



# Alert

## Class and Derivative Actions

To: Our Clients and Friends

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### Supreme Court Ruling Protects Class-Action Defendants' Right to Federal Jurisdiction

Yesterday, the Supreme Court unanimously held in *Standard Fire Insurance Co. v. Knowles* that a plaintiff hoping to represent a class does not defeat federal jurisdiction under the Class Action Fairness Act ("CAFA") by stipulating to seek less than \$5 million in damages even though the class' aggregate damages would be greater absent the stipulation. This practice had become widely accepted in the Eighth Circuit, leading to the remand of many putative class actions to state court. Other circuits, however, had refused or expressed reluctance to give the same effect to pre-certification recovery stipulations. The Supreme Court used *Knowles* to address this circuit split.

On behalf of the Court, Justice Breyer wrote that pre-certification stipulations do not defeat federal jurisdiction under CAFA for a "simple" reason: "Stipulations must be binding." In light of Supreme Court precedents, such as *Smith v. Bayer Corp.*, 564 U.S. \_\_ (2011), that hold a putative class plaintiff cannot bind absent members of the class until the class is certified, a pre-certification recovery stipulation does not limit the amount in controversy under CAFA. Therefore, the federal district court was required to aggregate the value of the claims of all potential class members in calculating the amount in controversy pursuant to CAFA's directive. The simplicity of the seven-page ruling is striking in light of the complex jurisdictional arguments presented in the briefing and explored at oral argument.

The Court believed that non-binding pre-certification stipulations capable of defeating federal jurisdiction would be an end-around the statutory purpose of CAFA. Although a plaintiff is master of his complaint, permitting a non-binding pre-certification stipulation to defeat federal jurisdiction "would squarely conflict" with CAFA's purpose, which the Court noted was to ensure "Federal court considerations of interstate cases of national importance."

The Court rejected Knowles' contention that the federal district court may only consider the complaint and accompanying stipulation in front of it, and not consider what the Court deemed "the very real possibility that a non-binding, amount-limiting, stipulation may not survive the class certification process." Even if the case were remanded, a state court could deem Knowles an inadequate class representative or his counsel to be inadequate; the state court may permit the class to be certified

only if Knowles' recovery stipulation is disclaimed, or an absent class member could intervene if he did not believe that Knowles adequately represented his interests.

The Court's ruling will not drastically affect the CAFA removal process as practiced in most circuits, but it does remove the "binding stipulation" from the tactics plaintiffs' attorneys may use to keep their cases in state courts. Significantly for class-action defendants, the ruling protects their right to federal jurisdiction upon a showing the amount in controversy exceeds \$5 million. Perhaps just as important will be defendants' future use of this opinion to address other tactics that class action plaintiffs use to avoid federal jurisdiction. In particular, the opinion can be read as supporting the view that limiting claims to avoid federal jurisdiction may provide grounds for finding the plaintiff to be an inadequate class representative. For now, a unanimous Court indicates it will enforce Congress' express intent to open federal courthouse doors to large class actions and will not allow plaintiffs to artificially limit class recovery to avoid that result.

For more information about this topic, please speak to your Bryan Cave contact or one of the authors:

Jeffrey Russell  
Partner, St. Louis  
Tel 1 314 259 2725  
[jsrussell@bryancave.com](mailto:jsrussell@bryancave.com)

James Smith  
Partner, Phoenix  
Tel 1 602 364 7011  
[jdsmith@bryancave.com](mailto:jdsmith@bryancave.com)

Douglas Thompson  
Partner, Los Angeles  
Tel 1 310 576 2106  
[douglas.thompson@bryancave.com](mailto:douglas.thompson@bryancave.com)

Timothy Hasken  
Associate, St. Louis  
Tel 1 314 259 2879  
[tim.hasken@bryancave.com](mailto:tim.hasken@bryancave.com)