trevor Law Group and is also looking into appropriate legislative changes in conjunction with the California District Attorneys Association.

We contacted the Attorney General's Office and inquired if the services of our office or that of any other County officer might be of use in the lawsuit against the Trevor Law Group. The Attorney General's Office indicated the County's services are not presently required or desired, and that they would contact us if the need arose.

We have determined, as a matter of law, that the County may not intervene in the Attorney General's lawsuit. That lawsuit is prosecuted under the Unfair Competition Act. The statutory designation of a "person" who may sue under the Act includes natural persons, associations, and other entities, but does not include a public entity.² The plain reading of the statute does not authorize the County to prosecute an action.

The Attorney General and District Attorney are expressly authorized to bring actions under the Unfair Competition Act. These actions are prosecuted in the name of the People of the State of California. A County Counsel may bring an action only with consent of the District Attorney and only if the unfair practice involves a county ordinance.³ The District Attorney has previously granted permission to our office when a County ordinance was involved.

No County ordinance is involved in the Attorney General's case. The Trevor Law Group's lawsuit against automobile repair shops involves alleged violations of State law. While the Trevor Law group may have obtained its list of restaurants to sue from the County's Department Health Services Environmental Health Program web page, no violations of County ordinances are involved. The web page reports violations of State law discovered during restaurant inspections; the results are matters of public record.⁴ Since no County ordinances are involved

² Business and Professions Code §§ 17201 and 17204.

³ Business and Professions Code § 17204.

⁴ Government Code § 6250 et. seq.

in the Attorney General's suit, the District Attorney may not grant permission to our office to intervene.

As a matter of statutory construction, the legislative determination that specific public officials may prosecute actions under the Unfair Competition Act suggests that no other public officer may prosecute those matters.⁵ Statutes regulating other business practices specifically allow public entities to bring enforcement actions.⁶ In construing the statute, the absence of such authority in the Unfair Competition Act indicates that the Legislature did not intend local public entities to prosecute actions under the statute.⁷

The case law also suggests that the County may not intervene. In a case where the University of California was named as a defendant in an Unfair Competition Act lawsuit, the Court of Appeal held that the university a public entity, was not a "person" within the meaning of the statute.⁸ In another case, the California Supreme Court held that the Act allows a "person" who suffered no injury to represent the general public in an Unfair Competition Act lawsuit. But the court's language was limited to private parties, stating that a "*private plaintiff who had suffered no injury*" may sue.⁹

⁵ *In re Application of Peart* (1935) 5 Cal.App.2d 469, 472.

⁶ Business and Professions Code §§ 16750 and 17021.

⁷ *Arden Carmichael, Inc. v. County of Sacramento* (2001) 93 Cal.App.4th 507, 516.

⁸ *California Medical Association v. Regents of the University of California* (2000) 79 Cal.App.4th 542, 551.

⁹ *Stop Youth Addiction, Inc. v. Lucky Stores, Inc.* (1998) 17 Cal.4th 553, 561.

Based on the applicable statutes and case law, we conclude that there is no authority for the County of Los Angeles to intervene in the Attorney General's lawsuit.

LWP:GWT:jb

Enclosure

c: David E. Janssen
Chief Administrative Officer

Violet Varona-Lukens, Executive Officer
Board of Supervisors



**BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES**

383 KENNETH HAHN HALL OF ADMINISTRATION / LOS ANGELES, CALIFORNIA 90012

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(213) 974-1411

April 14, 2003

Bill Lockyer, Attorney General
State of California
1300 I Street, Suite 1101
Sacramento, California 95814

Re: Trevor Law Group

Dear Mr. Lockyer:

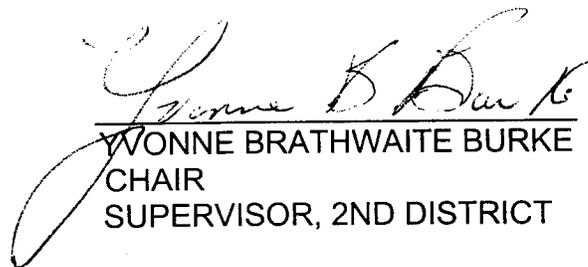
At its meeting of March 4, 2003, the Los Angeles County Board of Supervisors voted to send a five signature letter in support of your position with regard to the lawsuit against the attorneys accused of abusing the Unfair Competition Law, Business and Professions Code § 17200, et seq.

The Board of Supervisors is concerned that the actions of a few law firms may unduly interfere with small businesses, an important part of our regional economy. If these lawsuits are frivolous, a miscarriage of justice is being foisted upon honest business people for what may be technical violations of the law.

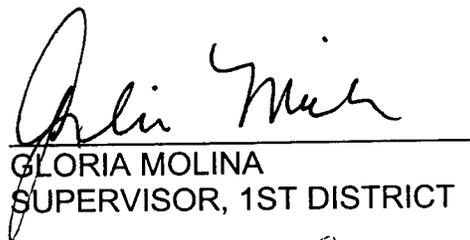
Bill Lockyer, Attorney General
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We urge your office to take all steps necessary to ensure that the Unfair Competition Act is used for its rightful purpose, the protection of consumers and not as a means to compel honest business people to pay money to extract themselves from frivolous lawsuits.

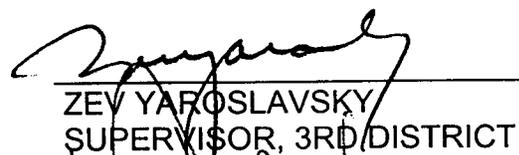
Very truly yours,



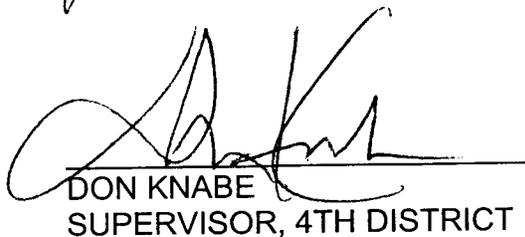
YVONNE BRATHWAITE BURKE
CHAIR
SUPERVISOR, 2ND DISTRICT



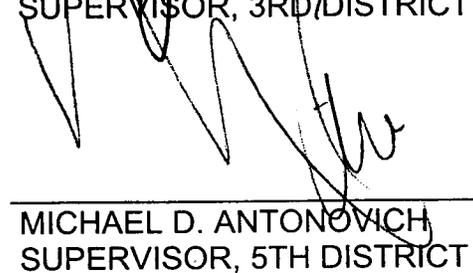
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