



News Release

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DRI Brief Requests Supreme Court Review in *Jacobsen v. Allstate Insurance Co.* *Questions of 14th Amendment Rights of Due Process in Class Action Suit*

CHICAGO – (March 6, 2014)—DRI—The Voice of the Defense Bar has filed an amicus brief with the U.S. Supreme Court seeking review in the case of *Jacobsen v. Allstate Insurance Co.* The brief was submitted by DRI's Center for Law and Public Policy.

The case is one in which Montana courts have endorsed class action procedures that deprive defendants of defenses that would be available to them in individual actions. The *Allstate v. Jacobsen* petition arises from an opinion of the Montana Supreme Court. In a 4–3 decision, a majority of that court approved a class action procedure that will permit a jury to decide whether the class as a whole is entitled to punitive damages based on Allstate's Montana claims-adjustment policies, without even considering whether Allstate engaged in misconduct towards any particular class member. Allstate petitioned the Supreme Court for review, arguing that the class action procedures approved by the Montana Supreme Court will violate Allstate's federal due process rights.

In supporting Allstate's petition for review, DRI noted that the Court has already held that courts cannot adopt class action procedures that deprive a defendant of defenses that would be available to the defendant in an individual action. The Court has also held that punitive damages must be determined based on an individualized assessment of the defendant's conduct towards the plaintiff in each particular case; punitive damages cannot be imposed based on a generalized determination that the defendant, whether individual or company, adopted objectionable practices. Thus, when the Montana Supreme Court permitted the class-wide determination of entitlement to punitive damages in this case, it eliminated a defense that Allstate would be entitled to raise in an individual lawsuit.

DRI's brief points out that state and federal courts have issued conflicting decisions on this issue and that the Supreme Court's review is necessary to ensure that lower courts no longer adopt class action procedures that violate the requirements of due process.

DRI brief authors David Axelrad, Felix Shafir, and Curt Cutting of Horvitz & Levy LLP in Los Angeles, California, are available for interview or for expert comment through DRI's Communication Office.

For the full text of the amicus brief, [click here](#).

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