

Ninth Circuit Strikes Down California "Armenian Genocide" Insurance Claims Statute

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By [John C. Holmes](#) and [Richard B. Hopkins](#)

In an 11-0 *en banc* published decision, the [Ninth Circuit Court of Appeals](#) struck down [California Code of Civil Procedure section 354.4](#) which purported to recognize the Armenian Genocide.

Section 354.4 revived the statute of limitations for claims made by "Armenian Genocide victims" or their heirs, voided contractual forum-selection clauses, and vested California courts with jurisdiction to hear disputes regarding such claims.

Overtaking contrary rulings in the same case by the District Court and a 3-judge Ninth Circuit panel, the *en banc* panel in [Movsesian v. Versicherung AG](#), Case No. 07-56722, held that because section 354.4 does not concern an area of traditional state responsibility and intrudes on the field of foreign affairs entrusted exclusively to the federal government, section 354.4 is preempted under the foreign affairs doctrine.

The Court found that section 354.4 "expresses a distinct point of view on a specific matter of foreign policy."

The Court also noted that the phrase "Armenian Genocide" is a "hotly contested matter of foreign policy" and that:

"President Obama was careful to avoid using the word 'genocide' during a commemorative speech in an attempt to avoid alienating Turkey, a NATO ally, which adamantly rejects the genocide label."

Emphasizing the highly political nature of the statute, the Court noted that the California Legislature:

"intended to send a political message on an issue of foreign affairs by providing relief and a friendly forum to a perceived class of foreign victims."

The Court distinguished the law from merely "expressive" government proclamations, such as commemorations of the Armenian Genocide, on the ground that section 354.4 imposes a concrete policy of redress for "Armenian Genocide victim[s]," subjecting foreign insurance companies to suit in California by overriding forum-selection provisions and greatly extending the statute of limitations for a narrowly defined class of claims.

Moreover, the Court held that section 354.4:

"has a direct impact upon foreign relations and may well adversely affect the power of the central government to deal with those problems."

Therefore, the Court concluded that section 354.4 intrudes on the federal government's exclusive power to conduct and regulate foreign affairs.

[Barger & Wolen](#) has represented and currently represents life insurers in matters involving litigation brought by “Armenian Genocide victims” and similarly situated parties.