

AGENDA ITEM

163 July 2015

DATE: July 2, 2015

TO: Members, Stakeholders and Access to Justice Committee
Members, Board of Trustees

FROM: Pam Wilson, Senior Director, Education

SUBJECT: Antitrust & Unfair Competition Section Bylaw Change

EXECUTIVE SUMMARY

The Executive Committee of the Antitrust & Unfair Competition Law Section would like to change the name of the section to the Antitrust UCL & Privacy Section. The new name better defines the areas of law covered by the section and requires a change to the section bylaws which must be approved by the Board of Trustees.

BACKGROUND

The Antitrust & Trade Regulation Law Section was established in 1981 to further the knowledge of its members in federal and state antitrust & trade regulation law, focusing on litigation and antitrust counseling. In 1998 the section changed its name to the Antitrust & Unfair Competition Law Section to better define the areas of law covered by the section.

After careful consideration, the Antitrust & Unfair Competition Law Section Executive Committee voted unanimously to request the name of the section be changed to Antitrust UCL & Privacy Section.

The request to change the name of a section requires a change to the section bylaws. Amendments to the bylaws of a section of the State Bar must be approved by the Board. (Board Book, Tab 20 [Sections], Art. 1, Sec. 8.).

DISCUSSION

Privacy law is a burgeoning area for both plaintiff and defense lawyers in the state as well as federal, state and local law enforcement. It is an area of significant growth and the Executive Committee of the Antitrust & Unfair Competition Law Section has had several intensive discussions about the emerging area of privacy law.

The Antitrust & Unfair Competition Law Section is best positioned to address this growth area. This is because, at bottom, privacy is unfair competition law (UCL) issue. To the extent that a company misrepresents its privacy protections, it is potentially a deceptive practice covered by UCL and false advertising laws, all laws within the scope of the section. To the extent that a

company engages in lax data security practices and exposes consumers' personal and financial data to hackers or violates one of the state's freestanding privacy statutes, that is potentially an unfair and/or unlawful act within the UCL. For all these reasons, the Executive Committee believes that it makes sense to change the section's name to make explicit what is already implicit -- namely, that the Antitrust Section covers privacy issues.

At the April meeting of the Council of State Bar Sections all sections were made aware of the Antitrust & Unfair Competition Law Section request to change its name to the Antitrust UCL & Privacy Section. There were no objections or concerns.

FISCAL / PERSONNEL IMPACT

None

RULE AMENDMENTS

None

BOARD BOOK IMPACT

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BOARD COMMITTEE RECOMMENDATION

The Stakeholders and Access to Justice Committee recommends that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees approve the request of the Antitrust & Unfair Competition Law Section Executive Committee to change the name of the section to the Antitrust UCL & Privacy Section; and it is

FURTHER RESOLVED, that the Board of Trustees approve a revision to the section's bylaws changing all references to the Antitrust & Unfair Competition Law Section to the Antitrust UCL & Privacy Section.