



FOR IMMEDIATE RELEASE

August 18, 2010

**COURT URGED TO RECONSIDER RECENT
RULING THAT WOULD SEVERELY UNDERMINE
THE CLASS ACTION FAIRNESS ACT**

(Cappuccitti v. DirecTV, Inc.)

U.S. Court of Appeals for the Eleventh Circuit

The Washington Legal Foundation (WLF) this week urged the U.S. Court of Appeals for the Eleventh Circuit to reconsider a recent panel opinion that would severely undermine the Class Action Fairness Act (CAFA). In a brief filed in *Cappuccitti v. DirecTV, Inc.*, WLF argued that the panel's decision to dismiss the case for lack of federal jurisdiction under CAFA was not only contrary to binding circuit precedent, but wholly subverts the plain text of CAFA, which looks only to the aggregated amount of the class's claims and not at the individual amount of any particular claim. As detailed in WLF's brief, the primary goal of CAFA was to expand federal jurisdiction over large, multi-state class actions that did not satisfy the traditional requirements for diversity jurisdiction.

WLF's brief was prepared with the pro bono assistance of attorneys John Beisner, Jessica Miller, and Marques Richeson of the Washington, D.C. office of Skadden, Arps, Slate, Meagher, & Flom LLP.

"In an opinion that has stunned plaintiffs and defendants alike, the Eleventh Circuit panel has completely misread the language of CAFA to reach an interpretation that has never before been suggested by a single court, member of Congress, or legal commentator," said WLF Senior Litigator Cory Andrews after filing WLF's brief. "This interpretation is utterly unsupported by CAFA's text or legislative history and wholly subverts congressional intent," Andrews said.

The case arose in connection with a consumer class action filed in the U.S. District Court for the Northern District of Georgia by consumers challenging DirecTV's assessment of early-termination fees for subscribers who chose to cancel their satellite television service before the expiration of their contractual commitment. The fees at issue for each member of the class were, at most, in the hundreds of dollars, but the aggregate amount in controversy easily exceeded \$5 million—the threshold amount in controversy under CAFA. The plaintiffs thus asserted, and DirecTV did not dispute, that federal jurisdiction existed under CAFA.

On interlocutory appeal of the district court's denial of a motion to compel arbitration, however, the appeals court panel surprisingly declined to rule on the substance of the appeal. Instead, acting *sua sponte* and without even providing the parties an opportunity to brief the jurisdictional issue, the appeals court ruled that the trial court lacked jurisdiction to hear the case under CAFA and remanded the case for dismissal. The panel based its decision on its view that in a CAFA action originally filed in federal court, at least one of the plaintiffs must allege an amount in controversy of more than \$75,000—the threshold for ordinary diversity jurisdiction. But, as WLF pointed out in its brief, CAFA was intended to replace the \$75,000 amount-in-controversy requirement for class actions.

WLF is a public interest law and policy center with supporters in all 50 States. WLF devotes a substantial portion of its resources to defending free enterprise, individual rights, and a limited and accountable government. WLF has regularly appeared as an *amicus* in state and federal courts in cases involving the proper standards for class actions.

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For further information, contact WLF Senior Litigator Cory Andrews, (202) 588-0302.

A copy of WLF's brief is posted on its web site, www.wlf.org.