

Client Alert

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CAFA Not Implicated by Declaratory Judgment Action Even Though Judgment Would Benefit the Entire Underlying Class

The United States District Court for the Northern District of Illinois ruled in *Addison Automatics, Inc. v. Hartford Cas. Ins. Co.*, No. 13-cv-1922, (June 25, 2013), that the court lacked subject matter jurisdiction over a declaratory judgment action brought against an insurer by one plaintiff on its own behalf, even where the outcome would affect the entire putative class in an underlying class action brought against the insured. This case demonstrates the potential difficulty for insurers in obtaining a federal forum when a class action settlement assigns to the plaintiff the defendant's rights against the insurer.

BACKGROUND

In 2010, Addison Automatics, Inc. ("Addison") filed a class action lawsuit against Domino Plastics, Inc. ("Domino") asserting claims under the Telephone Consumer Protection Act ("TCPA") and the Illinois Consumer Fraud Act ("ICFA"). Addison sought to represent a class of plaintiffs (the "class"). Domino and the class reached a settlement, which included entry of a \$17,751,363.81 judgment and assignment of Domino's claims to insurance proceeds from Hartford Casualty Insurance Company and Twin City Fire Insurance Company (the "insurers").

Following entry of judgment, Addison filed a declaratory judgment action against the insurers, alleging that the insurers owed duties to defend and indemnify Domino in the class action suit. Addison alleged in its complaint against the insurers that it was seeking redress based on an assignment of Domino's rights to Addison, but not to the other class members.

REMOVAL & REMAND

The insurers timely removed the declaratory judgment action to federal court. They asserted that the federal district court had jurisdiction based on the Class Action Fairness Act, 28 U.S.C. § 1332(d)(2)(A) ("CAFA"). Addison moved to remand the case to state court.

The court observed that CAFA was the "sole basis for federal jurisdiction asserted by" the insurers. Therefore, if the declaratory judgment action was a class action as defined by CAFA, the court would have jurisdiction. Conversely, if the declaratory judgment action did not amount to a class action, the court would not have jurisdiction.

Addison brought suit against the insurers only on its own behalf, making clear in the complaint that it was not invoking Fed. R. Civ. P. 23 or its Illinois analogue. The insurers argued, however, that federal jurisdiction existed because a victory for Addison would "inure to the benefit of the entire [class]," and because Domino's rights were assigned to the class such that Addison had no standing to assert Domino's rights to the exclusion of the class members. In other words, without the class, there was no suit against the insurers, and with the class, there would be federal jurisdiction. The court was not persuaded by the insurers' arguments.

Instead, the court looked to the plain language of the complaint, which did "not assert a class action as defined under CAFA" and, in fact, explained that the declaratory judgment action was not a class action.

In contrast to the language of the operative pleading, Addison's motives were irrelevant to jurisdiction: "plaintiffs as masters of the complaint may include (or omit) claims or parties in order to determine the forum," observed the court (quoting *Garbie v. DaimlerChrysler Corp.*, 211 F.3d 407, 410 (7th Cir. 2000)).

The court acknowledged, however, the potential merit in the insurers' argument that Addison may not have standing to enforce the underlying judgment on its own. But, that issue, the court explained, would be a question for the state court to answer on remand. The state court may also have to examine the rights of other class members vis-à-vis "their portions of the indemnification proceeds," and "whether and to what extent Addison [as the court-appointed class representative] (and its counsel) still owe duties to the [class]." Those were questions that only the state court had jurisdiction to answer and, if Addison lacked standing to bring the declaratory judgment action on its own, then the suit may be removed to federal court after it is properly filed.

IMPLICATIONS

The *Addison Automatics* court reinforced the plaintiff's right to choose the forum and substance of its lawsuit, while highlighting the pitfalls of selecting form over substance. While this suit may well find its way back to federal court on the merits, the decision should serve as a road map for insureds seeking to preserve the opportunity to adjudicate their coverage rights in a state forum. The decision also will provide guidance for insureds as they negotiate terms of settlement, particularly where those terms include the assignment of rights to proceed separately against the settling party's insurers.

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