

**In the Supreme Court of the State of California**

**Abbott Laboratories; AbbVie Inc.; Teva  
Pharmaceuticals USA, Inc.; Barr  
Pharmaceuticals, Inc.; Duramed  
Pharmaceuticals, Inc.; and Duramed  
Pharmaceutical Sales Corp.,**

**Petitioners,**

**v.**

**Superior Court of California, County of  
Orange,**

**Respondent,**

**People of the State of California *ex rel.*  
Orange County District Attorney Todd  
Spitzer,**

**Real Party in Interest.**

Case No. S249895

**SUPREME COURT  
FILED**

**MAR 22 2019**

**Jorge Navarrete Clerk**

**Deputy**

Fourth Appellate District, Division One, Case No. D072577  
Orange County Super. Ct., Case No. 30-2016-00879117-CU-BT-CXC  
Hon. Kim G. Dunning, Judge

**BRIEF OF THE CALIFORNIA ATTORNEY  
GENERAL AS *AMICUS CURIAE* IN SUPPORT  
OF DEFENDANTS**

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## INTRODUCTION

As California's chief law officer (Cal. Const., art. V, § 13), the Attorney General submits this brief to assist the Court in construing the Unfair Competition Law (UCL), Business & Professions Code section 17200 et seq., and to provide background about how prosecutors enforce it in practice. His office has a long history of enforcing the UCL and its sister statute, the False Advertising Law (FAL), Business & Professions Code section 17500 et seq., and the Attorney General has an interest in ensuring the continued viability of both statutes to safeguard consumers and promote competition.

This case presents important questions about the authority of local prosecutors to seek statewide relief under the UCL. Plaintiff argues that the Legislature intended to endow 62 local prosecutors with statewide enforcement authority equivalent to that of the Attorney General. Such an interpretation would encourage local prosecutors to act alone in enforcing this State's consumer protections laws; it would undermine the legitimate authority of the Attorney General and other local prosecutors to discharge their duties; and it would destabilize the orderly enforcement of the State's consumer protection laws, all to the detriment of consumers and honest competitors. Nothing in the UCL requires these results, and it is unlikely that the Legislature intended them. The Attorney General urges this Court to reject plaintiff's interpretation as unsound and contrary to background principles governing the scope of prosecutorial authority within this State.

## ARGUMENT

The Attorney General writes with respect to two of the three issues presented: whether a trial court may order monetary UCL remedies on a statewide basis in an action brought by a district attorney, and whether a district attorney needs written consent from the Attorney General before a

court may do so.<sup>1</sup> He respectfully requests that the Court hold that a trial court may award civil penalties and restitution under the UCL in a case brought by a district attorney only for violations occurring within the county represented by that district attorney, absent the involvement of the Attorney General (for a statewide action) or partnership with other local prosecutors (for violations occurring within their represented territories).<sup>2</sup>

Under *Safer v. Superior Court* (1989) 15 Cal.3d 230, 236, a district attorney may “exercise the power of his office only in such civil litigation as [the Legislature] has, after careful consideration, found essential.” The

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<sup>1</sup> The Attorney General takes no position on whether the Superior Court was correct to deny Abbott’s motion to strike factual references to statewide conduct. He notes, however, that a local prosecutor’s allegations of statewide (or even nationwide) misconduct in a complaint may be entirely proper, so long as when viewing the complaint in its totality it is clear that the complaint seeks only relief for violations occurring within the local jurisdiction. Such allegations may help to demonstrate intent, which can lead to discovery that is relevant to setting remedies for local misconduct. Evidence of misconduct occurring elsewhere in the State, or even outside it, may help to show, for example, “the nature and seriousness of the misconduct” or “the willfulness of the defendant’s misconduct” and thus have bearing on the court’s penalty determination for each violation occurring within the city or county. (Bus. & Prof. Code, § 17206, subd. (b).) Furthermore, while a local prosecutor may only sue based on violations in his or her own county, a court has inherent authority to issue a statewide injunction. However, the issuance of such an injunction does not limit the authority of a different district attorney, or the Attorney General, to bring an action, based on violations occurring outside of the county, seeking further injunctive relief.

<sup>2</sup> In practice, the Attorney General involves himself in such a case by joining it, as a representative of the People, either in a complaint filed in partnership with one or more local prosecutors, or in a stipulated judgment resolving a complaint. Both types of involvement endow a judgment with statewide effect, but short of Attorney General participation as a joint representative of the People in a prosecution, there is no mechanism by which the Attorney General consents to district attorney exercise of statewide UCL enforcement authority. Section II below discusses these practices in greater detail.

UCL nowhere says that local prosecutors may obtain monetary remedies for violations outside their represented territories (which by itself may be a sufficient indication that the Legislature did not deem such extraterritorial UCL authority “essential” under *Safer*). But neither does the statute expressly limit the geographic scope of remedies that a local prosecutor may pursue. To the extent that a statute’s meaning is uncertain, a court may consider a variety of extrinsic aids, including the statute’s purpose and public policy. (*Meza v. Portfolio Recovery Associates, LLC* (2019) 6 Cal.5th 844, 856.) In such cases, “it is appropriate to consider the consequences that will flow from a particular interpretation.” (*Commission on Peace Officer Standards & Training v. Superior Court* (2007) 42 Cal.4th 278, 290, internal quotation marks omitted.) If a statute is subject to more than one interpretation, courts follow the one producing the more reasonable results. (*People v. Gonzalez* (2008) 43 Cal.4th 1118, 1126; *Lungren v. Deukmejian* (1988) 45 Cal.3d 727, 735.)

Construing the UCL to limit the monetary remedies local prosecutors may obtain to the jurisdictions they represent leads to more reasonable results than plaintiff’s construction. Plaintiff’s construction would present conflicts of interest between local prosecutors’ responsibility to statewide victims and their incentive to secure a greater share of available remedies for their local constituencies. The result could be a degradation of UCL enforcement, as local prosecutors compete to be the first to settle a case and secure penalties for local use. Moreover, since only the Attorney General is elected by all Californians, the statewide electorate would have no way of holding local prosecutors democratically accountable for their use of UCL power. And such a construction would undercut the constitutional authority of the Attorney General as the State’s chief law officer while weakening California’s ability to speak with one voice in consumer law matters of national import. In contrast, construing the UCL to vest

exclusive statewide enforcement power in the Attorney General, a construction adhered to by the vast majority of local prosecutors since *People v. Hy-Lond Enterprises, Inc.* (1979) 93 Cal.App.3d 734 (*Hy-Lond*), has advanced the purposes of the UCL by encouraging cooperation between and among district attorneys and the Attorney General. The result has been a strong, collaborative network of state-local partnerships that has consistently delivered on the UCL's promise to protect consumers and competition statewide.

**I. CONSTRUING THE UCL TO AUTHORIZE LOCAL PROSECUTORS TO OBTAIN MONETARY REMEDIES OUTSIDE THEIR REPRESENTED TERRITORIES WOULD LEAD TO UNREASONABLE RESULTS THAT THE LEGISLATURE COULD NOT HAVE INTENDED**

Empowering local prosecutors to act on a statewide basis would effectively create at least 63 attorneys general for UCL enforcement purposes,<sup>3</sup> and potentially more than 500 in the case of the FAL.<sup>4</sup> Because interpreting the UCL in this fashion would lead to manifestly unreasonable results, the Court should decline to do so.

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<sup>3</sup> This figure includes the Attorney General, California's 58 district attorneys, and city attorneys representing Los Angeles, San Diego, San Jose, and San Francisco. (See Bus. & Prof. Code, § 17204.) With district attorney consent, county counsels (in cases involving a violation of a county ordinance) and full-time city prosecutors may also bring UCL actions. (*Ibid.*)

<sup>4</sup> In addition to the State's 58 district attorneys, the FAL empowers all county counsels, plus city attorneys and city prosecutors representing California's 482 municipalities to enforce its provisions, in contrast to the four city attorneys endowed with that authority under the UCL. (Compare Bus. & Prof. Code, § 17535 with Bus. & Prof. Code, § 17204.)



**A. A Local Prosecutor's Recovery of Penalties for Violations Occurring Outside His or Her Represented Territory Would Trigger Conflict of Interest Concerns**

The fact that penalties obtained in local prosecutors' UCL (and FAL) actions remain in local treasuries raises the specter of a conflict of interest if a local prosecutor may obtain penalties for violations occurring outside of his or her represented territory. (See Bus. & Prof. Code, § 17206, subd. (c).)<sup>5</sup> The *Hy-Lond* court's recognition of this problem is instructive. *Hy-Lond* held that a district attorney's powers may be limited by the conflict of interest that could result if local prosecutors could surrender "the rights and duties of the state" in exchange "for the recovery of civil penalties that would flow into his county's coffers." (*Hy-Lond, supra*, 93 Cal.App.3d at pp. 753-754.)

The potential for a conflict of interest is clear: if a local prosecutor can obtain penalties for violations occurring outside of his or her represented territory, he or she may decide to settle a case for a lower penalty per violation because of the ability to count a greater number of violations. Because UCL penalties obtained by district and city attorneys flow into local treasuries, local prosecutors could be incentivized to seek out and settle cases of statewide or nationwide import for a quick local infusion of cash penalties, with less emphasis on injunctions and statewide restitution. Furthermore, if any local prosecutor could settle statewide misconduct under the UCL (or FAL), defendants may proactively seek out counties or cities for which penalties might be particularly attractive (perhaps because of economic hardship) and settle statewide misconduct at a discount, before the Attorney General or sister local prosecutors investigate or prosecute. In

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<sup>5</sup> The FAL's provisions related to the deposit of law-enforcement penalties are for all intents and purposes identical. (Bus. & Prof. Code, § 17536, subd. (c).)

this circumstance, the local prosecutor may undervalue or altogether overlook the need for strong injunctive provisions and restitution. And while the local prosecutor might believe that he or she is acting in the best interest of the People statewide, he or she may lack perspective to properly evaluate whether the settlement represents a just outcome for statewide misconduct.

These forces have the potential to degrade consumer law enforcement by placing a thumb on the scale for hasty action. Since any one of 63 prosecutors in the State would be able to settle UCL claims on a statewide basis at any time, thereby precluding other prosecutors from taking further action, a prosecutor considering whether to file a UCL action might feel pressure to take shortcuts. Prosecutors would face incentives to act without full knowledge of the facts, since the time needed for fulsome investigations could allow peer prosecutors to cut in, preemptively settling statewide claims.

Undue haste in preparing UCL and FAL enforcement cases would impair the quality of consumer law enforcement investigations, which are time-consuming and resource-intensive. Both local prosecutors and the Attorney General typically conduct thorough investigations spanning many months or even years prior to filing suit under the UCL or FAL. These investigations often make use of pre-litigation investigative subpoena authority, under Government Code section 11180 et seq. or Business and Professions Code section 16759. Frequently they involve substantial production and analysis of documents, victim and insider interviews or testimony, and significant negotiations in an attempt to resolve claims without a lawsuit. Even well-intentioned prosecutors might find themselves facing a difficult choice between conducting the thorough investigation UCL cases typically require, and the real prospect that any investigative effort would be wasted if another prosecutor were to settle

with the target while an investigation is pending. Endowing local prosecutors with statewide UCL authority thus risks creating a regime in which district and city attorneys find themselves in race-to-the-bottom competition with peer prosecutors, accelerating toward a degraded standard of consumer law enforcement.

**B. Construing the UCL to Permit Local Prosecutors  
Statewide UCL Enforcement Authority Would  
Undercut Prosecutorial Accountability to the  
Democratic Process**

Among elected prosecutors, only the Attorney General is subject to statewide elections under the Constitution—and, as such, statewide accountability. (Cal. Const., art. V, § 11.)<sup>6</sup> Permitting a local prosecutor to bind the entirety of the State to a UCL judgment without also having to answer to all voters in California is anathema to principles of prosecutorial accountability.

While residents of a county may express their pleasure or displeasure and hold their district attorney politically accountable for cases that the district attorney prosecutes, Californians outside of that county have no means to do so. Allowing district attorneys to have statewide UCL enforcement authority would thereby leave the vast majority of Californians without means to hold the prosecutors exercising it accountable for their actions. Local prosecutors' authority should extend as far as their accountability—to their respective territories' geographic limits, and no farther. Because a construction of the UCL that permits local

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<sup>6</sup> District attorneys are elected only by residents of their respective counties. (Cal. Const., art. XI, § 1; Gov. Code, § 24009.) City attorneys can be elected or appointed, depending on the city's charter or other applicable law. (See, e.g., Los Angeles City Charter, vol. I, art. II, § 202 [requiring that the Los Angeles city attorney "be elected by the electors of the City, at large"]; Santa Monica City Charter, art. VII, § 700 [vesting Santa Monica's city council with authority to appoint the city attorney].)

prosecutors to obtain statewide remedies would violate this accountability principle, it is an unreasonable construction that the Legislature could not have intended.

**C. Statewide UCL Enforcement Authority for Local Prosecutors Would Undermine the Attorney General's Ability to Speak on Behalf of California in Matters of National and International Importance**

Although district and city attorneys have no doubt played a significant role in enforcing the UCL in California, the Attorney General occupies a unique position within the broader community of consumer law enforcement—he is the chief law officer of the nation's most populous State, representing what standing alone would be the world's fifth largest economy. His office maintains relationships with state and federal law enforcement agencies charged with consumer protection across the country, and the Attorney General's prominent role commands influence over multistate investigations and litigation, as well as the direction of national consumer law enforcement priorities more broadly. California has long played a leading role in resolving cases of nationwide or international importance, including the National Mortgage Settlement and the consent decrees resolving the Volkswagen diesel emissions litigation, to name just two recent examples.

The importance of that role is one significant reason why reading the UCL to vest exclusive statewide enforcement authority in the Attorney General is more reasonable than the alternative. When California acts in consumer law enforcement matters of national or international significance, it is critically important that the State speak with one voice. Granting 62 additional prosecutors the same UCL authority as the Attorney General would fragment that voice and substantially weaken the State's influence.

These are not idle concerns. Following the discovery of the worldwide diesel emissions cheating scandal, the Attorney General

immediately commenced an investigation into Volkswagen's conduct regarding, among other things, violations of the UCL and FAL. The parallel investigations and ultimate litigation involved all 50 States, as well as federal and foreign governmental agencies, and the Attorney General played a leading role in those efforts. Shortly after the scandal broke, however, the District Attorney of Trinity County (pop. 13,786 per 2010 census), represented by contingency fee counsel, purported to sue Volkswagen under the UCL, asserting statewide authority. (See *People ex rel. Heryford v. Volkswagen of America, Inc. et al.* (Super. Ct. Trinity County, 2015, No. 15CV086, removed to federal court on Oct. 30, 2015, E.D. Cal., No. 2:15-cv-02254).) While the District Attorney ultimately dropped the case, granting statewide enforcement authority to local prosecutors would endanger California's ability to credibly lead the way in matters of national or international prominence.

## **II. NEAR-UNIVERSAL RECOGNITION OF THE ATTORNEY GENERAL'S EXCLUSIVE STATEWIDE AUTHORITY HAS NURTURED A ROBUST CONSUMER PROTECTION COMMUNITY THAT ROUTINELY COOPERATES TO ENFORCE THE UCL**

In the forty years since *Hy-Lond* was decided, the Attorney General, district attorneys, and the city attorneys with UCL authority have worked cooperatively to protect consumers. With few recent exceptions, the understanding that the Attorney General exclusively enforces the UCL statewide—and that district and city attorneys share enforcement authority with the Attorney General within their localities—has fostered collaborative relationships among state and local prosecutors who share the important missions of protecting California's consumers while promoting fair and competitive marketplaces. Traditions of interoffice cooperation have emerged, ranging from coordinated investigations and enforcement actions to informal interoffice working groups and opportunities for training and mentorship. These traditions form the bedrock of California's

consumer protection prosecution community, in which the vast majority of local prosecutors' offices with UCL enforcement authority participates, and which have time and again proven effective at checking unfair, unlawful, and fraudulent business acts and practices in this State.

Coordination and cooperation in investigations and enforcement actions are central to that system. Limiting district attorneys to their counties does not mean that nefarious business activity in the other 57 counties goes unpunished, nor does it mean that recalcitrant businesses must separately negotiate with dozens of potential governmental plaintiffs. First, district attorneys' offices regularly join together with each other or the Attorney General to form investigation or litigation teams in order to coordinate enforcement of shared priorities. These partnerships may arise when prosecutors in the Attorney General's Office identify a business act or practice involving particularized local concerns, or when the case would be most efficiently handled by multiple offices. Likewise, district attorneys who discover unfair competition affecting counties beyond their own have for decades enlisted the assistance of the district attorneys in those counties, and, where statewide practices are at issue, the Attorney General.

The resource-intensive nature of UCL and FAL investigations and litigation rewards the cooperation that geographic division of enforcement authority has promoted. As discussed in Section I.A. above, consumer law enforcement typically involves months or years of pre-litigation investigation, often including document productions and testimony, as well as substantial analysis. Thorough investigations conserve resources overall because claims have typically been exhaustively vetted prior to litigation, and can often be resolved by stipulated judgment without the need for a protracted lawsuit. And yet, investigations are nevertheless a substantial undertaking, and collaboration among offices improves them.

Second, even when the Attorney General is not involved in investigating a UCL or FAL case from the outset, his participation as a joint representative of the People in the settlement provides law enforcement the benefit of a statewide judgment and defendants the benefit of statewide peace. Where statewide resolution of a locally investigated matter is desirable, district attorneys request the participation of the Attorney General in the settlement. The Attorney General frequently grants that request through a process informally referred to as “AG sign-on,” in which his participation endows the stipulated judgment with statewide effect, usually meaning relief for a wider swath of consumer victims and statewide peace for the defendants.<sup>7</sup> The Legislature has specifically provided for such multi-office enforcement actions. (Gov. Code, §§ 26506-26507 [any combination of local prosecutors and the Attorney General may jointly bring civil prosecutions upon mutual agreement; civil penalties and other monetary awards to be paid as approved by the court].)

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<sup>7</sup> These sign-ons are in addition to the numerous joint investigations and prosecutions undertaken by the Attorney General and other local prosecutors discussed in this Section. For examples of sign-ons, see, e.g., Final Judgment Pursuant to Stipulation filed in *People v. Arbitron, et al.* (Super Ct. San Francisco County, Mar. 26, 2012, No. 519349) [Attorney General joins Los Angeles City Attorney and San Francisco City Attorney in stipulated judgment]; Final Judgment Pursuant to Stipulation filed in *People v. Bosley Medical Group, et al.* (Super. Ct. Los Angeles County, Aug. 15, 1996, No. BC159287) [Attorney General signs on to stipulated judgment in action brought by Los Angeles County District Attorney]; Stipulated Final Judgment and Permanent Injunction filed in *People v. Crescent Jewelers, Inc., et al.* (Super. Ct. Santa Cruz County, Sept. 24, 2001, No. CV 141795) [Attorney General signs on to stipulated judgment in action brought by District Attorneys of Santa Cruz, Monterey, Santa Clara, and Merced Counties]; Stipulated Final Judgment filed in *People v. Wells Fargo Bank, N.A.* (Super. Ct. Los Angeles County, Mar. 26, 2016, No. BC611105) [Attorney General joins District Attorneys of Los Angeles, San Diego, Riverside, Alameda, and Ventura Counties in stipulated judgment].

Within this community of like-minded public servants, the Attorney General's Office has long leveraged its size, experience, statewide mandate, and national and even international relationships to play a leadership role. Deputy attorneys general routinely provide support and assistance to local prosecutors investigating or litigating cases involving legal issues or industries familiar to the Attorney General's Office from prior work. And as noted above, the Attorney General frequently offers the benefit of his statewide enforcement powers to local prosecutors through cooperation in cases of statewide significance.<sup>8</sup>

Further, as explained in Section I.C. above, the Attorney General maintains a significant role in national consumer law enforcement, advocating California's interests. Just as he joins together with local prosecutors to further enforcement priorities at the state level, the Attorney General maintains working relationships with partner attorneys general, including through leadership in the National Association of Attorneys General and numerous multistate consumer law investigations and enforcement actions. Partnership with federal consumer agencies and law enforcement represents another significant portion of the Attorney General's consumer law portfolio, and his involvement in matters of

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<sup>8</sup> Local prosecutors also collaborate through an informal, voluntary UCL investigations log, but it has been significantly misunderstood. (*Abbott Laboratories v. Superior Court* (2018) 24 Cal.App.5th 1, 36 (dis. opn. of Dato, J.) [citing Stern, Cal. Practice Guide: Business & Professions Code Section 17200 Practice (The Rutter Group 2018) ¶ 9:6].) To correct the record, the log allows local prosecutors, if they so choose, to register investigations, litigation, and judgments, but it does not provide notice to the Attorney General when a local prosecutor creates a log entry. Nor can the Attorney General use the log to determine a list of open investigations, or to monitor the activity of any particular office. Prosecutors, including the Attorney General, may only run a search to determine whether a particular entity is the subject of an investigation, enforcement action, or existing judgment that another office has decided to log.



international significance has from time to time resulted in collaboration with consumer protection agencies abroad. Both local prosecutors and the State as a whole benefit from California's connection to the larger consumer law enforcement community, and the State's ability to cultivate those relationships is dependent on the Attorney General's unique position as its chief law officer and sole statewide prosecutor of consumer law violations.

The prosecutorial cooperation outlined above has historically produced, and continues to produce, results for the people of this State. Several recent examples of public civil consumer protection activity made possible by collaboration between the Attorney General and local prosecutors follow:

- *People v. Uber Technologies, Inc.* (Super. Ct. San Francisco City and County, 2018, No. CGC-18-570124) (Stipulated judgment entered 2018). Attorney General Becerra and San Francisco District Attorney Gascón reached a stipulated judgment with Uber as part of a nationwide resolution of allegations that the company covered up a data breach. The settlement required the company to make payments of \$26 million to California and imposed injunctive terms under the UCL.<sup>9</sup>
- *People v. Target Corp.* (Super. Ct. Alameda County, 2018, No. RG09457686) (Stipulated judgment entered 2018). Attorney

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<sup>9</sup> Office of the Attorney General, Press Release: *California Attorney General Becerra, San Francisco District Attorney Gascón Announce \$148 Million Settlement with Uber over 2016 Data Breach and Cover-Up* (Sept. 26, 2018), at <<https://oag.ca.gov/news/press-releases/california-attorney-general-becerra-san-francisco-district-attorney-gasc%C3%B3n>> (as of Mar. 21, 2019).

General Becerra, district attorneys representing 22 California counties, and the city attorneys of Los Angeles and San Diego settled findings of unlawful hazardous waste dumping. The settlement provided for payments totaling \$7.4 million, including a \$3.2 million civil penalty and injunctive terms entered pursuant to provisions of the UCL and the Health and Safety Code.<sup>10</sup> The action followed an investigation undertaken in the wake of an earlier \$22.5 million stipulated judgment resolving similar allegations against Target and brought by 20 district attorneys, the Los Angeles City Attorney, and then-Attorney General Brown.<sup>11</sup>

- *People v. Wells Fargo Bank, N.A.* (Super. Ct. Los Angeles County, 2016, No. BC611105) (Stipulated judgment entered 2016). Joined by the District Attorneys of Los Angeles, San Diego, Riverside, Alameda, and Ventura Counties, Attorney General Harris obtained a settlement providing for \$8.5 million in payments and an injunction against Wells Fargo. The underlying complaint alleged that the bank violated the UCL by

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<sup>10</sup> Office of the Attorney General, Press Release: *Attorney General Becerra Announces \$7.4 Million Statewide Settlement with Target for Environmental Violations* (Dec. 5, 2018), at <<https://oag.ca.gov/news/press-releases/attorney-general-becerra-announces-74-million-statewide-settlement-target>> (as of Mar. 21, 2019).

<sup>11</sup> *Ibid.*; Office of the Attorney General, Press Release: *Brown and District Attorneys Sue Target for Illegal Disposal of Hazardous Waste* (Jun. 15, 2009), at <<https://oag.ca.gov/news/press-releases/brown-and-district-attorneys-sue-target-illegal-disposal-hazardous-waste>> (as of Mar. 21, 2019).

failing to timely and adequately disclose recorded communications with consumers.<sup>12</sup>

- *People v. BP West Coast Products LLC et al.* (Super. Ct. Alameda County, 2016, No. RG13665900) (Stipulated judgment entered 2016). After Attorney General Harris and nine district attorneys brought suit against BP, alleging unlawful underground gasoline storage, the parties reached a stipulation for entry of a judgment providing for a total of \$14 million in payments and an injunction pursuant to the UCL.<sup>13</sup>
- *People v. Be Glad, Inc. et al.* (Super. Ct. Alameda County, 2010, No. RG09460505) (Stipulated judgment entered 2010). Attorney General Brown and the District Attorneys of Alameda and Fresno Counties reached a \$1.8 million settlement, including injunctive provisions under the UCL, with the owner of 22 Midas auto shops, after an investigation revealed that the shops lured consumers by advertising brake specials and then charged them for unneeded brake-rotor resurfacing.<sup>14</sup> The

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<sup>12</sup> Office of the Attorney General, Press Release: *Attorney General Kamala D. Harris, District Attorneys Announce \$8.5 Million Settlement With Wells Fargo Bank Over Privacy Violations* (Mar. 28, 2016), at <<https://oag.ca.gov/news/press-releases/attorney-general-kamala-d-harris-district-attorneys-announce-85-million>> (as of Mar. 21, 2019).

<sup>13</sup> Office of the Attorney General, Press Release: *Attorney General Kamala D. Harris Announces \$14 Million Settlement With BP for Underground Fuel Storage Tank Violations* (Nov. 17, 2016), at <<https://oag.ca.gov/news/press-releases/attorney-general-kamala-d-harris-announces-14-million-settlement-bp-underground>> (as of Mar. 21, 2019).

<sup>14</sup> Office of the Attorney General, Press Release: *Brown Reaches \$1.8 Million Settlement with Owner of 22 Midas Auto Shops Over Massive Bait-and-Switch Scheme* (Jan. 25, 2010), at <<https://oag.ca.gov/news/press-releases/brown-reaches-18-million-settlement-owner-22-midas-auto-shops-over-massive-bai-0>> (as of Mar. 21, 2019).

investigation followed a stipulated judgment entered against the owner and his Midas shops in 1989, in a case brought by the People, jointly represented in that action by then-Attorney General Van de Kamp and the Alameda, San Mateo, and San Francisco District Attorneys. (*People v. M.I. Glad, Inc.* [Super. Ct. Alameda County, 1989, No. H120168-4] [Judgment entered Jun. 30, 1989].)

Rather than undermining consumer protection, then, widely recognized geographic limitations on district and city attorneys' UCL authority have formed the basis for decades of interoffice cooperation both between local prosecutors and between such prosecutors and the Attorney General. That cooperation has produced a legacy of successful enforcement of our State's consumer protection statutes. Affirming the limitations on local prosecutors' authority under the UCL would promote continued cooperative enforcement to the benefit of consumers and competition, and is the only interpretation of the statute that yields reasonable results.

### CONCLUSION

Longstanding practice since *Hy-Lond* has confirmed that constraining local prosecutors to local UCL remedies promotes cooperation and ultimately effective UCL enforcement. Conversely, statewide remedies in UCL cases brought by local prosecutors would present conflicts of interest and undermine accountability. Because construing any ambiguity in the UCL to constrain the geographic reach of local prosecutors to the territories they represent leads to more reasonable outcomes in light of the UCL's purposes, the Court should do so. To hold otherwise would not only undermine the Attorney General's ability to conduct statewide prosecutions, but also the ability of other local prosecutors to effectively address misconduct occurring within their represented territories.

Dated: March 22, 2019

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
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Supervising Deputy Attorney General

A handwritten signature in black ink, appearing to read "H. Landerholm", written over a horizontal line.

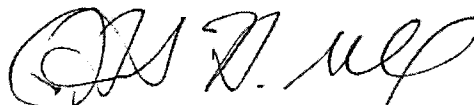
HUNTER LANDERHOLM  
Deputy Attorney General  
*Attorneys for Amicus Curiae, the Attorney  
General of the State of California*

**CERTIFICATE OF COMPLIANCE**

I certify that the attached Brief of the Attorney General as *Amicus Curiae* in Support of Defendants uses a 13 point Times New Roman font and contains 4,621 words.

Dated: March 22, 2019

XAVIER BECERRA  
Attorney General of California



HUNTER LANDERHOLM  
Deputy Attorney General  
*Attorneys for Amicus Curiae, the Attorney  
General of the State of California*

## CERTIFICATE OF SERVICE

I am employed at the Office of the Attorney General in the City and County of San Francisco, State of California. I am over the age of 18 and not a party to this action. My business address is 455 Golden Gate Ave., Ste. 11000, San Francisco, California 94102.


On March 22, 2019, I hereby certify that I served the foregoing Brief of the Attorney General as *Amicus Curiae* in Support of Defendants on the following interested parties in this action as follows. I placed true copies of the document listed above in sealed envelopes with postage thereon fully prepaid, in the United States mail at San Francisco, California, addressed as follows:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: March 22, 2019

  
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 Bella Cruz