



California Usury Laws: Still Clear as Mud

California's usury laws show no sign of becoming more clear or concise. Steven Kurtz reports on the most recent California Supreme Court decisions, which still have not managed to reconcile the old laws with new.

Despite the recent trend towards an unfriendly business environment in the U.S., you probably do transactions in California, because there's a lot of business in the state.

California has very strict usury laws, prompting many of you to address compliance issues with the California Department of Business Oversight, which oversees licensing and enforcement activities against lenders. The maximum interest rate for non-exempt lenders is currently 10% per annum. Lenders who violate California's usury laws may be required to repay three times the usurious interest paid over one year, along with a host of other civil and criminal penalties.

On November 14, 2019, the California Supreme Court in *Wishnev v. The Northwestern Mutual Life Insurance Company*, 2019 DJDAR 10528, addressed one of the few

usury cases that has reached the court's docket. This case will likely be cited for years to come, because it provided a pretty detailed history of California usury law and cited many of the major usury cases on both the prosecution and defense sides. In deciding the case, the California Supreme Court admitted, "California usury laws, which regulate the charging of interest, are far from a model of clarity." The court

recognized the state's usury laws are a patchwork of voter initiatives, state constitutional amendments, the California Financial Code, state regulations and Federal law.

Wishnev was a class action suit against the Northwestern Mutual Life Insurance Company. The plaintiff purchased four whole life insurance policies. He later borrowed money and secured the



Steven N. Kurtz, Esq. has represented factors, banks, and asset-based lenders on a continuous basis since 1987. He is the co-general counsel to the IFA and a founding partner of Levinson Arshonsky & Kurtz, which has offices in California and Oklahoma. He practices in the areas of commercial law, insolvency, workouts, loan documentation, and trade finance, in both transactions and litigation matters. He can be reached by phone at 818-382-3434 or by email at skurtz@laklawyers.com.