

It just got Easier to Remove Class Actions

2 min read

Sep 4, 2013

By: Peter J. Felsenfeld

In *Rodriguez v. AT&T Mobility Services LLC* the [Ninth Circuit](#) cited recent [United States Supreme Court](#) precedent to make it more difficult for class action plaintiffs to pursue their claims in state court.

Rodriguez has two important takeaways for parties litigating class actions:

1. The lead plaintiff cannot prevent a removing defendant from satisfying the [Class Action Fairness Act's](#) ("CAFA") \$5 million amount in controversy requirement simply by purporting to waive any claims in excess of that amount.
2. Removing defendants now must demonstrate by a "preponderance of evidence" – as opposed to the more rigorous "legal certainty" standard – that the amount in controversy exceeds the \$5 million jurisdictional minimum.

Rodriguez, a retail sales manager at an AT&T wireless store, brought a putative class action in Los Angeles County Superior Court against his employer asserting various claims relating to alleged unpaid wages, overtime compensation and damages for statutory violations.

AT&T removed the case to federal court pursuant to CAFA, which establishes that district courts have original subject matter jurisdiction over class actions in which a member of the plaintiff class is a citizen of a state different from any defendant and the aggregate amount of the class members' claims exceeds \$5 million.

Rodriguez argued that AT&T failed to satisfy the \$5 million requirement because:

1. the operative complaint specifically stated that "the aggregate amount in controversy is less than \$5 million," and
2. Rodriguez further purported to waive seeking more than \$5 million.

In opposition, AT&T submitted sworn declarations from company representatives demonstrating that the amount in controversy would likely exceed \$10 million.

The district court ordered remand to state court based solely on Rodriguez's purported waiver of claims exceeding \$5 million. The Ninth Circuit reversed.

In so holding, the court relied on the recent U.S. Supreme Court ruling in *Standard Fire Ins. Co. v. Knowles*, in which the Court held that a lead plaintiff in a class action could not evade federal jurisdiction by stipulating that the amount in controversy fell below the jurisdictional minimum. The *Standard Fire* Court based its ruling, in part, on the principle that a plaintiff could not bind members of a proposed class before certification.

Notably, the issued the *Standard Fire* ruling *after* the district court granted Rodriguez’s remand motion. The *Rodriguez* court thus took the opportunity to update Ninth Circuit law in light of the Supreme Court’s direction.

Consistent with *Standard Fire*, the *Rodriguez* court held that a removing defendant may now look to evidence outside the four corners of the complaint to demonstrate that the amount in controversy exceeds \$5 million. Previously, under *Lowdermilk v. U.S. Bank Nat’l Ass’n* Ninth Circuit plaintiffs could plead their way out of federal court. That, the court held, is no longer the law.

Significantly, the court further held that a defendant seeking removal of a putative class action must prove by a “preponderance of evidence” that the aggregate amount in controversy exceeds the jurisdictional minimum. This is much less demanding than the “legal certainty “ standard established in *Lowdermilk*, which arose from the plaintiff’s ability to plead to avoid federal jurisdiction.

In sum, *Rodriguez* is a positive development for corporate defendants who would prefer to litigate class actions in federal court.

Please contact the author if you have any questions about this case.

Topics

Wage And Hour, Class Action, Case Updates, Ninth Circuit Court Of Appeals