IN THE SUPREME COURT OF CALIFORNIA

ABBOTT LABORATORIES, ET AL., Defendant-Petitioner, **v.** **SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF ORANGE,** Respondent, **PEOPLE OF THE STATE OF CALIFORNIA,** Plaintiff-Real Party in Interest.	Case No. S249895

After a Published Decision by the Court of Appeal,
Fourth Appellate District, Division One, Case No. D072577

From the Superior Court of California, County of Orange,
Case No. 30-2016-00879117-CU-BT-CXC
The Honorable Kim Dunning, Judge

APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF; AMICUS CURIAE BRIEF IN SUPPORT OF GEOGRAPHICAL LIMITATIONS ON THE AUTHORITY OF LOCAL PROSECUTORS UNDER THE CALIFORNIA UNFAIR COMPETITION LAW

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The California District Attorneys Association (CDAA) respectfully applies to this Court for leave to file a brief as amicus curiae in support of the position that the authority of a California district attorney to enforce the Unfair Competition Law (UCL; Bus. & Prof. Code, § 17200 et seq.) is limited to violations occurring within that district attorney's local jurisdiction. CDAA has more than 2,500 members including the elected district attorneys and the prosecutors employed by those district attorneys, the Attorney General's Office and its staff, and various local law enforcement offices. CDAA has been in existence for almost 100 years and regularly presents the perspective of California's prosecutors on various matters affecting law enforcement and the administration of justice.

Prosecutors play a leading role in safeguarding and vindicating the rights of the public through civil law enforcement efforts under a variety of statutes including the UCL. In view of the extraordinary and harmful consequences that would result from a ruling that a district attorney in one county can recover all remedies under the UCL for violations taking place throughout the State of California and can bind all other district attorneys and the California Attorney General without their consent, CDAA offers its views on this subject.

DATED: March 21, 2019

Respectfully submitted,

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INTRODUCTION AND STATEMENT OF INTEREST

The California District Attorneys Association (CDAA) is composed of the 58 elected district attorneys, numerous city attorneys, and their respective deputies, who are charged with criminal and civil law enforcement in California.

The Consumer Protection Committee of CDAA is the standing committee of California prosecutors actively engaged in the enforcement of our state laws to combat consumer fraud, deception, and unfair competition, including violations of the Unfair Competition Law (UCL; Bus. & Prof. Code, § 17200 et seq.), such as those alleged in this matter. The interest of CDAA here stems from its commitment to the enforcement of our state's laws promoting a free and fair marketplace for all California consumers and honest competitors.

As the principal spokespersons for California's local prosecutors, CDAA offers its views to assist this Court in considering the appropriate limits on the authority and jurisdiction of California district attorneys in enforcing the Unfair Competition Law, the primary consumer protection statute employed by California prosecutors.

Plaintiff Orange County District Attorney's Office (hereinafter sometimes "OCDA") brought this UCL action in the name of the People against defendants/petitioners Abbott Laboratories and other defendants (hereinafter collectively "Abbott Laboratories"), alleging unfair competition in connection with the marketing of pharmaceuticals. In this action, the Orange County District Attorney, an elected official representing just six percent of the population of the State of California, asserted the right to recover all remedies for the alleged violations throughout California, including any and all remedies for those violations in the other 57 counties of California, even though neither the Attorney General nor any

other district attorney was participating in the enforcement action. The OCDA further asserted the ability to bind all of the People of the State of California to the results of that case, claiming the authority to preempt any action on these violations anywhere in California that might be brought by the California Attorney General (the state's chief law enforcement officer) and the elected district attorneys representing the remaining 94% of the population of California.

In its complaint and in subsequent arguments to this Court, OCDA advocates an interpretation of Business and Professions Code section 17200[1] that would require this Court to ignore the constitutional framework of California law enforcement and the longstanding case law governing the shared prosecutorial authority under the UCL.

In the published appellate decision below, the panel majority in the Fourth Appellate District, Division One, rejected this request to restructure California public law enforcement to suit OCDA's individual interests. In *Abbott Laboratories v. Superior Court* (2018) 24 Cal.App.5th 1, the majority properly concluded that OCDA's assertion of statewide UCL authority by a single district attorney's office is inconsistent with the language of the statute and conflicts with fundamental state constitutional standards and with longstanding principles of UCL enforcement based on *People v. Hy-Lond Enterprises, Inc.* (1979) 93 Cal.App.3d 734. (*Abbott Laboratories v. Superior Court, supra*, 24 Cal.App.5th, at pp. 17-31.)

CDAA respectfully submits that OCDA's extraordinary interpretation of the UCL – based on statutory silence rather than express legislative authorization – would give rise to inappropriate and unjust case

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All further references to "section 17200" or the "UCL" are to California Business & Professions Code section 17200 et seq., unless otherwise indicated.

results, would be unworkable in practice, and is fundamentally inconsistent with our state's democratic standards of public accountability.

To assist this Court in its consideration of this issue, the California District Attorneys Association offers its assessment of OCDA's claim of statewide UCL authority and the potential impact of that claim on California law enforcement and California consumers.

SIGNIFICANCE OF THE UNFAIR COMPETITION LAW FOR LOCAL PROSECUTORS

The Unfair Competition Law and its companion statute, the False Advertising Law (FAL; Bus. & Prof. Code, § 17500 et seq.), are the primary enforcement tools used by California's local prosecutors to protect the public from unfair and deceptive business practices. (See *People v. Pacific Land Research* Co. (1977) 20 Cal.3d 10, 17; see also Papageorge & Fellmeth, *California White Collar Crime and Business Litigation,* 5th Ed., Matthew Bender/Tower Publications (2016), Ch.3, at § 3.43.)

The Unfair Competition Law provides a broad three-part prohibition on unlawful, unfair, or fraudulent business acts or practices that is central to California consumer protection law enforcement. "The UCL's purpose is to protect both consumers and competitors by promoting fair competition in commercial markets for goods and services." (*Kasky v. Nike, Inc.* (2002) 27 Cal.4th 939, 949.) The UCL's broad scope and potent remedies make it the fundamental consumer protection tool of California's law enforcement community.

Similarly, the False Advertising Law is California's primary statute addressing all forms of deceptive, untrue, and misleading advertising for goods and services. Under the expansive scope of the FAL, it is necessary only to show that "members of the public are likely to be deceived" (*Kasky v. Nike, Inc., supra,* at p. 951), making the FAL applicable to a wide range of deceptive business practices requiring local law enforcement action.

As a result of the extensive substantive and procedural commonality between the UCL and FAL, interpretations of the UCL have a direct impact on the False Advertising Law. (See *Kasky v. Nike, supra*; *Committee on Children's Television v. General Foods* (1983) 35 Cal.3d 197, 210 ("any

violation of the false advertising law, moreover, necessarily violates the unfair competition law").) A misinterpretation of jurisdictional principles applicable to the UCL would have an equally damaging effect on the orderly and effective protection of the public from untrue and misleading advertising governed by the FAL, and likely a similar effect on other areas of trade regulation law enforcement.

ARGUMENT

I. A UCL ACTION BROUGHT BY A CALIFORNIA DISTRICT ATTORNEY IS LIMITED TO THAT PROSECUTOR'S LOCAL JURISDICTION

The California District Attorneys Association adopts and endorses the analysis of the state's chief law enforcement officer, the California Attorney General, in his *amicus curiae* brief in the instant matter, and offers its own analysis in support, below.

It is the conclusion of our state's Attorney General that a UCL action brought by a California district attorney is limited to that local prosecutor's jurisdiction. This is the only interpretation "consistent with the California Constitution, case law, structure of the UCL's penalties provisions, conflict of interest concerns, and the need for prosecutorial accountability...." (Amicus curiae brief of the California Attorney General, December 29, 2017, at p. 6.) CDAA concurs entirely in that conclusion.

A. California District Attorneys Are Authorized to Bring UCL Actions in the Name of the People, But Only For Violations Taking Place in Their Own Jurisdictions

The 58 elected district attorneys of California are constitutional officers, but their status and functions are closely circumscribed by the California Constitution. The district attorney of a California county is the public prosecutor for that county only, which county is in turn a political

subdivision of the State of California. (Cal. Const., art. XI; Gov. Code, § 26500.) Only the Attorney General of the State of California, the state's chief law enforcement officer, is authorized to act in "all legal matters in which the State is interested . . ." anywhere in the state. (Cal. Const., art. V, § 13; Gov. Code, § 12511.)

The UCL, and its companion statute the FAL, authorize both the Attorney General and designated local prosecutors to bring actions in the name of the People of the State of California to obtain injunctive relief, civil penalties, restitution and other remedies for unfair, unlawful, or fraudulent business practices, and false advertising. (See Bus. & Prof. Code, §§ 17203, 17204, 17206, 17535, 17536.) However, in a manner analogous to criminal prosecution in the name of the People, the UCL's reference to actions brought in the name of the People is not a grant of statewide authority to enforce the UCL, but rather an authorization to act in the name of the People to address violations of the UCL occurring *in a prosecutor's local jurisdiction.* (See generally *People v. Hy-Lond Enterprises, Inc.* (1979) 93 Cal.App.3d 734.)

A local prosecutor's authority to bring a UCL or FAL action in the name of the People is an authorized use of the State's sovereign powers within the boundaries of the geographical area served by that prosecutor. Nothing in the language of the UCL, the FAL, or the California Constitution implies that the exercise of this authority to act within a prosecutor's proper jurisdiction permits that prosecutor to exercise the same authority in another jurisdiction where he or she has no official status and is not empowered to act. The burden of demonstrating any proposition to the contrary rests entirely with the proponent of such a proposition, and that burden is one OCDA cannot meet.

The question of putative statewide authority for local prosecutors under the UCL is not an issue of first impression. California state and

federal courts have previously recognized the geographical limits on the jurisdiction of California's local prosecutors, including in the context of the UCL and FAL.

In particular, the Court of Appeal in *People v. Hy-Lond Enterprises, Inc.* (1979) 93 Cal.App.3d 734 *(Hy-Lond)* directly addressed and decided the question of those jurisdictional limits as applicable to UCL and FAL enforcement by California district attorneys. In *Hy-Lond*, the Court of Appeal rejected the attempt of the Napa County District Attorney, acting by himself, to bind the Attorney General and other district attorneys to the terms of a stipulated final judgment that purported to resolve UCL violations in 12 counties.

The Court of Appeal determined that a district attorney's enforcement authority is generally restricted to "the territorial limits of the county for which he was elected." (*Id.* at p. 751, quoting *Singh v. Superior Court* (1919) 44 Cal.App. 64, 66.) Noting that the party designation of "The People of the State of California" "does not tell us who is authorized to represent the People" in any particular action (*Hy-Lond, supra*, 93 Cal.App.3d at p. 751), the Court of Appeal concluded that under the UCL a district attorney cannot "surrender the powers of the Attorney General and his fellow district attorneys to commence, when appropriate, actions in other counties . . . " (*Id.* at p. 753.)

Other decisions holding that the authority of California local prosecutors is restricted to the geographical limits of their jurisdictions include: *City of Oakland v. Brock* (1937) 8 Cal.2d 639 (enforcement powers of a California city are subject to that city's geographical limit); *California v. M & P Invs.* (E.D.Cal. 2002) 213 F.Supp.2d 1208, 1216 (a city attorney's authority is "limited to the geographical boundaries of the constituency which he or she represents;" *San Diego County Veterinary Medical Association v. County of San Diego* (2004) 116 Cal.App.4th 1129,

1134 (police powers of local prosecutors apply only within "their territorial limits," quoting *Candid Enterprises, Inc. v. Grossmont Union High School District* (1985) 39 Cal.3d 878, 885). (See generally, *Safer v. Superior Court* (1975) 15 Cal. 3d 230.) There is ample authority guiding the result in the instant case and fully supporting the Fourth Appellate District's holding and opinion in this matter.

In sum, district attorneys are empowered to bring UCL actions only for violations occurring in their counties. There is no valid support – whether in the State Constitution, the UCL itself, California case authority, or the interpretations of the state's Attorney General – for a local prosecutor to claim the legal authority to enforce the UCL on a statewide basis.

B. OCDA's Proposal for a Sweeping Change to the Jurisdictional Rules for UCL Enforcement Actions Should Be Addressed to the State Legislature

OCDA is proposing a profound change in the jurisdictional principles governing UCL public enforcement actions – a change that would be at odds with the State Constitution, the UCL itself, and existing case law. By altering the Legislature's allocation of state and local powers under the UCL, this unprecedented interpretation would dramatically expand the authority of local prosecutors and impact the constitutional relationship between the California Attorney General and the 58 elected district attorneys of the state.

Changes of this nature, affecting a large number of public agencies and their regulation of California's business community, should come, if at all, only after a full debate on those changes by all affected parties, and only after careful analysis by the State Legislature to resolve competing policy objectives. Speaking in the UCL context, this Court has observed: "It is not for the courts, except within the limits herein set forth, to determine whether or not the policy of a statute is economically sound or

beneficial. That matter is left solely for the legislature." (*Stop Youth Addiction, Inc. v. Lucky Stores (1998)* 17 Cal.4th 553, 577; quoting *ABC International Traders, Inc. v. Matsushita Electric Corp.* (1997) 14 Cal.4th 1247, 1263.)

Like the similar request for judicial alteration of the UCL in the *Lucky Stores* case, OCDA's assertion of statewide jurisdiction and preemptive authority is "best addressed to the Legislature. Generally, it is not within [a court's] province to judge the fundamental wisdom of the UCL's overall scheme." (*Stop Youth Addiction, Inc. v. Lucky Stores*, *supra*, at p. 578.)

CDAA believes the current structure of UCL enforcement is both appropriate and effective. But if OCDA believes the UCL should permit a local prosecutor to preempt actions by the Attorney General and by co-equal sister agencies for practices occurring outside of Orange County, then that office must take this controversial proposal to the correct forum – the State Legislature.

II. STATEWIDE UCL AUTHORITY FOR ALL DISTRICT ATTORNEYS COULD LEAD TO UNFAIR ENFORCEMENT RESULTS AND REDUCED PUBLIC ACCOUNTABILITY

A. Statewide UCL Authority for All District Attorneys Could Foster Inappropriate or Unfair Case Results

Based on its familiarity with the work of its members, the California District Attorneys Association affirms that the public UCL actions brought under our state's time-tested system of shared state and local enforcement have consistently achieved appropriate and beneficial results for California consumers. Conversely, CDAA submits that the extraterritorial authority sought by OCDA here would create conditions that could easily lead to inappropriate or unfair UCL case results, even though our state's local prosecutors strive to be conscientious and fair.

Examples of grave problems that would be likely to arise from OCDA's unprecedented proposal include:

(1) A small-county prosecutor with limited investigative resources might be unaware of the widespread violations by a statewide business and might inadvertently settle a UCL case with satisfactory local relief but inadequate statewide remedies, and yet include a statewide release that would bar necessary enforcement actions in other counties.

(2) A local prosecutor, principally concerned with the losses suffered by his/her own local constituents, might disregard or undervalue other appropriate remedies, such as restitution for victims in other parts of the state, in order to settle his/her local case promptly.

(3) A local prosecutor's office with limited civil litigation resources might be persuaded by an influential private law firm to ignore the ethical strictures in the Supreme Court's opinion in *County of Santa Clara* and in the CDAA ethics manual and improperly retain the private firm on a contingent-fee basis,[2] which private firm would very likely favor a statewide settlement providing large attorneys' fees over a smaller monetary judgment with effective injunctive terms.

CDAA urges this Court to consider the full practical ramifications and workability problems that would result from adopting OCDA's unprecedented interpretation of the UCL enforcement process. While ostensibly concerned about remedies in a single action against pharmaceutical firms, OCDA is in fact seeking an opinion that would authorize any local district attorney's office – even one representing a tiny

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[2] See *County of Santa Clara v. Superior Court* (2010) 50 Cal.4th 35 (prosecutorial neutrality is improperly compromised by the use of private contingent-fee counsel in cases involving criminal charges, constitutional issues, or challenges to ongoing business conduct); CDAA, *Professionalism* (2016), Ch.XII, pp.1-3 (same).

fraction of the California public – to usurp the proper function of the Attorney General and other prosecutors and arrange any statewide settlement or case result that it pleases, regardless of the adequacy of that settlement for the California public as a whole, and without any form of legal constraint or public accountability.

Such an interpretation of the UCL would result in substantial harm to our state's consumer protection system and ultimately to California's consumers.

B. All UCL Law Enforcement Actions Should be Subject to Effective Public Accountability

OCDA urges this Court to reach an illogical result never intended by the State Legislature when it promulgated and amended the Unfair Competition Law. By way of hypothetical illustration, OCDA would have this Court hold that the State Legislature has authorized the District Attorney of Trinity County (population 13,000) to bring a UCL enforcement action against a large statewide corporation not just for violations within Trinity County but for any and all the violations occurring throughout our state of 39 million consumers. OCDA asks this Court to rule that the UCL authorizes the district attorney of a very small county such as this to preempt all actions by the California Attorney General or any other district attorneys to address that statewide misconduct.

In our California constitutional framework, the authority of the Attorney General and the 58 elected district attorneys is subject to important checks and balances that are fundamental to our system of popular sovereignty. Most important of these is the periodic election of the state and local officers, providing the voters of each political entity the opportunity to choose their elected prosecutors and hold them responsible for the appropriate exercise of their powers. Under the UCL, enforcement authority is allocated between the Attorney General and the district

attorneys in keeping with this principle of democratic oversight of public officials.

In this constitutional system, the actions of a district attorney on behalf of the residents of his or her county are subject to this important democratic safeguard: Consumers in that county who are affected by the prosecutor's conduct will always have a voice in electing or replacing that prosecutor.

An interpretation of UCL jurisdiction that would extend statewide or extraterritorial authority to a local district attorney is fundamentally inconsistent with this constitutional framework. A district attorney who could exercise binding authority to alter or extinguish the rights of consumers in other counties would be subject to no democratic safeguards if he or she misused that authority.

Today, a district attorney in a UCL case who considers giving up important consumer restitution or necessary injunctive terms in his/her own county must be prepared to justify that conduct to his/her constituents at the next election. But under the proposal advanced by OCDA, the district attorney in a UCL case who disregards or disserves the interests of the consumers in other counties would face no direct public accountability or legal constraint.

Prosecutorial authority exercised without appropriate democratic safeguards is fundamentally inconsistent with our state's constitutional principles. The longstanding UCL enforcement system of concurrent but limited local authority – as provided by the language of the statute, endorsed by the Attorney General and CDAA, and upheld in the *Hy-Lond* opinion – comports with our state's constitutional framework and our system of representative government. OCDA's unprecedented proposal of statewide UCL authority for all local district attorneys is altogether

inconsistent with that system and should be rejected by this Court on that basis alone.

Overreaching UCL lawsuits brought by private class-action litigants in the early 2000s caused widespread criticism and eroded public support for those UCL suits, culminating in the 2004 passage of Proposition 64 limiting standing for private UCL plaintiffs. (See Initiative Stat. #1016, SA03F0051, Nov. 5, 2004). An opinion that permits unrestrained jurisdictional overreaching by individual county prosecutors could undermine voter confidence in public UCL enforcement and lead to further weakening of California's most important consumer protection statute.

III. APPROPRIATE AND EFFECTIVE MECHANISMS FOR STATEWIDE UCL ENFORCEMENT ARE ALREADY IN PLACE

OCDA has suggested that its theory of statewide UCL authority for local prosecutors is justified as a means of addressing widespread consumer problems that might otherwise go uncorrected. However, to the contrary, there are in place today a number of proven mechanisms that California public prosecutors employ to ensure that statewide consumer protection problems are addressed effectively.

Such mechanisms include, among others:

(1) Referral of statewide or regional consumer matters to the California Attorney General's active and highly effective Consumer Law Section for appropriate statewide UCL enforcement action;

(2) Multi-office joint investigations and prosecutions where local district attorneys and attorneys from the Attorney General's Office serve as co-counsel to bring joint UCL civil prosecutions with statewide effect;

(3) District attorney UCL actions in which the Attorney General is involved at the stage of settlement negotiations in order to provide Attorney General approval, through the mechanism of co-signing the settlement

documents, to ensure statewide effect for the stipulated final judgments; and

(4) Multi-agency UCL prosecutions where district attorneys from all counties affected by the acts of unfair competition join together in unified civil enforcement actions to ensure appropriate standing to obtain all necessary regional or statewide remedies.[3]

CDAA affirms that these cooperative enforcement mechanisms and others have been consistently and successfully employed in the past three decades to provide effective consumer remedies for statewide UCL violations. This Court should reject any claim that OCDA's theory of statewide UCL authority is somehow necessary or justified as a means of providing effective redress for acts of unfair competition occurring throughout California. In fact, widely accepted and constitutionally appropriate mechanisms for statewide consumer protection are in place and working well.

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[3] A few among the many examples of these appropriate strategies for addressing statewide conduct include the final judgments in: *People v. Ameriquest Mortgage Inc.,* S.F. Super. Ct. No. RG06260804, March 21, 2006 (multi-agency UCL action against statewide deceptive mortgage lending practices); *People v. Levitz Furniture, et al.,* Alameda Super. Ct. No. 787452-5, August 18, 1997 (four-county statewide UCL prosecution of deceptive credit practices); and *People v. Bank of America, NA,* LA Super. Ct. No. BC660621, June 12, 2017 (five-county statewide UCL prosecution of consumer privacy violations). Pursuant to Evidence Code section 452 subdivision (d) (permitting judicial notice of records of any California court), CDAA hereby requests that this Court take judicial notice of these public court documents. (See *Flores v. Arroyo* (1961) 56 Cal.2d 492, 496 (Supreme Court judicial notice of two trial court judgments); *Linda Vista Village San Diego Homeowners Ass'n, Inc. v. Tecolote Investors, LLC* (2015) 234 Cal.App.4th 166, 185 ("[i]t is well accepted that . . . courts [may] take judicial notice of the existence of court documents").)

IV. PLAINTIFF OCDA PROPOSES A CHAOTIC AND CONFLICTED SYSTEM WHICH WOULD UNDERMINE EFFECTIVE UCL ENFORCEMENT

In its Reply brief to this Court (at pp. 10-16), OCDA offers the novel and unprecedented theory that the Attorney General of California is somehow not that which the California Constitution expressly declares: "*the* chief law enforcement officer" of the state. (Cal. Const., art. V, § 13, emphasis added.) In making this startling claim, OCDA ignores the well-established principle that the state's 58 district attorneys, although sharing the capacity to represent the People in *specified* circumstances, are only authorized by our State Constitution to represent the "legal subdivisions of the State" [their respective counties] and are granted police powers which are to be "enforce[d] within [each county's] limits." (Cal. Const., art. XI, §§ 1, 7.)

As discussed in more detail in Part I, above, this clear and commonsensical allocation of constitutional authority is not an issue of first impression, either for this Court or the Fourth Appellate District. In *San Diego County Veterinary Medical Association v. County of San Diego* (2004) 116 Cal.App.4th 1129, the Fourth Appellate District quoted this Court in holding that counties may exercise their plenary police powers "subject only to the limitation that they exercise this power within their territorial limits." (*Id.* at p. 1134, quoting this Court in *Candid Enterprises, Inc. v. Grossmont Union High School District* (1985) 39 Cal.3d 878, 885; see opinions cited in Part I.A, *supra,* at pp. 15-16.)

In fact, the State Constitution grants the Attorney General the express authority of "direct supervision" over the district attorneys "in all matters pertaining to the duties of their respective offices." (Cal. Const., art. V., § 13.) Plainly, one cannot be a chief enforcement officer, or even a "co-equal" chief enforcement officer, if one is subordinate to and subject to the

"direct supervision" of another public officer. Here, OCDA erroneously conflates a district attorney's general authority to represent the People in his/her allocated territory with authority to represent the People in statewide UCL enforcement actions challenging conduct far outside of his/her county. However, the former proposition does not establish or support the latter.

A great deal more would be required from the State Legislature to support statewide authority for local district attorneys in this context. Such an extraordinary deviation from our state's express constitutional allocation of prosecutorial authority should, at the very least, be specifically provided in the statute at issue. (See *Safer v. Superior Court* (1975) 15 Cal. 3d 230, 236 (a district attorney should only exercise civil litigation authority which the "lawmaking body has, after careful consideration, found essential.") As all parties acknowledge, the UCL is entirely silent on the specific issue of statewide UCL authority for local prosecutors. In this context, the plain textual fact of legislative silence mandates the application of the sensible general rule that *local* prosecutors have *local* territorial jurisdiction absent specific legislative authorization to the contrary.

OCDA does not address, and cannot adequately address, the potentially serious problems of workability and conflicts of interest that would result from having 59 chief law enforcement officers in the state of California. In Part II above, CDAA further describes the inherent problems of workability, fairness, and conflicts of interest that would arise if each of the 58 district attorneys and the Attorney General had plenary authority over the exact same violations throughout the entire state. An individual district attorney, freed from the existing protective mechanisms of mutual consent and cooperation, could easily take action that might seem appropriate for his/her own county but would seriously undermine the rights and interests of consumers in other counties. Even with good faith efforts to avoid such results, no mechanism would exist to prevent those

outcomes if the state has 59 separate chief law enforcement officers, each acting on his/her own to prosecute widespread UCL violations.

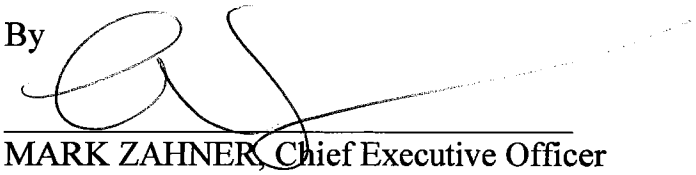
OCDA and its amici are silent on how such a chaotic allocation of standing and authority could be managed in order to prevent duplication of efforts, conflicts among competing enforcement actions, and diminished public respect for UCL law enforcement. This silence is understandable: In fact, there *is* no mechanism that would effectively prevent those chaotic and potentially unjust results if traditional constitutional safeguards were abandoned here.

CONCLUSION

For the foregoing reasons, the California District Attorneys Association respectfully urges this Court to affirm that a UCL law enforcement action brought on behalf of the People by a California district attorney is limited as a matter of law to that district attorney's local jurisdiction.

Respectfully submitted,

CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION

By 

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CERTIFICATE OF WORD COUNT

Pursuant to Rules of Court 8.204 and 8.520(c), I certify that this amicus curiae brief was prepared using a computer, that is proportionally spaced, that the type is 13 point, and that the word count is 4,505 words as determined by the word count feature of the word processing system.

DATED: March 21, 2019

Georgia A. Bozaich

DECLARATION OF SERVICE

I, Georgia A. Bozaich, declare as follows:
I am over the age of 18 and am not a party to the within action; my business address is 921 11th Street, Third Floor, Sacramento, CA 95814.

On March 21, 2019, I served the foregoing

APPLICATION FOR REQUEST TO FILE AMICUS CURIAE BRIEF and AMICUS CURIAE BRIEF IN SUPPORT OF THE REAL PARTIES IN INTEREST, THE PEOPLE OF THE STATE OF CALIFORNIA

BY OVERNIGHT DELIVERY: I enclosed an original copy, plus thirteen copies of the documents in a sealed envelope provided by an overnight delivery carrier and addressed to the Supreme Court of California as required by Supreme Court Rule 5(a). I placed the envelope or package for collection and overnight delivery at a regularly utilized drop box of the overnight delivery carrier.

BY U.S. MAIL: I served the attached documents by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Sacramento, CA, to each party listed on the service list.

I am readily familiar with this business's practice for collecting and processing correspondence for mailing; it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid

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I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 21 day of March 2019, at Sacramento, California.

Georgia A Bozaich

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