



# Consumer Protection Defense Law

## ALERT

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### High Court Rules Pre-Certification Damages Stipulation Cannot Defeat Federal Jurisdiction Arising Under the Class Action Fairness Act

In a much-anticipated ruling that could significantly restrict the efforts of class action plaintiffs and their lawyers to avoid litigating in federal court, the United States Supreme Court unanimously ruled that a named plaintiff cannot stipulate prior to class certification that the class will not seek damages above \$5 million in order to avoid federal jurisdiction under the Class Action Fairness Act (CAFA). CAFA gives federal district courts original jurisdiction over class actions in which, among other criteria, the matter in controversy potentially exceeds \$5 million. The Court's March 19, 2013, decision in *Standard Fire Insurance v. Knowles* makes clear that a pre-certification damages stipulation is nonbinding on the absent class members and therefore cannot defeat federal class action jurisdiction.

Plaintiff Greg Knowles filed a proposed consumer class action in Arkansas state court against Standard Fire Insurance Company, asserting that when the company made certain homeowner's insurance loss payments, it unlawfully failed to include a general contractor fee. Knowles sought to certify a class of "hundreds, and possibly thousands" of similarly harmed Arkansas policyholders. The complaint stated that Knowles and the class stipulated that they would seek to recover total aggregate damages of less than \$5 million. An attached affidavit also stipulated that Knowles would not at any time during this case seek damages for the class in excess of \$5 million. Citing CAFA's jurisdictional provisions, Standard Fire removed the case to federal district court. Knowles moved for remand on the ground that the district court lacked jurisdiction because the amount in controversy fell

below CAFA's \$5 million threshold. The district court sent the case back to the state court, finding that while, in the absence of the stipulation, the amount in controversy could have reached above the \$5 million threshold, the amount fell beneath the jurisdictional threshold as a result of the stipulation. The U.S. Court of Appeals for the Eighth Circuit declined to hear Standard Fire's appeal.

The Supreme Court agreed to hear the case in order to resolve conflicting rulings in the lower courts. The Court specifically considered the issue of whether a named plaintiff's stipulation on damages prior to class certification could defeat federal jurisdiction under CAFA, and it concluded it could not. The Court vacated the district court's order and remanded the case back to the federal court for an order consistent with its ruling.

As the Court explained, CAFA provides federal district courts with original jurisdiction to hear a class action if the lawsuit meets a number of criteria: the class has more than 100 members, the parties are minimally diverse (*i.e.*, at least one plaintiff and one defendant are citizens of different states), and the matter in controversy potentially exceeds the sum or value of \$5 million. The statute requires the district court to determine whether it has jurisdiction by aggregating the value of the alleged losses of each member of the proposed class to see whether the sum exceeds \$5 million. Because the amount in controversy could have exceeded \$5 million but for Knowles' stipulation, the Supreme Court concluded that

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the stipulation could not deprive the district court of jurisdiction. While Knowles could bind *himself* with the stipulation, he could not bind the members of the proposed class he sought to represent.

Citing to its 2011 decision in *Smith v. Bayer Corp.*, the Court explained that a plaintiff who files a class action cannot legally bind the absent class members before the court certifies the class. Because the district court determines the amount in controversy for jurisdictional purposes at the time the case is filed, Knowles' nonbinding stipulation had not actually reduced the value of the putative class members' claims below \$5 million. The district court had wrongly concluded that Knowles' nonbinding stipulation could overcome the finding that the amount in controversy Knowles had pleaded otherwise met the CAFA jurisdictional threshold.

Acknowledging Knowles' contention that individual plaintiffs can avoid removal of their suits to federal court by stipulating to damages below the threshold for federal jurisdiction, the Court concluded "the key characteristic of such stipulations-missing here-is that they are legally binding on all plaintiffs. ... [T]he stipulation at issue here can tie Knowles' hands, but it does not resolve the amount-in-controversy question in light of his inability to bind the rest of the class."

The Court's ruling gives effect to Congress' determination that class actions that meet the CAFA requirements belong in federal courts, and confirms that plaintiffs may not circumvent federal jurisdiction through "creative" stipulations proffered specifically to avoid the \$5 million amount in controversy.

For more information about the content of this alert, please contact [Michael Mallow](#), [Livia M. Kiser](#) or [Michael Thurman](#).

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