

class actions lawflash

March 26, 2013

CAFA Jurisdiction Cannot Be Evaded by Limiting Amount in Controversy

The U.S. Supreme Court holds in a 9–0 decision that class action plaintiffs cannot promise to limit damages in an effort to remain below the Class Action Fairness Act’s \$5 million federal jurisdictional threshold.

Under the Class Action Fairness Act (CAFA), a defendant in a class action filed in state court may remove the case to federal court if, among other requirements, the projected amount in controversy exceeds \$5 million. Notwithstanding that provision, some class action plaintiffs have successfully avoided CAFA removal by stipulating that they will not seek more than \$5 million on behalf of the putative class. On March 19, the U.S. Supreme Court unanimously held in *Standard Fire Insurance Co. v. Knowles* that a named plaintiff cannot avoid federal CAFA jurisdiction (if CAFA jurisdiction is otherwise appropriate) by stipulating, prior to class certification, that the class will not seek aggregate damages in excess of \$5 million.¹ The Court held that a precertification stipulation by the named plaintiff is not binding on the absent putative class members. As a result, the stipulation is illusory and ineffective in defeating CAFA jurisdiction.

This decision is significant because it increases the likelihood that class action defendants will be able to successfully remove class actions to federal court, where discovery is often more limited than in state court and class certification standards may be more stringent. The *Standard Fire* decision also eliminates one tactic class action plaintiffs have been using to avoid litigating in federal court.

It is likely that the rule announced in *Standard Fire* will also apply to other similar tactics used by class action plaintiffs. For example, assertions by a plaintiff in a complaint about the amount in controversy have been found by some courts to create a heightened burden of proof for a defendant to establish that more than \$5 million is in controversy under CAFA. Although *Standard Fire* did not address this specific issue, the Supreme Court held that district courts, when assessing the amount in controversy for CAFA purposes, should ignore assertions by the class action plaintiff attempting to limit the amount in controversy. The Supreme Court also noted the importance of CAFA’s “primary objective,” which is to ensure that federal courts can consider “interstate cases of national importance.”²

The decision does not expressly resolve the divergent case law on the burden of proof placed on the defendant to establish the amount in controversy, which ranges from a “preponderance of the evidence” to a “legal certainty” standard. Nevertheless, any damages-limitation stipulation from the named plaintiff should not result in a heightened burden on the defendant to establish the amount in controversy, as suggested in decisions such as the U.S. Court of Appeals for the Ninth Circuit’s pronouncement in *Lowdermilk v. U.S. Bank National Ass’n*.³ Until that issue is squarely resolved in the courts, removing defendants will be wise to continue to use extra care in establishing that the projected amount in controversy exceeds the \$5 million threshold.

1. *Standard Fire Insurance Co. v. Knowles*, No. 11-1450 (U.S. Mar. 19, 2013), available at http://www.supremecourt.gov/opinions/12pdf/11-1450_9olb.pdf.

2. *Id.* at 6 (quoting §2(b)(2), 119 Stat. 5).

3. *Lowdermilk v. U.S. Bank Nat’l Ass’n*, 479 F.3d 994 (9th Cir. 2007).

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