



# CMA v. Aetna (Cal. S. Ct.)

Topics Covered: Managed Care, Medical Society Advocacy

## Issue

The issue in the instant appeal is what showing of harm is necessary for a membership organization to demonstrate legal standing to sue under California's Unfair Competition Law (UCL).

## AMA Interest

The AMA opposes any penalties implemented by insurance companies against physicians when patients independently choose to obtain out-of-network services. AMA policy also supports state medical association efforts to curb managed care abuses.

## Case Summary

The California Medical Association (CMA) and others sued Aetna in 2012, seeking to enjoin Aetna from inhibiting in-network physicians from referring their patients to out-of-network providers.

In April 2019, after nearly seven years of litigation, all plaintiffs other than CMA agreed to dismiss their claims and Aetna agreed to abandon its counterclaims. Aetna then moved for summary judgment, contending that CMA lacked standing to bring a non-class representative UCL action because it was not directly harmed by Aetna's policy. CMA argued that it had standing because CMA itself had diverted substantial resources to investigate Aetna's policy and to assist its member physicians who had been harmed. In November 2019, the trial court granted Aetna's motion for summary judgment, ruling that CMA had failed to show a direct injury from Aetna's conduct.

On April 28, 2021, the California Court of Appeal affirmed the trial court's decision, holding that an organization must show it directly suffered economic loss to have standing under the UCL.

On June 7, 2021, CMA sought review of the appellate court decision by the California Supreme Court, and on July 29, 2021, the Court granted review.

## Litigation Center Involvement

The Litigation Center joined an *amicus* brief in support of CMA's petition for review to the California Supreme Court.

California Supreme Court Brief