

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CHAMBER OF COMMERCE OF THE
UNITED STATES; CALIFORNIA
CHAMBER OF COMMERCE;
EMPLOYERS GROUP; CALIFORNIA
HEALTHCARE ASSOCIATION;
CALIFORNIA MANUFACTURERS AND
TECHNOLOGY ASSN.; CALIFORNIA
ASSOCIATION OF HEALTH FACILITIES;
CALIFORNIA ASSOCIATION OF HOME
& SERVICES FOR THE AGING; BETTEC
CORPORATION; MARKSHERM
CORPORATION; ZILACO INC., ZILACO;
DEL RIO HEALTHCARE, INC.;
BEVERLY HEALTH & REHABILITATION
SERVICES, INC. dba Beverly Manor
Costa Mesa; INTERNEXT GROUP,
Plaintiffs-Appellees,

CALIFORNIA LABOR FEDERATION,
AFL-CIO; AMERICAN
FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL
ORGANIZATIONS,
Intervenors-Appellants,

v.

No. 03-55166
D.C. No.
CV-02-00377-GLT

BILL LOCKYER, Attorney General,
in his capacity as Attorney
General of the State of California;
DEPARTMENT OF HEALTH SERVICES;
FRANK G. VANACORE, as the Chief
of the Audit Review and Analysis
Section of the California
Department of Health Services;
DIANA M. BONTA, R.N., Dr., Ph.D,
as the Director of the California
Department of Health Services,
Defendants.

CHAMBER OF COMMERCE OF THE
UNITED STATES; CALIFORNIA
CHAMBER OF COMMERCE;
EMPLOYERS GROUP; CALIFORNIA
HEALTHCARE ASSOCIATION;
CALIFORNIA MANUFACTURERS AND
TECHNOLOGY ASSN.; CALIFORNIA
ASSOCIATION OF HEALTH FACILITIES;
CALIFORNIA ASSOCIATION OF HOME
& SERVICES FOR THE AGING; BETTEC
CORPORATION; MARKSHERM
CORPORATION; ZILACO INC., ZILACO;
DEL RIO HEALTHCARE, INC.;
BEVERLY HEALTH & REHABILITATION
SERVICES, INC. dba Beverly Manor
Costa Mesa; INTERNEXT GROUP,
Plaintiffs-Appellees,
and

No. 03-55169
D.C. No.
CV-02-00377-GLT
ORDER

CALIFORNIA LABOR FEDERATION,
AFL-CIO; AMERICAN
FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL
ORGANIZATIONS,

Intervenors-Appellants,

v.

BILL LOCKYER, Attorney General,
in his capacity as Attorney
General of the State of California;
DEPARTMENT OF HEALTH SERVICES;
FRANK G. VANACORE, as the Chief
of the Audit Review and Analysis
Section of the California
Department of Health Services;
DIANA M. BONTA, R.N., Dr., Ph.D,
as the Director of the California
Department of Health Services,

Defendants-Appellants.

On Remand from the United States Supreme Court

Filed September 15, 2008

Before: Alex Kozinski, Chief Judge, Mary M. Schroeder,
Stephen Reinhardt, Robert R. Beezer, Andrew J. Kleinfeld,
Michael Daly Hawkins, Sidney R. Thomas,
Barry G. Silverman, M. Margaret McKeown,
Kim McLane Wardlaw, Raymond C. Fisher,
Richard A. Paez, Johnnie B. Rawlinson, Richard R. Clifton
and Consuelo M. Callahan, Circuit Judges.

ORDER

This case was remanded to us from the United States
Supreme Court. *See Chamber of Commerce of U.S. v. Brown,*

128 S. Ct. 2408 (2008). In light of the Supreme Court's decision, we VACATE our opinion in *Chamber of Commerce of U.S. v. Lockyer*, 463 F.3d 1076 (9th Cir. 2006), and REMAND to the district court for further proceedings consistent with the opinion of the Supreme Court.

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