

The Bang from Zhang: Shockwaves Already Felt in California

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The California Supreme Court's significant decision in *Zhang v. Superior Court*, reported in our last issue (see *Expect Focus*, Vol. III, Summer 2013), has already impacted state and federal practice. The key holding, that insurance practices violating California's Unfair Insurance Practices Act (UIPA) can support a cause of action under that state's Unfair Competition Law (UCL), has already been relied upon by numerous courts. The Ninth Circuit cited *Zhang* in reversing a trial court's dismissal of a UCL claim, finding that the fact that the alleged conduct may have also violated the UIPA did not bar the UCL claim. And the California Supreme Court mentioned *Zhang* by analogy in holding that violations of the federal Truth in Savings Act could support a UCL "unlawful" claim. As importantly, the plaintiffs' bar has been quick to react, and insurers appear more likely to face complaints that allege violations of various insurance laws as predicate UCL claims. In existing cases, plaintiffs may move to amend their complaints or for reconsideration of earlier rulings. For example, in a case involving equity-indexed universal life insurance, *Walker v. Life Ins. Co. of the S.W.*, the plaintiffs recently moved for reconsideration and to amend their complaint to re-allege UCL claims that were dismissed over two years ago. They argued that under *Zhang*, the purported violation of the state laws regarding the content of illustrations could now support a cause of action under the UCL. Whether or not courts allow plaintiffs to succeed remains to be seen, but companies should be aware that even their past victories may be open to re-litigation.

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