

First Supplement to Memorandum 96-74

Unfair Competition Litigation: Final Recommendation Draft (Additional Revisions)

Several corrections and additions need to be made in the draft recommendation on *Unfair Competition* attached to Memorandum 96-74:

(1) In the explanatory text, on page 13, lines 17-18, the sentence should read: "The proposed law does not otherwise affect whatever judicial doctrines of res judicata, mootness, or equitable estoppel may apply under general principles."

(2) In the Comment to Section 17303, on page 16, the sentence fragment in line 42 should be deleted.

(3) In the Comment to Section 17306, on page 19, line 3, the word "along" should be changed to "long."

(4) The staff suggests that the following statement be added to the Comment to Section 17309, on page 20, line 45, to allay some concerns expressed at the last meeting:

Of course, if a judgment is obtained through extrinsic fraud, it may be attacked, either by a motion in the same action or by an independent action in a court of equity jurisdiction. *Estate of Sanders*, 40 Cal. 3d 607, 613-15, 710 P.2d 232, 221 Cal. Rptr. 432 (1986); *Rohrbasser v. Lederer*, 179 Cal. App. 3d 290, 297, 224 Cal. Rptr. 791 (1986); see also 8 B. Witkin, *California Procedure Attack on Judgment in Trial Court* §§ 195-222, at 595-627 (3d ed. 1985). The court may set aside the judgment or grant other appropriate relief. *Caldwell v. Taylor*, 218 Cal. 471, 475, 23 P.2d 758 (1933); 8 B. Witkin, *California Procedure Attack on Judgment in Trial Court* § 196, at 595 (3d ed. 1985).

Respectfully submitted,

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