

CALIFORNIA LEGISLATURE

STATE CAPITOL
SACRAMENTO, CALIFORNIA
95814

January 14, 2003

The Honorable Ronald George
Chief Justice of the California Supreme Court
Chair, Judicial Council of California
350 McAllister Street
San Francisco, CA 94102

Re: Multi-Defendant Civil Suits brought under Unfair Competition Law

Dear Chief Justice George:

Chief

We are writing this letter to ask the Judicial Council what remedies judges currently may take to protect defendants in certain pending multi-defendant cases recently brought under the Unfair Competition Law (UCL) (Bus. & Profs. Code Sec. 17200 et seq.).

As you may know, thousands of auto shop owners recently have been sued under the UCL for alleged violations derived from published notices of the Bureau of Automotive Repair. Similar suits founded upon alleged Health Code violations have been filed against restaurants and nail salons. In most cases, the filing of these suits have been followed by immediate demands for confidential settlement payments of \$1,000 or more per defendant.

Based on documents and testimony received at a joint hearing by the Senate and Assembly Judiciary Committees, we believe there is a strong probability that these UCL suits brought by at least three California law firms may suffer from a variety of procedural, substantive, and ethical flaws, from misjoinder of defendants, to substantive lack of merit in some instances, to harassment of defendants through extortionate settlement procedures.

The Legislature intends to correct any statutory flaws that may be providing an incentive to use the UCL as an extortion tool. Also, we are reviewing whether the disciplinary laws adequately cover this situation or need strengthening. Our most immediate concern, however, is the plight of the thousands of small business owners who are defendants to the current actions, many of whom are recent immigrants, and most of whom do not have the resources to defend themselves, who are seemingly being unduly pressured into agreeing to quick settlements or else face even higher legal costs and liability.

It is our understanding that in certain of these cases, courts have approved limited stays pending determination of whether the suits are complex. Soon, however, the stays will expire and the defendants will have to pay the \$200 filing fee to defend themselves or pay the settlement demand. We are writing to ascertain what measures the courts may take, in their inherent power to administer justice, to provide relief to defendants from what appear to be extortionate settlement demands leveraged in part on the requirement for each defendant to have to pay a filing fee to defend itself.

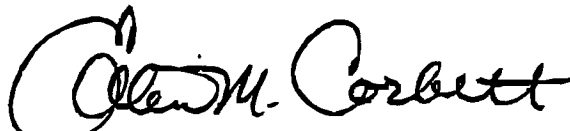
We are deeply concerned that these recent multi-defendant UCL actions may be undermining public perceptions about the basic fairness of our civil justice system. Thank you for any counsel you may provide as to how this might be avoided in current as well as in future cases.

Very truly yours,



MARTHA M ESCUTIA
Chair, Senate Judiciary Committee

*P.S. We really
need & seek your
guidance!*



ELLEN CORBETT
Chair, Assembly Judiciary Committee