

**CLASS ACTION &
COMPLEX LITIGATION
ALERT**



MARCH 20, 2013

**U.S. SUPREME COURT REJECTS PRECERTIFICATION
STIPULATION TO SEEK LESS THAN \$5 MILLION AS
INVALID ATTEMPT BY CLASS PLAINTIFF TO AVOID
FEDERAL JURISDICTION UNDER CLASS ACTION
FAIRNESS ACT**

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The U.S. Supreme Court has unanimously held that a class plaintiff may not divest a federal court of jurisdiction under the Class Action Fairness Act of 2005 (CAFA) by employing a precertification stipulation that purports to limit damages sought by the proposed class. In *Standard Fire Insurance Co. v. Knowles*, No. 11-1450 (U.S. Mar. 19, 2013), the Supreme Court rejected a named plaintiff's attempt to avoid litigating his proposed class action in federal court by stipulating to seek damages just under CAFA's \$5 million jurisdictional threshold. The Court held that because a precertification stipulation fails to bind proposed class members, it can have no effect on a federal court's determination of the amount in controversy under CAFA.

Determining Satisfaction of CAFA's Amount-in-Controversy Requirement

CAFA provides federal district courts with original jurisdiction over class actions when the proposed class contains more than 100 members, the parties are minimally diverse, and the amount in controversy exceeds \$5 million. 28 U.S.C. §§ 1332(d)(2), (5)(B). The plaintiff in *Knowles* filed a class action complaint in Arkansas state court against the Standard Fire Insurance Company, seeking to certify a class of similarly situated Arkansas policyholders. In an attempt to avoid federal jurisdiction under CAFA, Knowles attached an affidavit to his complaint stating that he would not seek damages on behalf of himself and the putative class in excess of \$5 million. Defendant removed the case to federal court. Although the calculated amount in controversy exceeded the \$5 million jurisdictional threshold, the district court remanded the case upon concluding that Knowles' stipulation effectively limited the potential recovery of the putative class members.

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Because the amount in controversy would have met the \$5 million threshold but for the stipulation, the Supreme Court granted *certiorari* to resolve a circuit split on the issue of “whether the stipulation makes a critical difference.” The Court found that it did not.

The Court agreed with Knowles that an *individual* plaintiff may avoid litigating in federal court by stipulating to an amount in controversy below the federal jurisdiction requirement. The Court clarified, however, that the same is not true for a plaintiff seeking to represent a proposed class. “[A] plaintiff who files a proposed class action cannot legally bind members of the proposed class before the class is certified.” A named plaintiff’s stipulation to a maximum amount of damages thus limits only that plaintiff, and not other class members. “Because his precertification stipulation does not bind anyone but himself, Knowles has not reduced the value of the putative class members’ claims.” Moreover, to treat a non-binding stipulation as binding on the putative class members would “exalt form over substance, and run directly counter to CAFA’s primary objective: ensuring ‘Federal court consideration of interstate cases of national importance.’”

The Court cited several scenarios illustrating why Knowles’ stipulation could not be assumed to ultimately bind proposed class members: (1) a court may certify the proposed class, but only on the condition that the stipulation on recovery be removed; (2) a court may find the plaintiff an inadequate class representative under Rule 23(a) because he attempted to cap putative class members’ recovery; or (3) another class member could intervene, file an amended complaint without a stipulation, and be allowed to proceed as the class representative.

The Court expressly rejected Knowles’ argument that any decision that allowed the case to proceed without a stipulation would constitute a new, different case. The Court also declined Knowles’ invitation to allow district courts to rely on stipulations in order to simplify the CAFA determination of the aggregate value of individual claims. The Court held that “when following the statute to aggregate the proposed class members’ claim, [the district court] should have ignored that stipulation.”

Significance of the Supreme Court’s Decision

Knowles strips from plaintiffs a means of avoiding federal jurisdiction that had proven effective in some circumstances. A plaintiff seeking to represent a proposed class may no longer stipulate to a maximum recovery on behalf of a proposed class in order to avoid litigating in federal court. Instead, the district court must ascertain the actual aggregate amount of proposed class members’ claims to determine whether it has original jurisdiction under CAFA.

The Court’s discussion also serves to confirm certain limitations on the power of a named plaintiff prior to class certification. Named plaintiffs may not legally bind proposed class members. In explaining its holding, the Court specifically noted that a named plaintiff’s attempt to cap recovery of putative class

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members could render him an inadequate class representative. Under *Knowles*, attempts by named plaintiffs to secure self-serving precertification outcomes by compromising the interests of proposed class members will serve as ammunition for defendants opposing class certification based on Rule 23(a)'s adequacy prerequisite.

For more information about this case, please contact Partner [Rebecca Schwartz](#) or Associate [Melissa Plunkett](#).

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