

Denial of Class Certification in Annuity Case Overruled Under a De Novo Standard of Review

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Last week, the Ninth Circuit Court of Appeals reversed a District Court decision denying class certification in [Yokoyama v. Midland National Life Insurance Company](#), ___ F.3d ___, 2009 WL 2634770 (9th Cir. August 28, 2009). *Yokoyama* concerns a class action involving the sale of annuities to senior citizens where the Ninth Circuit addressed, for the first time, the standard of review of a class certification where the underlying issue is purely an issue of law. Under existing precedent articulated by *Parra v. Bashas', Inc.*, 536 F.3d 975, 977 (9th Cir. 2008), a district court's class action certification is reviewed on appeal under an abuse of discretion standard of review. However, the Ninth Circuit reasoned that this conflicted with U.S. Supreme Court precedent that all issues of law must be reviewed *de novo*. See *Salve Regina Coll. V. Russell*, 499 U.S. 225, 231 (1991). In *Yokoyama*, the issue was whether Hawaii consumer protection statutes require a finding of individual reliance. Since the class certification turned on this narrow issue of Hawaii state law, the Ninth Circuit Court of Appeals found that the proper standard of review was *de novo*.

For a more detailed analysis of this case, please visit the [Barger Wolen Insurance Litigation & Regulatory Law Blog](#).