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INSIGHT · BUSINESS TORTS

§ 17200 in 2026: Restitution, Standing After Kwikset, and the Limits of UCL Recovery

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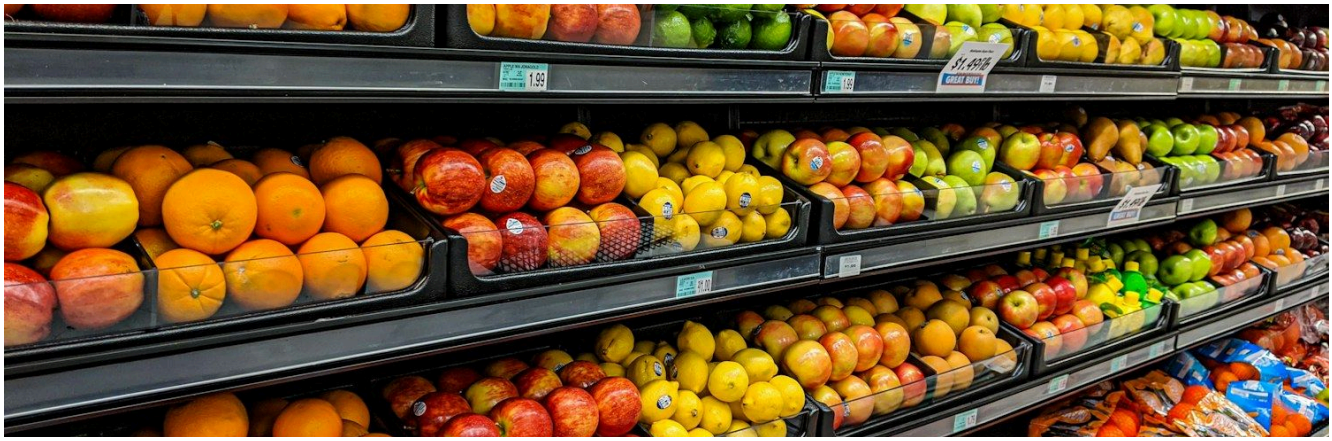

Business and Professions Code section 17200 pairs broad liability with narrowly equitable private remedies.

The Unfair Competition Law, Business and Professions Code section 17200 et seq., reaches a wide range of business conduct. Private recovery under it is narrow. This memorandum sets out the prongs, standing, and remedies as of November 2026.

I. Question Presented

Who may sue under the UCL, what may a private plaintiff recover, and what additional limits apply in class actions and in federal court?

II. Short Answer

A private plaintiff must have suffered injury in fact and lost money or property as a result of the challenged practice. *Kwikset* treats that as economic injury caused by the practice. Remedies are equitable: injunctions and restitution of money in which the plaintiff had an ownership or vested interest. Damages and nonrestitutionary disgorgement are unavailable in an individual action (*Korea Supply*). In a class action, only the representative must satisfy standing (*Tobacco II*). In federal court, a plaintiff seeking restitution for past harm must show that legal remedies are inadequate (*Sonner*). The limitations period is four years.

III. Governing Law

A. The Statute

Section 17200 defines unfair competition to include "any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising" and any act prohibited by the false advertising chapter beginning at section 17500. Section 17203 authorizes injunctions and orders "as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition." It permits representative claims only if the claimant meets section 17204 standing and complies with Code of Civil Procedure section 382.

Section 17204, as amended by Proposition 64 (approved by voters, Gen. Elec. (Nov. 2, 2004)), limits private actions to "a person who has suffered injury in fact and has lost money or property as a result of the unfair competition." Civil penalties of up to $2,500 per violation are recoverable only in actions brought by the Attorney General and specified local prosecutors. (§ 17206, subd. (a).) Any action under the chapter "shall be commenced within four years after the cause of action accrued." (§ 17208.)

B. The Three Prongs

Unlawful. Under *Cel-Tech Communications, Inc. v. Los Angeles Cellular Telephone Co.* (1999) 20 Cal.4th 163, the unlawful prong borrows violations of other laws and makes them independently actionable.

Unfair (competitor actions). *Cel-Tech* held that when a plaintiff claims injury from a direct competitor's unfair act, "unfair" means "conduct that threatens an incipient violation of an antitrust law, or violates the policy or spirit of one of those laws because its effects are comparable to or the same as a violation of the law, or otherwise significantly threatens or harms competition." The finding must be "tethered to some legislatively declared policy or proof of some actual or threatened impact on competition." The court also recognized safe harbors: "If the Legislature has permitted certain conduct or considered a situation and concluded no action should lie, courts may not override that determination." *Cel-Tech* announced its test for competitor suits; it does not resolve the standard for consumer actions.

Fraudulent. A plaintiff proceeding on a misrepresentation theory must demonstrate actual reliance. (*In re Tobacco II Cases* (2009) 46 Cal.4th 298, 326–327.)

C. Standing After Proposition 64: *Kwikset*

Kwikset Corp. v. Superior Court (2011) 51 Cal.4th 310 held that a private party must "(1) establish a loss or deprivation of money or property sufficient to qualify as injury in fact, i.e., economic injury, and (2) show that that economic injury was the result of, i.e., caused by, the unfair business practice or false advertising that is the gravamen of the claim." (*Id.* at p. 322.) Economic injury may be shown in many ways. A plaintiff may, for example, "surrender in a transaction more, or acquire in a transaction less, than he or she otherwise would have." (*Id.* at p. 323.)

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Consumers who bought locksets labeled "Made in U.S.A." had standing. They alleged they would not have bought the product but for the label. The court rejected the argument that they received the benefit of the bargain: "They bargained for locksets that were made in the United States; they got ones that were not." (*Id.* at p. 332.) It also held that "ineligibility for restitution is not a basis for denying standing under section 17204." (*Id.* at p. 337.)

D. Remedies: *Korea Supply*

Korea Supply Co. v. Lockheed Martin Corp. (2003) 29 Cal.4th 1134 held that a UCL action "is equitable in nature; damages cannot be recovered." Restitution is an order "compelling a UCL defendant to return money obtained through an unfair business practice to those persons in interest from whom the property was taken." The object of restitution "is to restore the status quo by returning to the plaintiff funds in which he or she has an ownership interest." Restitution also reaches money in which the plaintiff has a vested interest. The plaintiff there sought a commission it expected to earn from a competing bid. It had neither an ownership nor a vested interest. The court held that "nonrestitutionary disgorgement of profits is not an available remedy in an individual action under the UCL."

E. Class Actions: *Tobacco II*

Tobacco II held that Proposition 64's "standing requirements are applicable only to the class representatives, and not all absent class members." (46 Cal.4th at p. 306.) Reliance is shown where the misrepresentation was "an immediate cause" of the injury-producing conduct; it need not be the only cause. (*Id.* at p. 326.) "[A] presumption, or at least an inference, of reliance arises" on a showing of materiality. (*Id.* at p. 327.) Where the statements were part of an extensive and long-term advertising campaign, the representative is "not required to necessarily plead and prove individualized reliance on specific misrepresentations or false statements." (*Id.* at p. 328.)

F. Federal Court: *Sonner*

In *Sonner v. Premier Nutrition Corp.*, 971 F.3d 834 (9th Cir. 2020), the plaintiff dismissed her damages claim on the eve of trial and pursued only restitution under the UCL and the Consumers Legal Remedies Act. The Ninth Circuit held, applying *Erie* and *Guaranty Trust Co. v. York*, that she "must establish that she lacks an adequate remedy at law before securing equitable restitution for past harm." Federal equitable principles govern even when state law supplies the rule of decision.

IV. Analysis

A. Standing and Remedy Are Separate Inquiries

Kwikset and *Korea Supply* operate at different stages. A plaintiff may have standing because it lost money, yet be unable to obtain restitution because the defendant does not hold money in which the plaintiff has an ownership or vested interest. That plaintiff may still seek an injunction. Pleading should address both questions separately.

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B. Competitor Plaintiffs

Competitors face two constraints. The *Cel-Tech* test requires a link to antitrust policy or actual harm to competition. Restitution is often unavailable because lost profits or diverted business are not funds the competitor owned, as the commission in *Korea Supply* illustrates. Injunctive relief is usually the realistic objective.

C. Consumer Class Actions

Under *Tobacco II*, the representative's standing and reliance carry the class on standing. Materiality supports an inference of reliance. Restitution in a class action remains restitution: it must return money taken from persons in interest.

D. Choice of Forum

In federal court, *Sonner* requires the plaintiff to plead and prove that damages or other legal remedies are inadequate before restitution for past harm is awarded. A UCL claim pleaded alongside an adequate damages claim is vulnerable on that ground. State court applies the UCL's own remedial structure.

E. Timing

Section 17208 supplies a four-year period for UCL causes of action. Practitioners should calendar accrual for each predicate practice.

V. Practical Considerations

- Plead the specific economic injury and the causal link to the challenged practice, using the *Kwikset* categories.
- For misrepresentation theories, plead actual reliance and materiality.
- Identify the money or property to be restored and the plaintiff's ownership or vested interest in it.
- Do not plead damages or disgorgement of profits as UCL remedies in an individual action.
- In federal court, plead why legal remedies are inadequate.
- For representative relief, satisfy both section 17204 and Code of Civil Procedure section 382, as section 17203 requires.
- Remember that civil penalties belong to public prosecutors.

VI. Authorities Cited

- Bus. & Prof. Code, § 17200
- Bus. & Prof. Code, § 17203
- Bus. & Prof. Code, § 17204
- Bus. & Prof. Code, § 17206
- Bus. & Prof. Code, § 17208
- *Kwikset Corp. v. Superior Court* (2011) 51 Cal.4th 310

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