

[Earle v. Unum Life Ins. Co of America](#)

Year: 2020

Court: The United States Court of Appeals for the Ninth Circuit

Case Number: 2:19-cv-02903-JFW-AFM

In its brief, UP seeks leave of the Appellate Court of California to reverse the district court's application of an abuse of discretion standard of review. UP also seeks reversal of the district court's incorrect determination that California Insurance Code § 10110.6, which bans discretionary clauses in insured disability policies, is not a fundamental policy of the State of California, and that California does not have a greater material interest in the issue than the State of Maine.

UP argues three things:

1. The California Supreme Court would hold that Maine's choice of law provision in the USC's benefits plan is contrary to the fundamental public policy expressed in Cal. Ins. Code § 10110.6.
 - a. This section focuses on what constitutes California's fundamental public policy as fleshed out in California common law and statute.
2. California has a far greater interest than Maine in enforcement of its fundamental policy of prohibiting discretionary clauses.
3. Affirmance of the District Court would eviscerate ERISA's savings clause
 - a. Simply put, where a conflict exists between policy language chosen by an insurance company and unpreempted state law, unpreempted state law prevails because to hold otherwise would nullify ERISA's saving clause.

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