

Dentons secures complete appellate victory for Allstate

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January 8, 2014

Chicago, IL —A Litigation team led by Chicago partners Rick Fenton and Steven Levy and associate Mary Mills obtained a decisive affirmation for Allstate Floridian Insurance Company in the US Court of Appeals for the Eleventh Circuit, which dismissed a putative class action suit over allegedly excessive premium rates that had sought over \$5 million in damages. The Eleventh Circuit dismissed the appeal in a fully published opinion detailing the plaintiff's failure in their appeal to challenge the entire list of independent grounds on which the trial court had ruled against them, effectively abandoning those arguments and resulting in a total victory for our client.

The plaintiffs in the case, *Sapuppo v. Allstate Floridian Insurance Company*, claimed that Allstate had violated Chapter 2007-1 of the Laws of Florida over a 14-month period in 2007 and 2008, during which the company charged higher rates despite receiving subsidized reinsurance from the state. Although an arrangement was struck between the insurer and Florida's Office of Insurance Regulation that reduced its premiums in 2008, the plaintiffs filed a complaint in 2012 seeking the return of gains made during that period to a putative class of policyholders. The trial court disagreed and dismissed the case on two main grounds: that the filed rate doctrine barred legal action on rates that had been approved by a regulatory agency, and that there was no private right of action written into the law by the Florida legislature.

The plaintiffs appealed on these findings in their brief but neglected to address the alternative grounds that the district court had also deemed independently suitable to defeat each of their four claims. The appeals court found this to constitute an effective waiver and abandonment of those arguments, thus justifying affirmance on that basis alone.

"To obtain reversal of a district court judgment that is based on multiple, independent grounds, an appellant must convince us that every stated ground for judgment against him is incorrect," wrote Chief Judge Carnes in the Eleventh Circuit ruling. "When an appellant fails to challenge properly on appeal one of the grounds on which the district court based its judgment, he is deemed to have abandoned any challenge of that ground, and it follows that the judgment is due to be affirmed."

This decision is significant not only as a full victory for Allstate but also in the advancement of the detailed waiver and abandonment issues that were critical to the success of this case, which will prove an important precedent for other appellate clients.

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