Press Release

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WLF Asks U.S. Supreme Court to Curb Abusive Class Action Certifications by State Courts

(Allstate Insurance Co. v. Jacobsen)

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> **– Richard Samp, WLF Chief Counsel**

WASHINGTON, DC—The Supreme Court's 2011 decision in *Wal-Mart Stores, Inc. v. Dukes* recognized significant limits on the certification of class-action lawsuits in federal courts. In a brief filed today with the High Court, the Washington Legal Foundation asks the Court to rule that *Wal-Mart*'s controls on class actions apply to state courts as well.

WLF filed its brief in support of a petition for review of a decision of the Montana Supreme Court, which certified a massive class action against Allstate Insurance Co. One individual who was unhappy with the way Allstate handled his insurance claim filed the suit, but the court named him as the representative of a class consisting of every Montana resident who settled a claim with Allstate without the assistance of a lawyer, at any time in the past 20 years. Brushing aside Allstate's insistence that all claims settlements turn on unique sets of facts, the Montana court held that one massive class-action trial will be used to determine whether Allstate's settlement practices violated Montana law. If a jury finds against Allstate, then every class member would be entitled to seek both compensatory and punitive damages.

Wal-Mart held that federal rules do not permit federal courts to certify class actions in this manner because it unfairly deprives defendants of the right to raise all available defenses. The Supreme Court held that because a jury finds that a defendant treated one plaintiff unfairly is no reason to prevent the defendant from submitting evidence it did not treat other plaintiffs unfairly. WLF's brief argues that the *Wal-Mart* rule is essential to any concept of procedural fairness and thus should bind state courts as well—via the 14th Amendment's Due Process Clause. WLF argues that class-certification orders like the one issued by the Montana Supreme Court below are all too common and essentially force defendants to settle even the most frivolous lawsuits.

After filing its brief, WLF issued the following statement by Chief Counsel Richard Samp: "Lawsuits of this sort—in which the claims of each policyholder turn on facts specific to him—are virtually never appropriate for class-action treatment because they could never be brought to trial; yet they serve the purposes of the plaintiffs' bar by exerting tremendous settlement pressure on defendants. The Montana Supreme Court erred here, and the U.S. Supreme Court ought to correct this injustice and hold state courts to the same standards it applies to federal courts."

WLF is a public interest law firm and policy center that regularly litigates in support of civil justice reform, to ensure that unwarranted lawsuits do not drive up costs for all consumers.

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