

Superior Court of the State of California

For the County of Los Angeles

Thomas Branick,	]	BC280759 et al
	]	
	]	
Plaintiff	]	
	]	Tentative Ruling on
vs.	]	Motions for Judgment
	]	
Homecoming - BC280759	]	On the Pleadings
Aurora - BC280768	]	
ABN Amro - BC280769	]	
Crossland & Wells Fargo - BC280770	]	Hon. Wendell Mortimer, Jr.
GMAC - BC280771	]	
	]	Dept. 307
	]	
	]	January 14, 2005

It is undisputed that plaintiff Thomas Branick, who brought these lawsuits on behalf of others, was not injured and has not lost money or property as a result of the conduct of the defendants. Defendants bring these motions for judgment on the pleadings based upon the recent passage of Proposition 64 which amends the unfair competition law in California to require plaintiffs to have standing. The question arises as to whether or not Proposition 64 applies to these existing lawsuits to bar recovery.

In reviewing the new legislation, B. & P. Code Section 17203 now states: "Any person may pursue representative claims or relief on behalf of others only if the claimant meets the standing requirements of Section 17204." The use of the term "pursue" implies the act of continuing to prosecute existing claims. B. & P. Code Section 17204 now provides in part: "Actions for any relief pursuant to this chapter shall be prosecuted exclusively in a court of competent jurisdiction by the Attorney General . . ." Again, the word "prosecute" appears to apply to the to the prosecution of existing cases. The enactment of the new standing requirement

is procedural in nature, not having to do with the merits, but having to do with who can prosecute the action.

"There is no vested right in existing remedies and rules of procedure and evidence. Generally speaking, the Legislature may change such rules and make changes apply retroactively to causes of action or rights which accrued prior to the change."

Parsons v. Tickner (1995) 31 C.A.4th 1513 at 1523

There is thus no impediment to applying the new language of the unfair competition law which prohibits prosecution of these cases by the plaintiff. Judgment on the Pleadings is granted.