

The Standard Fire Insurance Co. v. Knowles

Brief Of The CATO Institute As Amicus Curiae In Support Of The Petitioner

by [Cato Institute](#) on 11/1/2012 [Contact](#)



To discourage plaintiffs' lawyers from trying to keep class-action lawsuits in state courts that have a reputation for trial awards and settlements that benefit those same lawyers, Congress passed the Class Action Fairness Act of 2005. In relevant part, CAFA provides defendants with the right to move class actions to federal court where the claim for damages against them exceeds \$5 million. But can clever lawyers keep these cases out of federal court by simply "stipulating" that potential damages are less than \$5 million — and before the named plaintiff is even authorized to represent the alleged class? In this case, Greg Knowles is the named plaintiff in a putative insurance-recovery class action against Standard Fire Insurance in Arkansas state court. Before the court certified the class, Knowles tried to avoid that removal to federal court by stipulating that his class would not seek more than \$5 million in damages at trial. Notably, the stipulation is worded in such a way that it will not apply if the class definition is later altered. Treating this stipulation as "binding," however, implicates the Fifth Amendment due process rights of the would-be class members who are thus far absent from and unaware of the lawsuit. After the lower federal courts denied removal, the Supreme Court took the case to determine whether a plaintiff in a class action may indeed defeat a defendant's statutory right to federal removal under CAFA simply by stipulating to a limit on the amount in controversy. Cato filed an amicus brief arguing that Knowles and his attorneys are violating the due process rights of absent class members who would be bound by the judgment in a lawsuit that, if allowed to proceed, would end their right to sue over the same claims while simultaneously limiting their compensation under those claims. CAFA was enacted specifically to discourage attorneys from "forum shopping" (seeking friendlier courts) and attempting to keep cases out of federal court. Lawyers who game the system by agreeing to cap damages in an effort to keep cases in more favorable state courts violate the federal due process rights of absent would-be class members, thereby flouting CAFA.