

[California Supreme Court Accepts Review of Case that Allowed Trebling of UCL Restitution](#)

Posted on September 9, 2009 by [Larry Golub](#)

On September 9, 2009, a unanimous panel of the California Supreme Court accepted review of the Court of Appeal decision in *Clark v. Superior Court (National Western Life Insurance Company)*. In so doing, the Supreme Court will address an issue of first impression under California law – whether a statute that provides for trebling of penalties and fines can be applied to private actions under California’s Unfair Competition Law (UCL) that allows only restitution as the sole monetary remedy.

In the Court of Appeal decision issued May 21, 2009, the appellate panel found that Civil Code section 3345, which permits trebling of penalties and fines in cases involving seniors, could be applied to restitution awards under the UCL. No case had ever so held this trebling remedy to apply to private UCL actions since the enactment of section 3345 in 1988, and no case had ever permitted any sort of damages, be they compensatory, treble or punitive, under the UCL. On June 29, 2009, National Western Life Insurance Company filed its [Petition for Review](#) with the Supreme Court, raising a number of arguments as to why the Court of Appeal decision was in error and that the case raised an important question of law. Several parties submitted amicus curiae letters in support of the Petition.

With the granting of review, the Court of Appeal decision is now automatically de-published and no longer citable as precedent. Briefing before the Supreme Court will occur over the next several months, but a decision from the Supreme Court is not expected until at least the end of 2010.

Kent Keller and Larry Golub of Barger & Wolen are counsel for National Western Life Insurance Company and filed the Petition for Review.