Shady Grove v. Allstate:
An Erie Sequel(?) and Its Effects Moving Forward

By

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_Shady Grove v. Allstate_ has grabbed the attention of both litigators and intellectuals alike. The opinion may either create confusion, consternation, or celebration among the legal community, but certainly gives a 21st Century flavor to the Erie Doctrine and the line of cases which have developed and the result on class action litigation going forward.\(^1\)

Few cases are as important as the 1938 case _Erie Railroad v Tompkins_, in the shaping of modern Federal civil procedure.\(^2\) In _Erie_, the Supreme Court ruled that when a case is in Federal Court, but involves a state law claim, federal procedural rules govern how the case proceeds, with state substantive law determining the outcome. Put another way, the Erie Court both ruled that there was no federal common law and that substantive state law applied in federal cases, unless the question itself was federal in nature. The _Erie_ doctrine, as it was later coined, while unkind to the hopes of the plaintiffs such as Mr. Tompkins, did regulate future decisions and filings in Federal Courts.\(^3\)

Moving forward to 2009, what seems to be settled law in the New York Federal Courts was about to be turned on its head. The Supreme Court agrees to hear the case of _Shady Grove v. Allstate_. This case seemed a settled question to many observers. The Court took until March of 2010 to publish its opinion. In an interesting move by the conservative and pro-business side of the Court, it found common ground outside of the business interest’s comfort zone. In a plurality decision, Justice Scalia announced that state laws cannot pre-empt federal procedural rules; thus state laws barring class actions in Federal Courts will fail. This decision seems to fly in the face

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3. Remember that Mr. Tompkins became a “trespasser”. Pennsylvania state law barred claims against the railroads for negligence when trespassers were injured, except in circumstances where the negligence was wanton or willful.