

Massaron, DeLorenzo co-author DRI Brief to the Supreme Court Supports Arizona Petition in *Arizona v. California*

Josephine A. DeLorenzo
(313) 983-4338
jdelorenzo@plunkettcooney.com

Mary Massaron
(313) 983-4801
mmassaron@plunkettcooney.com

May 8, 2019

DRI – The Voice of the Defense Bar has filed an amicus brief with the Supreme Court in *Arizona v. California*, in which Arizona has filed a motion for leave to file a bill of complaint, which is the procedural device for starting an original action in the court. The brief was filed for DRI by its Center for Law and Public Policy.

The impetus for the suit is California's assessment of a "doing business" tax on non-resident passive investors in limited liability companies, and its use of a seizure order that operates extrajudicially to take assets when the tax is not paid. Arizona alleges that California's tax scheme violates the United States Constitution's Due Process and Commerce Clauses, as well as the Fourth Amendment (protecting against unreasonable searches and seizures).

The issues raised by Arizona are important to DRI and its membership. DRI has a longstanding interest in assuring that states do not operate extraterritorially against individuals and entities that have never engaged in any conduct that would avail themselves of the benefits of the state's jurisdiction.

In its brief supporting Arizona's position, DRI argued that California's extraterritorial tax assessments and seizures against nonresident passive investors violate principles of Due Process because those investors lack minimum contacts with California sufficient to confer taxing authority. DRI further contended that the "doing business" tax is inconsistent with the constitutional limitation on state power imposed by the federal system of government, and urged the court to reaffirm such limitations.

MASSARON, DELORENZO CO-AUTHOR DRI BRIEF TO THE SUPREME COURT SUPPORTS ARIZONA PETITION IN *ARIZONA V. CALIFORNIA* Cont.

DRI emphasized that principles of Our Federalism (as recognized by the court in the past) recognize that individual investors and businesses make decisions regarding the states in which they will do business and reside based in part on the regulatory and legal climate. DRI argued that if the limits of state jurisdiction are not enforced then those individual investors and entities will be unable to predict and protect against being the subject of taxation and the seizure of assets without judicial proceedings by the choices they make about where to reside, operate their businesses, or make their investments. The National Federation of Independent Businesses (NFIB) joined DRI on the brief.

Co-authors of the DRI brief, Mary Massaron, former DRI president, and Jo DeLorenzo of Plunkett Cooney in Bloomfield Hills, MI, are available for comment through the contact information listed above.

The full text of the brief can be found here.

For more than fifty-five years, DRI has been the voice of the defense bar, advocating for 22,000 defense attorneys, commercial trial attorneys, and corporate counsel and defending the integrity of the civil judiciary. A thought leader, DRI provides world-class legal education, deep expertise for policy-makers, legal resources, and networking opportunities to facilitate career and law firm growth. For more information, log on to www.dri.org

###