

Plaintiff Can't Avoid CAFA Removal by Stipulating to Damages Cap

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A stipulation by a class-action plaintiff that he and the class will seek damages that are less than the threshold for jurisdiction under the Class Action Fairness Act of 2005 (CAFA) does not defeat federal jurisdiction under the Act.

On March 19 the U.S. Supreme Court resolved a split of authority among federal circuit courts regarding whether a plaintiff in state court can prevent removal by signing a stipulation at the beginning of the case, stating that the class won't seek damages in excess of \$5 million. Several circuits said a plaintiff could avoid removal in this manner. Other circuits denied this practice because a named plaintiff cannot bind absent class members without certification. The unanimous decision eliminates a forum shopping tool used by plaintiff's class action lawyers to avoid federal court.

This is not an employment case. However, many press reports confirm that wage and hour class actions pose one of the greatest financial threats to employers. This decision will benefit potential class action defendant employers by allowing a federal forum for the action. Class plaintiffs generally prefer state courts, so they often try to defeat federal jurisdiction — as the plaintiff, Knowles, tried in this case.

For more information read [Standard Fire Ins. Co. v. Knowles, No. 11-1450 \(U.S. Sup. Ct., Mar. 19, 2013\)](#).

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