

## **U.S. Supreme Court Broadens Availability of Class Actions in Federal Courts**

By: Robert J. Re, Sally A. Clements

April 8, 2010

On March 31, 2010, the Supreme Court of the United States broadened the scope of class actions that may be filed in federal courts and restricted individual states' ability to limit the scope of such class actions.

In *Shady Grove Orthopedic Assocs. v. Allstate Ins. Company*, 2010 U.S. LEXIS 2929 (Mar. 31, 2010), the Supreme Court held, in a 5-4 decision, that Federal Rule of Civil Procedure 23 ("Rule 23") permitted plaintiffs to maintain a class action against Allstate for failure to pay interest on late-paid claims despite the existence of a New York statute precluding class action certification for suits seeking such penalties. Shady Grove Orthopedics provided medical services to Sonai E. Glavez for injuries sustained in an automobile accident and was assigned Ms. Glavez's rights to insurance benefits under a policy issued by Allstate Insurance Company. Shady Grove alleged that Allstate did not pay or deny the claim within 30 days, as required by New York statute (*N.Y. Ins. Law. Ann.* § 5106 (a)). Allstate ultimately paid the claim, but refused to pay the statutorily imposed interest rate of 2%. Shady Grove filed a class action suit in the Eastern District of New York to recover the unpaid interest on its own behalf, as well as on behalf of all others to whom Allstate owed interest.

The District Court dismissed the suit for lack of jurisdiction based on New York's Civil Practice law § 901(b), which precludes a class action "to recover a penalty, or minimum measure of recovery created or imposed by statute." The court applied the more restrictive § 901(b) despite Rule 23 requirements that the class meet only the prerequisites of numerosity, commonality of questions of law or fact, typicality of the representative plaintiffs to the class members and adequacy of the representation. The Second Circuit affirmed the dismissal on the grounds that New York's § 901(b) was not in conflict with any federal rule.

The Supreme Court held that Rule 23 addressed the requirements to obtain class certification and was in conflict with New York § 901(b). Specifically, Rule 23 provides procedural requirements to certify a class action while New York's statute restricts a court's ability to certify a class action if the claim is for statutory penalties.

The Supreme Court's analysis as to whether Rule 23 would trump New York's § 901(b) restriction on class actions next focused on whether Rule 23 exceeded statutory authorization or Congress' constitutional rulemaking power. The Supreme Court upheld Rule 23, that allows a court to adjudicate claims of multiple parties in a single suit rather than in separate suits, as a purely procedural rule that left "the parties' legal rights and duties intact and the rules of decision unchanged." Rule 23 therefore passed constitutional muster, since it merely regulated "the manner and the means" by which litigants rights were enforced. Because § 901(b) was also a facially procedural statute addressing the requirements for class action certification, the Court held that Rule 23, rather than § 901(b), would control class action certification in actions brought in New York federal courts.

The Supreme Court's decision in *Shady Grove* opens federal courts to class action suits that may have

been otherwise precluded by state procedural laws attempting to limit the availability of such suits. The Court's bright line analysis of the procedural nature of the Federal Rules in this area is tempered only by the concurring opinion of Justice Stevens whose partial agreement with the four dissenting members of the Court provides a potential exception. Specifically, Justice Steven opined that where a state's ostensibly procedural rule actually "operate[s] to define the rights and remedies available in a case" it may be deemed to be "so bound up with the state-created right or remedy that it defines the scope of that substantive right or remedy." Although Justice Stevens did not find a sufficient showing had been made in *Shady Grove* that § 901(b) was a substantive law that would be affected by the application of Rule 23, his opinion leaves open the argument that other state procedural laws may be deemed effectively substantive and applicable to class actions in federal courts.