

Client Alert

National Class Action Practice Group

September 5, 2012

Standard Fire Insurance Co. v. Knowles: **Supreme Court to Decide if a Plaintiff May Stipulate Away Federal Jurisdiction Under CAFA**

On August 31, 2012, the United States Supreme Court granted certiorari in *Standard Fire Insurance Co. v. Knowles*, No. 11-1450, indicating its intent to address, for the first time, the scope of the Class Action Fairness Act of 2005 (CAFA). Specifically, the Court granted certiorari to decide whether a named plaintiff in a putative class action can avoid federal jurisdiction under CAFA by stipulating that she seeks damages, on behalf of herself and the absent class members, in an amount less than the jurisdictional minimum of \$5 million. In doing so, the Court will resolve a split among several circuit courts of appeals and address an issue that has considerable ramifications for the reach of CAFA.

The District Court and Eighth Circuit Decisions

In *Knowles*, the named plaintiff sued Standard Fire Insurance Co. (“Standard Fire”) in Arkansas state court, alleging that Standard Fire breached his insurance contract by underpaying property damage claims. The plaintiff sought to assert his claim on behalf of himself and a statewide class. With his complaint, the plaintiff submitted an affidavit stating that he sought damages—for both himself and the alleged class he sought to represent—of less than \$5 million.

Standard Fire removed the case to the United States District Court for the Western District of Arkansas, invoking jurisdiction under CAFA. The plaintiff then moved to remand the case to state court, arguing (among other things) that the amount in controversy did not meet the CAFA jurisdictional threshold of \$5 million because of his purportedly binding stipulation. In opposing the plaintiff’s motion, Standard Fire demonstrated that, but for the purported stipulation, the amount in controversy exceeded the \$5 million threshold. Standard Fire also argued that the stipulation was ineffective because (i) the plaintiff only agreed not to “seek” damages exceeding \$5 million, leaving open the possibility of “accepting” such damages; and (ii) the plaintiff’s attorneys did not sign the stipulation and thus could recover fees that increased the total recovered damages to over \$5 million.

The district court agreed with the plaintiff and remanded the case. *Knowles v. Standard Fire Ins. Co.*, No. 4:11-cv-04044, 2011 WL 6013024, at *4

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(W.D. Ark. Dec. 2, 2011). Standard Fire sought permission to appeal the remand decision to the Eighth Circuit Court of Appeals, but the Eighth Circuit denied its request. Standard Fire then sought rehearing, both by the panel and *en banc*. The Eighth Circuit also denied those requests. Consequently, Standard Fire filed a petition for a writ of certiorari with the United States Supreme Court, which granted the petition.

The Legal Landscape

In holding that the plaintiff's stipulation was binding, the district court followed Eighth Circuit precedent. In *Bell v. Hershey Co.*, 557 F.3d 953 (8th Cir. 2009), the Eighth Circuit held that named plaintiffs can avoid federal jurisdiction by purporting to limit their damages, and the damages of the alleged class, to less than \$5 million. Since the *Bell* decision, a number of district courts in the Eighth Circuit have followed suit, remanding purported class actions for lack of jurisdiction because of pleading-stage stipulations ostensibly limiting classwide damages to less than \$5 million. See, e.g., *Thompson v. Apple, Inc.*, No. 3:11-cv-03009, 2011 WL 2671312, at *2 (W.D. Ark. July 8, 2011); *Murphy v. Reebok Int'l, Ltd.*, No. 4:11-cv-214, 2011 WL 1559234, at *2 (E.D. Ark. Apr. 22, 2011).

Indeed, while Standard Fire's petition for rehearing was pending in the Eighth Circuit, that court issued its decision in *Rolwing v. Nestle Holdings, Inc.*, 666 F.3d 1069, 1072 (8th Cir. 2012). In *Rolwing*, the Eighth Circuit removed any remaining doubt that it considered a named plaintiff's pleading-stage stipulation purporting to limit damages on behalf of absent class members sufficient to defeat federal jurisdiction under CAFA. The chief rationale underlying the court's conclusion is that a named plaintiff, as the "master of his complaint," may plead himself into or out of federal court. The Eighth Circuit was the first circuit court of appeals to reach this conclusion.

Other jurisdictions have rejected plaintiffs' attempt to avoid federal jurisdiction by disclaiming class damages over \$5 million. The Fifth, Sixth, and Seventh Circuits have indicated that a named plaintiff cannot disclaim damages on behalf of the members of an uncertified class. See *Smith v. Nationwide Prop. & Cas. Ins. Co.*, 505 F.3d 405, 407 (6th Cir. 2007); *Back Doctors Ltd. v. Metro. Prop. & Cas. Ins. Co.*, 637 F.3d 827, 830 (7th Cir. 2011); see also *Ditcharo v. UPS*, 376 Fed. Appx. 432, 437 (5th Cir. 2010) (reaching the same conclusion in context of traditional diversity jurisdiction). These appellate courts have recognized that a named plaintiff in a putative class action may not, consistent with his fiduciary duties to the absent class members and those absent class members' Due Process rights, prospectively limit the damages the absent class members may recover. See, e.g., *Back Doctors*, 637 F.3d at 830; *Ditcharo*, 376 Fed. Appx. at 437. Such stipulations, therefore, are not "binding," at all; instead, they are merely vehicles by which class action plaintiffs can litigate their claims in their preferred fora: state courts.

Why Does This Issue Matter to Class Action Defendants?

Congress passed CAFA with the express intent of expanding federal jurisdiction over high-stakes class action lawsuits, in response to the widely chronicled abuses of the class action device in state courts. The Eighth Circuit's holdings in *Bell*, *Knowles*, and most recently, *Rolwing*, permit class action plaintiffs to evade federal court jurisdiction simply by purporting to limit their damages—and the damages of the purported class members—to less than \$5 million. If this ruling is allowed to stand, defendants in the Eighth Circuit must litigate many class actions that otherwise would be litigated in federal courts, as CAFA contemplates, in the very state courts that engaged in the abuses that led to CAFA's enactment in the first place.

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By granting certiorari in *Knowles*, the Supreme Court has the opportunity both to resolve a split among circuits that leads to uncertainty among defendants and forum-shopping among plaintiffs, and to ensure that class action plaintiffs cannot circumvent the purpose of CAFA merely by purporting to limit their own damages and the damages of the absent class members.

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