

# BURR ALERT

## A Look at the Supreme Court's Recent Decision in Standard Fire v. Knowles and the Trend of Recent Victories for Class Action Defendants

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### I. Introduction

On March 19, 2013, the United States Supreme Court issued its decision in Standard Fire Ins. Co. v. Knowles, \_\_\_ S. Ct. \_\_\_, 2013 WL 1104735. Writing for the unanimous Court, Justice Stephen Breyer wrote that a representative of a yet-to-be-certified class, or that putative class's counsel, cannot avoid removal of a putative class action to Federal Court under the Class Action Fairness Act ("CAFA") via a precertification stipulation that the damages sought by the class would be less than the CAFA jurisdictional threshold of \$5 million.

The Knowles decision is another win in an identifiable trend of recent victories for class action defendants at the Supreme Court. This alert provides a summary of the recent Knowles decision and how it impacts the viability of a long-used "loophole" allowing removal under CAFA, a brief discussion of the trend of recent Supreme Court decisions in favor of class action defendants, and references for further reading.

### II. The Knowles Decision

Knowles filed a proposed class action in Arkansas State Court against the Standard Fire Insurance Company. With the class action Complaint, he also filed and served a stipulation stating that he and the class would seek less than \$5 million in damages. Pointing to CAFA, which gives Federal District Courts original jurisdiction over class actions in which the matter in controversy exceeds the value of \$5 million in the aggregate, Standard Fire removed the case to the local Federal District Court in Arkansas. The District Court, though, on the motion of Knowles, remanded the case to the State Court concluding that, based on the stipulation of damages Knowles had filed and served, the amount in controversy did not exceed \$5 million.

Justice Breyer wrote that there is a "simple" reason for deciding that such a stipulation makes no difference in how a District Court should decide whether to maintain jurisdiction over a case removed under CAFA: a stipulation must be binding. The stipulation that class representative Knowles offered, though, does not speak for those persons he purports to represent. A plaintiff who files a proposed class action, observed Justice Breyer, cannot legally bind members of the proposed class before the class is certified. Because the precertification stipulation does not

bind anyone other than himself, Knowles has not reduced the value of the putative class members' claims. The Court further characterized the stipulation as "contingent" on future events (i.e., the certification of the class).

This could be seen as a stark departure from one of the longest-standing Supreme Court precedents on removal of cases to Federal Court and the plaintiff's ability, as the "master of his/her case", to avoid removal by stipulating to recover an amount below the federal jurisdictional requirement. Nearly 75 years ago, the Supreme Court held just that in the seminal St. Paul Mercury Indemnity Co. v. Red Cab Co., 303 U.S. 283, 294 (1938). But, because of the "simple" reason cited by the Supreme Court that stipulations can only bind those persons who parties to said stipulations, Red Cab actually does not apply: individual plaintiffs outside of the class action context may in fact stipulate to recover an amount lesser than the federal jurisdictional minimum (\$75,000 since 1996). Those stipulations are binding on all individual plaintiffs. Knowles cannot, though, bind the putative class because the class is not yet certified or definite.

In light of the foregoing, the Supreme Court vacated the decision of the Eighth Circuit Court of Appeals and remanded the case to the District Court advising that the stipulation at issue should be ignored for purposes of the remand decision.

### **III. The Trend of Recent Victories for Class Action Defendants at the Supreme Court and the Immediate Impact of the Knowles Decision**

The Knowles opinion, though, is just one win in a trend of recent victories at the Supreme Court for class action defendants. Just a week after the Knowles opinion was issued, in fact, the Court issued its sharply divided opinion in Comcast Corp. v. Behrend, 569 U.S. \_\_\_\_, 2013 WL 1222646 (Mar. 27, 2013), which dealt with a heightened class certification standard. In Comcast, the Court made clear that the "rigorous analysis" standard for class certification detailed and expanded in Wal-Mart Stores, Inc. v. Dukes, 131 S.Ct. 2541 (2011), applies to class action damages issues, even when those issues overlap substantially with the merits of the class action case. Justice Scalia wrote for the majority that in conducting this "rigorous analysis" it "may be necessary for the court to probe behind the pleadings before coming to rest on the certification question."

The heightened class certification standards announced in Comcast appear to apply to all class actions regardless of the nature of the substantive claims, as just six (6) days later the Court granted writs of certiorari and then promptly vacated the Seventh Circuit's affirmation of class certification in Ross v. RBS Citizens, N.A., 667 F.3d 900 (7th Cir. 2012), vacated and remanded by \_\_\_\_, S.Ct. \_\_\_\_, 2013 WL 1285303 (Apr. 1, 2013), and the Sixth Circuit's affirmation of class certification in Whirlpool Corp. v. Glazer, 678 F.3d 409 (6<sup>th</sup> Cir. 2012), vacated and remanded by

\_\_\_\_ S.Ct. \_\_\_\_, 2013 WL 1285305 (Apr. 1, 2013). The Supreme Court advised the lower courts that these certifications should be examined in light of the Court's March 27 Comcast holding.

Even the Knowles ruling is already having a noticeable impact in the lower courts. Just in the few weeks since it was issued, Knowles has been cited to deny a motion to remand. See Jarrett v. Panasonic Corp. of N.A., 2013 WL 1276995 (E.D. Ark. Mar. 27, 2013) (citing Knowles and ignoring stipulation of class representative as to damages for purposes of removal under CAFA).

## Conclusion

An examination of the recent opinions of the Roberts Court makes it clear that class action defendants' interests are being served. With good reason, the Court continues to support Congress' enactment of CAFA so as to keep many class actions in the federal courts to avoid state court abuses so common to class action defendants. The Knowles decision unanimously closed a loophole that class action plaintiffs have been using to avoid federal jurisdiction since CAFA's enactment – the stipulation to accept no more than \$5 million in damages for the entire class. Because class action litigation continues to reach the circuit appellate courts all across the country, the Roberts Court should have many more opportunities over the coming months and years to continue to shape the law in this very important area.

## IV. References and Further Reading

- a. Guest Supreme Court blogger Debra Lyn Basset, professor of law at Southwestern Law School, in Los Angeles, California, discusses the Knowles decision and unanswered questions it creates: <http://www.scotusblog.com/2013/03/opinion-analysis-precertification-stipulations-to-limit-class-damages-are-not-binding/>
- b. A brief analysis of the Supreme Court's vacating of Glazer and Ross in light of Comcast. <http://www.natlawreview.com/article/comcast-v-behrend-strikes-again-supreme-court-vacates-and-remands-ross-v-rbs-citizen>
- c. The Knowles opinion. [http://www.supremecourt.gov/opinions/12pdf/11-1450\\_90lb.pdf](http://www.supremecourt.gov/opinions/12pdf/11-1450_90lb.pdf)

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