



News Release

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Supreme Court Decision in Alignment with DRI Amicus Brief in Class Action Removal Case

CHICAGO – (December 15, 2014)— Today the U.S. Supreme Court issued [its decision](#) in *Dart Cherokee Basin Operating Co. v. Owens*, No. 13-719, a case involving the procedural requirements for removing a class action from state to federal court. At issue was whether a defendant must attach to its notice of removal evidence establishing the \$5 million amount in controversy requirement for class actions, or whether that requirement is met simply by alleging the requisite amount in good faith.

DRI's Center for Law and Public Policy filed an amicus brief with the Court supporting Dart Cherokee's position that the removal statute, 18 U.S.C. § 1446(a), does not require defendants to attach evidence of the amount in controversy to a notice of removal. DRI also specifically asked the Court to disavow a purported "strong presumption" against removal adopted by many lower federal courts, contending that there was no legal basis for such a judicial presumption.

The case arose from a dispute over the level of oil and gas production in approximately 700 wells to which a putative class of approximately 400 people claim royalty rights. The defendant filed a notice of removal, alleging that the amount in controversy exceeded \$8.2 million, well over the \$5 million threshold required under the Class Action Fairness Act. Even though the plaintiff did not dispute the jurisdictional allegations, he nonetheless filed a motion to remand the case to state court, arguing that the notice of removal was "deficient as a matter of law" because it contained no evidence showing that the case involved the minimum amount in controversy.

Justice Ginsburg, writing for the majority, agreed with DRI that 18 U.S.C. § 1446(a) does not require a notice of removal to contain evidentiary submissions. The Court adopted DRI's plain-text interpretation of the statute, noting that Section 1446(a) tracks the familiar pleading standard found in Federal Rule of Civil Procedure 8(a), which requires only a "short and plain statement," not detailed pleadings.

The Court also accepted DRI's argument that any presumption against removal in the Class Action Fairness Act ("CAFA") context should be disavowed. The Court explained that "no antiremoval presumption attends cases invoking CAFA, which Congress enacted to facilitate adjudication of certain class actions in federal court."

Justice Scalia, joined by three other justices, dissented, reasoning that he would have dismissed the appeal as improvidently granted for jurisdictional reasons unrelated to the merits of the case.

DRI's brief emphasized that, if the district court's decision was allowed to stand, it would require that defendants prove jurisdictional allegations in virtually every case, regardless of whether the allegations are challenged, a result that is both wasteful and incredibly burdensome for defendants.

DRI brief authors Scott Burnett Smith and Edmund S. Sauer of Bradley, Arant, Boult, Cummings, LLP, in the Huntsville and Nashville offices respectively are available for interview or for expert comment through DRI's Communications Office.

To read DRI's brief in its entirety, click [here](#).

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