Press Release

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In Major WLF Victory, Court Rejects Presumption Against Removing CAFA Cases to Federal Court Court

(Dart Cherokee Basin Operating Co. v. Owens)

> **"Today's decision sends a clear signal: the U.S. Supreme Court will not permit the plaintiffs' bar—or lower federal courts—to frustrate the will of Congress … By rejecting the 'presumption against removal,' the Supreme Court made clear that the federal courts are fully open to class action defendants." —Richard Samp, WLF Chief Counsel**

WASHINGTON, DC—The U.S. Supreme Court today overturned a lower court decision that made it much more difficult for out-of-state defendants to remove lawsuits from state court to federal court. The decision in *Dart Cherokee Basin Operating Co. v. Owens* marked a major victory for Washington Legal Foundation, whose brief in the case argued that the district court's decision relied on an extra-statutory presumption against removal that needed to be corrected.

The Supreme Court agreed that the district court's decision to remand the case to state court was based in part on its erroneous application of a presumption against removal—a rule that federal courts must "narrowly construe" removal statutes and resolve all doubts in favor of remand. By a 5-4 vote, the Court agreed with WLF that no such presumption exists when, as here, removal is sought pursuant to the Class Action Fairness Act of 2005 (CAFA). In Justice Ginsburg's words for the majority, "[N]o antiremoval presumption attends cases invoking CAFA, which Congress enacted to facilitate adjudication of certain class actions in federal court."

The victory was especially gratifying to WLF because the Court relied on the presumption argument—not raised by the parties—on which WLF's brief focused. Although the Court indicated that "[w]e need not here decide whether such a presumption is proper in mine-run diversity cases," by disavowing that presumption in the CAFA context, the Court has facilitated future efforts by out-of-state defendants to remove class actions from state courts, particularly given that 10 of the 11 regional circuit courts of appeal had endorsed this supposed presumption.

WLF filed its *amici curiae* brief in conjunction with the International Association of Defense Counsel and the Federation of Defense & Corporate Counsel. In response to the decision, WLF issued the following statement by Chief Counsel Richard Samp: "Today's decision sends a clear signal: the U.S. Supreme Court will not permit the plaintiffs' bar—or lower federal courts—to frustrate the will of Congress that large class actions be removable to federal court to ensure that out-of-state defendants can have their cases heard in an impartial forum. By rejecting the 'presumption against removal,' the Supreme Court made clear that the federal courts are fully open to class action defendants."

WLF is a public interest law firm and policy center with supporters nationwide. WLF devotes a substantial portion of its resources to civil justice reform and ending class action lawsuit abuse.

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