



COURT OF APPEAL - SECOND DIST.

FILED

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Deputy Clerk

April 10, 2012

VIA U.S. MAIL

Honorable Presiding Justice and Associate Justices of the
California Court of Appeal
Second Appellate District, Division Four
Ronald Reagan State Building
300 S. Spring Street, 2nd Floor
Los Angeles, CA 90013

Re: *Medrazo v. Honda of North Hollywood*, case no. B230410
Request for Publication of Opinion filed March 27, 2012

Dear Honorable Justices:

Pursuant to Rule of Court 8.1120(a), I write on behalf of Consumer Attorneys of California ("CAOC") to request publication of this Court's opinion filed on March 27, 2012 in *Medrazo v. Bill Robertson & Sons, Inc. dba Honda of North Hollywood*, case no. B230410.

Statement of Interest

Founded in 1962, COAC is a voluntary non-profit membership organization of over 3,000 consumer attorneys practicing in California. Its members predominantly represent individuals subjected to consumer fraud, unlawful employment practices, personal injuries and insurance bad faith. CAOC has taken a leading role in advancing and protecting the rights of consumers, employees and injured victims in both the courts and in the Legislature. This has often occurred through class and other representative actions under California's Unfair Competition Law (Bus. & Prof. Code §§ 17200 et seq. ("UCL")). CAOC therefore has a substantive interest in upholding the public policies underlying the UCL for the benefit of workers and consumers.

CAOC has previously participated as amicus curiae in significant cases involving interpretation of the UCL, including *Kwikset Corp. v. Superior Court*, 51 Cal.4th 310 (2011), *Clayworth v. Pfizer, Inc.*, 49 Cal.4th 758 (2010), and *In re Tobacco II Cases*, 46 Cal.4th 298 (2009).

**The *Medrazo* Opinion Meets the Standards for Publication of Rule of Court
8.1105(c)**

The *Medrazo* opinion meets the standards for publication set forth in Rule of Court 8.1105(c) because it “[a]dvances a new interpretation” of several important aspects of the UCL, and also because it applies the law to “facts significantly different from those stated in published opinions.” Rule of Court 8.1105(c)(2), (3).

First, *Medrazo* is the first decision in more than six years to address a UCL class action that went to trial *and* to explain how UCL restitution is to be established and calculated for purposes of trial. Publishing *Medrazo* will provide valuable guidance to complement the six-year-old decision in *Colgan v. Leatherman Tool Group, Inc.* (2006) 135 Cal.App.4th 663, which is the only other recent decision on which parties can rely for direction on proof of UCL restitution at trial. Additional guidance is sorely needed, particularly in the context of non-false advertising cases. *Colgan*, unlike *Medrazo*, was a false advertising case. Also, *Medrazo* goes a step further than *Colgan* by explaining how UCL standing is to be handled at the *trial* of a UCL action. Slip op. at 11-12. *Colgan* was a pre-Prop. 64 case, so it did not address this issue. Publishing *Medrazo* would fill this gap in the post-Prop. 64 decisional law.

Second, *Medrazo* is the first decision since *Tobacco II* to address how UCL standing is to be established in a case involving the UCL’s “unlawful” prong rather than its “fraudulent” prong. Slip op. at 13-14. As the *Medrazo* opinion observes, the Supreme Court in *Tobacco II* (a false advertising case) expressly left that question open in famous footnote 17. Slip op. at 14, citing *Tobacco II*, 46 Cal.4th at 325 n.17. Publishing *Medrazo* will provide needed guidance to other courts and litigants dealing with UCL “unlawful” prong claims based on statutory violations, as they attempt to grapple with the *Tobacco II* footnote.

Third, *Medrazo* is the first case handed down since the Supreme Court issued its *Kwikset* opinion in January 2011 to address “injury in fact” and “lost money or property” in the context of an “unlawful” prong claim, as distinct from a claim based on false advertising as in *Kwikset*. Slip. op. at 14-16. The *Medrazo* decision will be helpful to the courts and litigants wrestling with these issues, and is appropriate for publication because it explains how statutory violations are to be evaluated under *Kwikset*’s interpretation of the UCL’s standing requirements. Its discussion of *Kwikset*’s “economic injury” requirement is particularly important because no other published opinions have applied *Kwikset* in a similar context.

Fourth, *Medrazo* is an important new decision because it addresses how UCL restitution is to be proven and measured (a) for purposes of liability at trial, (b) in the context of an “unlawful” prong case, and (c) in the context of a UCL class action. Slip op. at 16-17. Opinions addressing these issues are extremely scarce and guidance is needed. *Medrazo*’s holding

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regarding both the manner of proof and the calculation of restitution awards for unnamed class members in the context of a UCL class action will provide needed guidance for many other pending UCL cases.

Conclusion

For all of these reasons, the *Medraza* opinion meets the standards for publication of Rule of Court 8.1105(c). The Court is respectfully asked to certify the opinion for publication.

Respectfully submitted,



Kimberly A. Kralowec
State Bar No. 163158

cc: See attached proof of service

PROOF OF SERVICE

I, the undersigned, hereby declare under penalty of perjury that the following is true and correct:

I am a citizen of the United States; am over the age of 18 years; am employed by THE KRALOWEC LAW GROUP, located at 188 The Embarcadero, Suite 800, San Francisco, California 94105, whose principal attorney is a member of the State Bar of California and of the Bar of each Federal District Court within California; am not a party to the within action; and that I caused to be served a true and correct copy of the following documents in the manner indicated below:

1. REQUEST FOR PUBLICATION OF OPINION FILED MARCH 27, 2012; and
2. PROOF OF SERVICE.

By Mail: I placed a true copy of each document listed above in a sealed envelope addressed to each person listed below on this date. I then deposited that same envelope with the U.S. Postal Service on the same day with postage thereon fully prepaid in the ordinary course of business. I am aware that upon motion of a party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after date of deposit for mailing in the affidavit.

Counsel for Plaintiff and
Appellant Audrey Medrazo

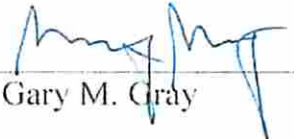
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Executed April 10, 2012 at San Francisco, California.



Gary M. Gray