

Recent Supreme Court Ruling May Render Businesses More Susceptible to Federal Class Action Suits

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On March 31, the Supreme Court of the United States issued a major decision that could make businesses more susceptible to federal class action suits. *Shady Grove Orthopedic Associates, P.A. v. Allstate Insurance Co.* (Mar. 31, 2010).¹ *Shady Grove* presented the Court with a conflict between a New York state law that prohibited class actions seeking penalties and Rule 23 of the Federal Rules of Civil Procedure, which has no such limitation.

A majority of justices held that Rule 23 of the Federal Rules of Civil Procedure took precedence over the conflicting New York state law on the grounds that Rule 23 sets forth the exclusive criteria for determining whether a class action may proceed. Four justices went further and stated that any federal rule that regulates procedure is valid under the Rules Enabling Act, regardless of any incidental effects on state-created rights.

The future direction of the law, however, will be controlled by the concurrence of Justice Stevens, which expressed a narrower view of the extent to which federal procedural rules may displace state law in federal court. Although Justice Stevens agreed that Rule 23 should prevail over the particular state law at issue, Justice

Stevens disagreed with the plurality's interpretation of the Rules Enabling Act and the plurality's contention that federal procedural rules always trump state procedural rules. Justice Stevens wrote that the relevant inquiry should ask whether a federal procedural rule "would displace a state law that is procedural in the ordinary use of the term but is so intertwined with a state right or remedy that it functions to define the scope of the state-created right." In such a case, the federal procedural rule must give way to the state procedural rule, pursuant to the mandate of the Rules Enabling Act. According to Justice Stevens, a "mere possibility" that a federal rule would alter a state-created right is not enough. Rather, there must be "little doubt." Applying this analysis, Justice Stevens found that Rule 23 should govern in *Shady Grove* because the New York law did not define rights or remedies.

As a result of *Shady Grove*, businesses may be more susceptible to federal class action suits, whereas in the past they may have been immunized from certain class action suits by state statutes. It remains to be seen whether *Shady Grove* signals a broader trend regarding conflicts between federal rules and state laws.

¹ Opinion available at <http://www.supremecourt.gov/opinions/09pdf/08-1008.pdf>

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