

SUPREME COURT OF CALIFORNIA

Branick v. Downey Savings & Loan Ass'n

39 Cal. 4th 235, 138 P.3d 214, 46 Cal. Rptr. 3d 66 (2006) · No. S132433 · Decided July 24, 2006

SUMMARY

The California Supreme Court held that Proposition 64 applies to pending unfair competition and false advertising actions, including by revoking standing from plaintiffs who had not suffered injury in fact or lost money or property. The court rejected a categorical bar on amending complaints to substitute plaintiffs who satisfy Proposition 64's standing requirements. It affirmed remand to the superior court to apply ordinary rules governing leave to amend and relation back, including Code of Civil Procedure section 473 and the Norgart factors.

CASE DETAILS

COURT	Supreme Court of California
WRITING FOR THE COURT	Werdegar, J.; George, C.J.; Kennard, J.; Baxter, J.; Chin, J.; Moreno, J.; Corrigan, J.
JURISDICTION	California
DECIDED	July 24, 2006
DOCKET	S132433
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from a judgment entered after the superior court granted defendant's motion for judgment on the pleadings. The Supreme Court reviewed whether Proposition 64 barred amendment of the complaint to substitute or add a plaintiff with standing and whether such an amendment could relate back for statute-of-limitations purposes.
STANDARD OF REVIEW	Leave to amend is entrusted to the trial court's sound discretion and will not be disturbed absent a clear showing of abuse. The Supreme Court declined to decide the merits of an amendment not yet sought.
PRECEDENTIAL VALUE	published precedential opinion of the Supreme Court of California
PARTIES	Thomas Branick, Ardra Campbell, Plaintiffs and Appellants v. Downey Savings and Loan Association, Defendant and Respondent

TOPICS

motion to amend

statute of limitations

standing

motion for judgment on the pleadings

statutory interpretation

PRACTICE AREAS

civil procedure

consumer protection

commercial litigation

appellate procedure

QUESTIONS PRESENTED

1. Whether Proposition 64 categorically bars plaintiffs whose standing was revoked by the measure from amending their complaint to substitute or add a plaintiff who satisfies the amended standing requirements.
2. Whether ordinary California rules governing leave to amend apply to a proposed substitution of a plaintiff after Proposition 64 took effect.
3. Whether an amended complaint substituting a plaintiff with standing may relate back to the original complaint for statute-of-limitations purposes.
4. Whether the Supreme Court could determine at that stage whether plaintiffs' hypothetical amendment would introduce a wholly distinct legal obligation or cause of action.

HOLDINGS

1. Proposition 64 does not expressly or implicitly prohibit a plaintiff whose standing was revoked by the measure from seeking to amend the complaint to substitute or add a plaintiff who satisfies the measure's standing requirements.
2. A motion to substitute or add a plaintiff must be decided under the established rules governing leave to amend, including Code of Civil Procedure section 473; the decision rests initially within the trial court's discretion.
3. Whether an amendment substituting a plaintiff relates back must be determined under the ordinary relation-back doctrine; the amended complaint must rest on the same general set of facts, involve the same injury, and refer to the same instrumentality as the original complaint.

KEY QUOTATIONS

“Proposition 64 does not affect the ordinary rules governing the amendment of complaints and their relation back.” (46 Cal. Rptr. 3d 66)

“The relation-back doctrine requires that the amended complaint must (1) rest on the same general set of facts, (2) involve the same injury, and (3) refer to the same instrumentality, as the original one.” (46 Cal. Rptr. 3d 72)

“Leave to amend a complaint is thus entrusted to the sound discretion of the trial court.” (46 Cal. Rptr. 3d 71)

FACTUAL BACKGROUND

Before Proposition 64 took effect, Thomas Branick and Ardra Campbell sued Downey Savings and Loan Association under California's unfair competition and false advertising laws. They alleged that Downey misrepresented and overcharged customers for governmental recording fees but did not allege that they had transacted business with Downey, paid the fees, suffered injury in fact, or lost money or property. They asserted standing to sue on behalf of the general public under the former statutes.

PROCEDURAL HISTORY

Plaintiffs filed an action under California's unfair competition and false advertising laws before Proposition 64 was enacted, alleging defendant misrepresented and overcharged customers for governmental recording fees. The superior court granted defendant's motion for judgment on the pleadings based on federal preemption and entered judgment for defendant. The Court of Appeal reversed, held that Proposition 64 applied to the pending action, and remanded for the superior court to determine whether amendment should be permitted. The Supreme Court affirmed the Court of Appeal's judgment, holding that ordinary amendment and relation-back rules govern and that the superior court must decide any actual motion to amend in the first instance.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

If plaintiffs file a motion to amend, the superior court must decide it under the established rules governing leave to amend under Code of Civil Procedure section 473 and relation back of amended complaints. The superior court must determine, based on the proposed plaintiff and claims, whether amendment is warranted and whether it relates back.

CASES CITED

- *Californians for Disability Rights v. Mervyn's LLC*, 46 Cal. Rptr. 3d 57, 138 P.3d 207 (Cal. 2006)
- *Bertero v. National General Corp.*, 13 Cal. 3d 43, 50, 118 Cal. Rptr. 184, 529 P.2d 608 (1974)
- *Rusheen v. Cohen*, 37 Cal. 4th 1048, 1056-1057, 39 Cal. Rptr. 3d 516, 128 P.3d 713 (2006)
- *Stop Youth Addiction, Inc. v. Lucky Stores, Inc.*, 17 Cal. 4th 553, 561, 71 Cal. Rptr. 2d 731, 950 P.2d 1086 (1998)
- *Committee on Children's Television, Inc. v. General Foods Corp.*, 35 Cal. 3d 197, 211, 197 Cal. Rptr. 783, 673 P.2d 660 (1983)
- *Haley v. Dow Lewis Motors, Inc.*, 72 Cal. App. 4th 497, 506-509, 85 Cal. Rptr. 2d 352 (1999)
- *Klopstock v. Superior Court*, 17 Cal. 2d 13, 19-21, 108 P.2d 906 (1941)
- *California Air Resources Bd. v. Hart*, 21 Cal. App. 4th 289, 300-301, 26 Cal. Rptr. 2d 153 (1993)
- *Jensen v. Royal Pools*, 48 Cal. App. 3d 717, 720-723, 121 Cal. Rptr. 805 (1975)
- *Powers v. Ashton*, 45 Cal. App. 3d 783, 790, 119 Cal. Rptr. 729 (1975)
- *Norgart v. Upjohn Co.*, 21 Cal. 4th 383, 408-409, 87 Cal. Rptr. 2d 453, 981 P.2d 79 (1999)
- *Salazar v. Eastin*, 9 Cal. 4th 836, 860, 39 Cal. Rptr. 2d 21, 890 P.2d 43 (1995)

- *Diliberti v. Stage Call Corp.*, 4 Cal. App. 4th 1468, 6 Cal. Rptr. 2d 563 (1992)
- *Summit Office Park v. United States Steel Corp.*, 639 F.2d 1278, 1282 (5th Cir. 1981)
- *Illinois Brick Co. v. Illinois*, 431 U.S. 720, 97 S. Ct. 2061, 52 L. Ed. 2d 707 (1977)
- *Gibson v. World Savings & Loan Assn.*, 103 Cal. App. 4th 1291, 128 Cal. Rptr. 2d 19 (2002)

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