
Home Depot U.S.A., Inc. v. Jackson, No. 17-1471

Today, the Supreme Court held in a 5-4 decision that a third-party counterclaim defendant may not remove a state-court case to federal court under the Class Action Fairness Act (CAFA).

Background: Nearly eighty years ago, the Supreme Court held in *Shamrock Oil & Gas Corp. v. Sheets* that when a suit is brought in state court and the defendant brings a counterclaim that invokes federal jurisdiction, the original plaintiff may not remove the case to federal court under the general removal statute (now codified as 28 U.S.C. § 1441(a)). The *Shamrock Oil* Court reasoned that the original plaintiff chose the state forum in the first instance and should be required to “abide his selection.” Applying *Shamrock Oil*, lower courts have held that a “third-party counterclaim defendant”—*i.e.*, a party that is first brought into a lawsuit as a defendant to a counterclaim by one of the defendants named in the original complaint—cannot remove the case to federal court.

In this case, Citibank brought a debt-collection action in North Carolina state court against respondent George Jackson, who had borrowed money on a Citibank credit card to buy a home water-filtration system. In response, Jackson asserted a putative class action counterclaim against Citibank and two new third-party counterclaim defendants (one of which was Home Depot). Home Depot filed a notice of removal under CAFA, which contains a removal provision that is more broadly worded than the general removal statute—permitting removal by “any defendant,” rather than “the defendant or the defendants.” The district court, however, remanded the case to state court, and the Fourth Circuit affirmed. The Supreme Court granted certiorari to decide whether the holding in *Shamrock Oil* that an original plaintiff may not remove a counterclaim against it extends to third-party counterclaim defendants.

Issue: Whether a third-party counterclaim defendant may remove a case to federal court under CAFA, which permits removal of a class action by “any defendant.”

Court’s Holding: In an opinion written by Justice Thomas and joined by Justices Ginsburg, Breyer, Sotomayor, and Kagan, the Supreme Court held that third-party counterclaim defendants may not remove state-court cases to federal court under CAFA. The Court held that the term “defendant,” as used in both the general removal statute and CAFA’s removal provision, refers only to a defendant named in the original complaint, not a defendant named in a counterclaim—even if the defendant is brought in as part of a third-party counterclaim. The Court rejected Home Depot’s argument that “the term ‘defendant’ has a different meaning in [CAFA]” from its meaning in the general removal statute.

Justice Alito authored a dissenting opinion, which was joined by Chief Justice Roberts and Justices Gorsuch and Kavanaugh. The dissenting opinion argues that “[a]ll the resources of statutory interpretation confirm that under CAFA and [the general removal statute], third-party defendants are defendants” who may remove and that the majority’s decision to the contrary had opened the door to a new “tactic” for plaintiffs intent on evading removal to federal court under CAFA.