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California Supreme Court Opens Door for Nonprofits to Sue for Anticompetitive Practices

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On July 18, 2023, the California Supreme Court held as a matter of first impression that a public interest advocacy organization maintains standing to bring claims under the Unfair Competition Law (UCL), if it has incurred costs and resources in responding to those alleged bad acts.

In 2012, the California Medical Association (CMA), a professional association that represents more than 37,000 California physicians, sued Aetna Health for engaging in anticompetitive practices. CMA alleged that Aetna had been discouraging Aetna-insured patients from going out-of-network by threatening termination or actually terminating physicians for referring patients to out-of-network providers. On summary judgment, Aetna argued that CMA lacked UCL standing because CMA had not lost money or property as a result of the policy at issue and that standing could only be conferred to individual physicians. The trial court granted Aetna's motion for summary judgment on standing grounds and the Court of Appeal affirmed.

In a unanimous decision, the Supreme Court overturned this ruling and held that CMA maintains standing to bring suit. The Court held that while CMA may not have suffered direct economic harm, CMA suffered an economic injury through the diversion of personnel and other resources used to respond to Aetna's policy, as these resources would otherwise have been used to benefit CMA's members. While this holding provides a new way to establish standing under the UCL, the Court cautioned that organizations may not rely on expenditures made "in the course of UCL litigation, or to prepare for UCL litigation" to establish economic injury.

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