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Federal Jurisdiction Expanded for Class Actions

By Emily Rozwadowski

On February 18, 2005, President Bush signed into law the Class Action Fairness Act of 2005, Pub. L. No. 109-2, which changes the jurisdiction requirements to file a class-action suit in federal court. As a result, federal district courts will have original jurisdiction in any class action that involves a \$5 million claim and has at least one class member from a different state than at least one defendant.

The Act will have the greatest effect on consumer fraud class actions that some federal court judges would previously not certify because they involved consumer laws from more than one state. Under the new law, these cases are more likely to be certified in federal court.

Consumer groups criticize the new law because they fear federal judges will not certify class actions. "It virtually eliminates multi-state class actions because it removes all cases to federal court and federal courts can't hear cases with multi-state issues," said Jillian Aldebron, counsel and communications coordinator for Congress Watch, a division of the consumer group Public Citizen.

Additionally, according to Aldebron, federal judges are more conservative and will not know how to rule on new issues of state law. "This law takes away the ability of state judges to interpret state law," Aldebron said.

According to the statute, a district court may decline jurisdiction in a class action when greater than one-third but less than two-thirds of the plaintiff class are from the same state as the primary defendants. In considering whether to certify actions of this type, the district court must consider the following: whether the claims involve matters of national or interstate interest; whether the claims will be governed by the laws of the state where the matter was originally filed or by another state; whether the class action was pleaded to avoid federal jurisdiction; whether the class action was filed in a forum with a distinct nexus between the plaintiffs, defendants or the alleged harm; and whether other actions with similar claims have been filed in the last three years.

The law also includes one exception. District courts must decline jurisdiction if two-thirds of the

plaintiff class are citizens of the same state as at least one defendant. The plaintiffs must also be seeking significant relief from such a defendant and that defendant's alleged conduct must form a significant basis for the claims asserted by the plaintiff class. Aldebron says use of the exception will be

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rare because most class actions are brought against corporations which are unlikely to be from the same state as most plaintiffs.

Proponents of the law argue it will help plaintiffs who live in a state that is less sympathetic to class actions. The new law also deals with attorney's fees in coupon settlements. In cases where the attorney receives a contingent fee, the fee award will be based on the value of the coupons to the class members that have been redeemed. For all other attorney's fees awarded, the fee award will be based on the amount of time the attorney reasonably spent working on the action. Ultimately, all fees in such cases will be subject to court approval.

According to Aldebron, this section of the law was added because defendant corporations prefer coupon settlements which only have to be paid when the coupons are redeemed. Aldebron said that in the past, attorneys were paid while their clients received coupons which were only for a small amount and were thus never redeemed. The new law, however, will "prevent attorneys from selling out their clients," Aldebron said.