CALIFORNIA SUPREME COURT HOLDS THAT LIFE INSURANCE IS NOT A "SERVICE" UNDER CALIFORNIA'S CONSUMERS LEGAL REMEDIES ACT

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Is life insurance a "service" that is regulated under California's Consumers Legal Remedies Act (Civ. Code Section 1750 et seq.). According to the highest court in this state, the answer is "No."

In coming to this conclusion, the California Supreme Court held that the salient provisions of the CLRA were unambiguous and that "insurance" was neither a "good" (which is defined as "tangible chattel[] bought or leased for use primarily for personal, family, or household purposes...") nor a "service" (which is defined as "work, labor, and services for other than a commercial or business use, including services furnished in connection with the sale or repair of goods").

Though it remarked that there was no need to look at the legislative history, the California Supreme Court held that the history confirmed its conclusion. Specifically, the model law from which the California legislature largely adapted for drafting the CLRA, expressly defined "service" to include "insurance." The fact that "insurance" was expressly excluded from the definition of "service" under the CLRA reflected a strong legislative intent to exclude "insurance" from the reach of the CLRA.

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The California Supreme Court also rejected the argument that "services" are provided in connection with the sale of insurance and processing claims and that these "services" can be regulated under the CLRA. In rejecting this argument, the court stated the following:

"As Farmers points out, ancillary services are provided by the sellers of virtually all intangible goods — investment securities, bank deposit accounts and loans, and so forth. The sellers of virtually all these intangible items assist prospective customers in selecting products that suit their needs, and they often provide additional customer services related to the maintenance, value, use, redemption, resale, or repayment of the intangible item. Using the existence of these ancillary services to bring intangible goods within the coverage of the Consumers Legal Remedies Act would

defeat the apparent legislative intent in limiting the definition of "goods" to include only "tangible chattels." (Civ. Code, §1761, subd. (a).) We conclude, accordingly, that the ancillary services that insurers provide to actual and prospective purchasers of life insurance do not bring the policies within the coverage of the Consumers Legal Remedies Act."

The case should be of some assistance to those in the industry who are presently dealing with CLRA's class claims, although it is unlikely that it will be completely dispositive of most cases as most actions brought under the CLRA, would have been coupled with other claims, including one brought under California's Unfair Competition Law. Nevertheless, this decision should finally serve as a robust obstacle to the plaintiff's bar continuous reliance upon the CLRA to regulate insurer conduct.

[A copy of the opinion is here.]