



supreme court decisions offer some positive news for employers

MSK Client Alert

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Two recent decisions of the United States Supreme Court provide employers with some helpful means of combating employment claims brought on a classwide or collective basis.

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Standard Fire Insurance Co. v. Knowles

By Kevin Gaut and Amr Shabaik

In *Standard Fire Insurance Co. v. Knowles*, a unanimous United States Supreme Court held that class action plaintiffs cannot avoid federal jurisdiction under the Class Action Fairness Act ("CAFA") merely by stipulating that total class damages will not exceed \$5 million. The decision is a victory for defendants who often prefer that class actions be decided in federal court.

Congress enacted CAFA in 2005 to ensure federal jurisdiction for many class actions involving significant amounts in controversy. Subject to certain exceptions, CAFA provides federal jurisdiction over class actions where the class has more than 100 members; the parties are minimally diverse (generally meaning that at least one plaintiff resides in a different state than at least one defendant); and the aggregate amount in controversy for all class members exceeds \$5 million.

Knowles addressed whether a plaintiff could avoid having his lawsuit removed to federal court pursuant to CAFA merely by stipulating that the class will not seek damages in excess of \$5 million. Plaintiff Greg Knowles sought to represent a class consisting of hundreds, and possibly thousands, of persons allegedly denied payments under homeowners insurance policies issued by Standard Fire Insurance Company. Knowles alleged in his complaint that "Plaintiff and Class stipulate they will seek to recover total aggregate damages of less than five million dollars." Knowles limited his class to Arkansas residents.

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The defendant removed the case to federal district court under CAFA. Knowles sought remand, contending that the case did not meet the \$5 million CAFA jurisdictional prerequisite. The district court found that the amount in controversy for Knowles' sizeable class would, absent the stipulation, exceed \$5 million. However, it nevertheless held Knowles' stipulation sufficient to bar federal jurisdiction. The Eighth Circuit refused defendant's appeal, and the Supreme Court granted review.

The Supreme Court held the stipulation insufficient to bar CAFA jurisdiction, for two reasons. First, the stipulation was not binding on the class before certification: "[A] plaintiff who files a proposed class action cannot legally bind members of the proposed class before the class is certified." Thus, Knowles' precertification stipulation bound only Knowles and could not affect the value of the claims of the class Knowles purported to represent.

Second, the Supreme Court held that ruling in Knowles' favor would "exalt form over substance and run directly counter to CAFA's primary objective: ensuring 'Federal court consideration of interstate cases of national importance.'" Such a ruling would conflict with CAFA's purpose by, in effect, "allowing the subdivision of a single \$100 million action into 21 just-below \$5 million state-court actions simply by including nonbinding stipulations."

Knowles confirms the clear terms of the CAFA and closes the loophole Knowles attempted to invoke. The decision helps prevent state-court class action abuses by confirming, as Congress intended, federal jurisdiction for certain large class actions.

Genesis Healthcare Corp. v. Symczyk

By Amr Shabaik

In *Genesis Healthcare Corp. v. Symczyk*, the United States Supreme Court held that a nurse's Fair Labor Standards Act ("FLSA") collective action against her former employer became moot after the employer offered her full relief for her individual claims.

In 2009, Laura Symczyk filed a complaint on behalf of herself and "all other persons similarly situated" alleging that Genesis Healthcare violated the FLSA by automatically deducting 30 minutes per day for meal breaks, even on days when an employee did not take a break. When Genesis answered the complaint, it simultaneously served upon Symczyk an offer of judgment under Federal Rule of Civil Procedure 68 for \$7,500 for alleged unpaid wages plus "reasonable attorneys' fees, costs, and expenses." The offer represented full satisfaction of Symczyk's individual claims in the lawsuit. When Symczyk failed to respond to the offer in the allocated time period, Genesis filed a motion to dismiss for lack of subject-matter jurisdiction, claiming that her claim had become moot after she effectively rejected the offer of judgment.

The district court held that the Rule 68 offer fully satisfied Symczyk's claims and mooted both the individual *and* the collective action claims. On appeal, the Third Circuit held that Symczyk's individual claim was moot but that her collective action was not, explaining that allowing defendants to "pick off" named plaintiffs before certification with calculated Rule 68 offers would frustrate the goals of collective actions.



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The Supreme Court reversed. As explained by the Court, in order for a federal court to hear a case, there must be an actual controversy in existence at all stages of review, not merely at the time the complaint is filed. If an intervening circumstance deprives the plaintiff of a "personal stake in the outcome of the lawsuit," at any point during litigation, the action can no longer proceed. The Court explained that, since Symczyk's individual claim was found to be moot (a finding that was not appealed) and no other claimant had "opted in," the collective claims also were moot because there was no one who had a personal interest in representing putative, unnamed claimants.

The Court distinguished an FLSA "opt-in" collective action from "opt-out" class actions, explaining that, once certified, class actions acquire "independent legal status," such that mootness of the named plaintiff's claim does not moot the class claim. However, certification of a collective action under the FLSA does not create any independent status, nor does it "join additional parties to the action." Other individuals become parties to the lawsuit only once they have filed a written consent with the court. Thus, when a named plaintiff's individual claims in a collective action are mooted and there are no opt-in plaintiffs, the collective claims are also properly dismissed as moot.

ASK MSK

Q: Does *Standard Fire Insurance Co. v. Knowles* pose any potential negative drawbacks for employers?

A: Overall, the *Knowles* decision is a significant win for employers as it keeps large class actions in federal court, a forum that is often more favorable for employers. However, plaintiffs now have little incentive to limit their damage claims by committing to a cap on damages to stay out of federal court. Furthermore, the *Knowles* decision probably will not lead to a sharp decline in class action filings, as plaintiffs may simply file in federal court if their case meets the requirements for federal jurisdiction.

Q: What are the practical implications of *Genesis* for employers?

A: The implications of the Supreme Court's decision in *Genesis* depend on the facts and circumstances of a particular case. For example, in situations where the number of hours worked by a plaintiff are undisputed and an employer can make an offer in full satisfaction of the plaintiff's claims, the employer can potentially use a Rule 68 offer in order to avoid collective action certification. However, in cases where the plaintiff's alleged damages are difficult to determine, employers will have a harder time proposing a Rule 68 offer that fully satisfies the plaintiff's claims.