

What Is Removal Law?

Removal

Removal is a procedural mechanism through which a case filed in state court may be transferred to federal court upon the request of one or more parties. Actions filed in state court over which a federal court would have original jurisdiction may be transferred—or removed—to federal court under the removal statute, 28 U.S.C. § 1441. Generally speaking, removal is possible if (1) the plaintiff(s) and defendant(s) are citizens of different states and the case places more than \$75,000 in controversy (so-called “diversity” jurisdiction), or (2) the case turns on issues of federal law (so-called “federal question” jurisdiction). In many cases, defendants prefer to be in federal court, and so defendants often analyze early in the case whether removal is possible.

There are special rules for removal in class actions. Specifically, the Class Action Fairness Act permits removal of class actions to federal court under certain circumstances in which removal would not normally be permitted. Analyzing whether a class action can (or should) be removed under the Class Action Fairness Act can involve complex strategic and legal questions. Read more about removal of class actions on Winston & Strawn’s [Class Action Insider](#) blog.

Related Capabilities

Class Actions & Group Litigation

Litigation/Trials