

California Supreme Court Clarifies Equitable Exceptions Applicable to Statute of Limitations in Unfair Competition Lawsuits

On January 24, 2013, the California Supreme Court in *Aryeh v. Canon Business Solutions, Inc.*, clarified previously unsettled law by holding that the so-called “continuous accrual” common law theory of equitable tolling applies to the four-year statute of limitations for actions brought under California’s unfair competition statute, Business & Professions Code section 17200 et seq. (the “UCL”). Based on this holding, the Court resurrected a UCL claim against the defendant, Canon Business Solutions, Inc., and effectively opened the door to claims in other cases asserting recurring unfair acts that, before *Aryeh*, may have been construed as time-barred.

In *Aryeh*, the trial court dismissed the plaintiff’s UCL-based complaint, which had been filed in January 2008, yet alleged that the defendant had committed unfair and fraudulent business practices beginning as early as 2002, on the ground that the plaintiff’s claim was time-barred pursuant to the UCL’s four-year statute of limitations. *See* Cal. Bus. & Prof. Code § 17208. A divided Court of Appeal affirmed the dismissal of the complaint, with the majority agreeing with the trial court that equitable tolling doctrines could not be applied to extend the statute of limitations for UCL claims. The California Supreme Court reversed.

In reversing the lower appellate court, the California Supreme Court resolved a long-standing split over whether the UCL “categorically” foreclosed common law equitable exceptions to the UCL’s statute of limitations. The Court observed that the split among the lower courts of appeal resulted from courts’ improper application of judicial interpretations of the federal Sherman Act (15 U.S.C. § 1 et seq.) and Clayton Antitrust Act (15 U.S.C. § 12 et seq.) to the UCL. In particular, the Court held that interpretations of federal antitrust law are “at most instructive, not conclusive,” when construing California’s Cartwright Act. The Court further held that the Cartwright Act and the UCL, although each addressing aspects of unfair business competition, have “markedly different origins and scopes,” such that interpretations of the Cartwright Act should be not considered equally applicable to the “unrelated UCL.”

Aryeh does not, however, create a free-for-all for plaintiffs’ attorneys. Rather, the equitable tolling doctrines applicable to the UCL remain exceptions – albeit significant ones – to the “default” last-element accrual rule, which provides that a claim accrues once all of its elements are complete. Indeed, the Court remarked that the UCL “left courts free to determine whether the circumstances in each case call for application of either the general last element rule of accrual or any of its equitable exceptions.”

If you have any questions or would like to learn more about the issues raised by the Court in this decision, please contact your Ropes & Gray advisor.

For the full text of the Supreme Court’s Decision in *Aryeh v. Canon Business Solutions, Inc.*, please [click here](#).