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BLOG

# The Class Action Fairness Act Does Not Supersede the Federal Arbitration Act

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## Key Takeaways:

- The Sixth Circuit became the first Circuit Court to hold that the Federal Arbitration Act ("FAA") and the Class Action Fairness Act ("CAFA") do not conflict.
- As a result, plaintiffs within this jurisdiction can no longer argue that class action waiver provisions in consumer contracts should be overridden because the CAFA gives exclusive jurisdiction to the federal courts for class actions.

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On March 19, 2018, Plaintiff Lorraine Adell filed a class action complaint in Ohio federal court against Verizon Wireless, seeking damages arising from Verizon's imposition of certain administrative charges. The district court kicked Plaintiff's case out of federal court and compelled the parties to arbitrate because there was no dispute that Plaintiff signed a Customer Agreement with Verizon Wireless: 1) requiring that disputes arising under the Customer Agreement be resolved by arbitration; and 2) requiring the bilateral, rather than class, arbitration of disputes—effectively limiting Plaintiff to individual relief.

After losing before the arbitration panel, Plaintiff's case reached the Sixth Circuit. In *Adell v. Cellco Partnership*, No. 21-3570, 2022 WL 1487765 (6th Cir. May 11, 2022), Plaintiff complained that the district court erred in compelling her to arbitrate her breach of contract case, because there is an "inherent conflict" between the CAFA and the FAA, and her claims fell squarely within a federal court's diversity jurisdiction through the CAFA.

For background, the FAA provides that an arbitration clause in a "transaction involving commerce… shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract." 9 U.S.C. § 2 (2003). Courts have routinely held that the FAA evinces "a liberal federal policy favoring arbitration agreements." The CAFA, on the other hand, focuses on the jurisdiction of the federal courts and grants district courts "original jurisdiction" for class actions "in which the matter in controversy exceeds the sum or value of $5,000,000." 28 U.S.C. § 1332(d)(2). The CAFA's "findings and purposes" also "express the importance of class action lawsuits." Class Action Fairness Act of 2005, Pub. L. No. 109-2, § 2(a)–(b), 119 Stat. 4 (2005).

At first blush, it may appear that these two statutes are not in harmony because, if a party seeks a class action, the FAA favors arbitration where an arbitration clause is present, and the CAFA favors federal court adjudication. Nonetheless, the Sixth Circuit rejected this contention, acknowledging that, while there is value in a district court's ability to hear class action cases, Congress has in no way indicated that CAFA was meant to preclude parties from privately contracting to adjudicate such cases through bilateral arbitration instead. Thus, the Sixth Circuit affirmed that the FAA and the CAFA do not conflict because, "if Congress had wanted to override the FAA and ban arbitration class action waivers, it could have done so manifestly and expressly in the CAFA statute."

This ruling is significant because over the years, parties have continuously sought to circumvent the FAA by arguing that it conflicts with another federal statute. The U.S. Supreme Court has, to date, rejected each attempt. This trend will likely continue unless Congress expressly overrides the FAA.

2 Min Read

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