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COURT URGED TO PROTECT CLASS-ACTION DEFENDANT'S RIGHT TO FEDERAL FORUM

(Standard Fire Insurance Co. v. Knowles)

U.S. Supreme Court

The Washington Legal Foundation (WLF) this week urged the U.S. Supreme Court to clarify that a single named plaintiff cannot avoid CAFA removal jurisdiction in a putative class action merely by stipulating to damages below the jurisdictional threshold.

In a brief filed in *Standard Fire Insurance Company v. Knowles*, WLF argued that the Eighth Circuit's novel approach to federal jurisdiction threatens to eviscerate the important protections CAFA affords to class action defendants and absent class members alike. WLF filed its brief on its own behalf and on behalf of its clients, the Allied Educational Foundation and the International Association of Defense Counsel.

"By yielding to a single named plaintiff's unilateral damages stipulation, the decision below severely undermines the rights of absent class members, whose right to a full recovery is said to be limited by a stipulation they neither knew about nor consented to," said WLF Senior Litigation Counsel Cory Andrews after filing WLF's brief. "Such an approach also disregards congressional intent, by denying a class-action defendant of its statutorily protected right to defend the action in federal court," Andrews said.

The case arises from a putative class action brought by a plaintiff in Arkansas state court, alleging that Standard Fire Insurance Co. breached a homeowner insurance contract by underpaying certain repair claims for hail damage to the plaintiff's home. The plaintiff desires to represent a class comprising all similarly situated Arkansan policy holders who received payments from Standard Fire for physical loss or damage to their dwelling. The plaintiff's complaint included a sworn stipulation promising, purportedly on behalf of the entire class, not to seek damages in excess of \$5 million (the jurisdictional threshold for federal removal under CAFA).

Although Standard Fire timely removed the action to federal court, and that court initially conceded that Standard Fire had met its burden of establishing, by a preponderance of the evidence, the \$5 million jurisdictional threshold, the district court nonetheless remanded the case to state court, concluding that the plaintiff's damages stipulation established to a "legal certainty" that the requisite amount in controversy had not been satisfied.

In its brief urging the Court to vacate the district court's remand order, WLF argued that that a named plaintiff is not yet authorized to represent absent class members, much less to limit their right to a full monetary recovery, before certification of the class. Accordingly, a single named plaintiff's amount-in-controversy stipulation cannot possibly bind absent class members for the sole purpose of defeating removal in a putative class action. Such an approach to removal jurisdiction in class actions, WLF argued, not only undermines CAFA's primary goal of federal jurisdiction, it severely undermines the rights of absent class members whose rights to recovery are said to be curtailed by the stipulation.

WLF also argued that the district court's approach further undermines the rights of class action defendants, who have a strong interest in ensuring that the entire plaintiff class is bound by any judgment ultimately rendered in class-action litigation. By encouraging putative class representatives to waive the rights of class members to a full recovery, WLF explained that the decision below creates an unacceptable risk that dissatisfied absent class members (and their attorneys) will one day collaterally attack any judgment or settlement reached in the case. That, in turn, will discourage settlements by defendants who are unwilling to commit significant sums to resolve the dispute when a strong likelihood exists that absent class members can avoid the res judicata bar of the initial lawsuit.

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 the right of class-action defendants to have their disputes resolved in a federal forum.

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For further information, contact WLF Senior Litigation Counsel Cory Andrews, (202) 588-0302. A copy of WLF's brief is posted on its web site, www.wlf.org.