

# The Ninth Circuit Rejects Class Action Plaintiffs' Tactic to Avoid Federal Court

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Before the Class Action Fairness Act of 2005 (CAFA), many corporate defendants were forced to litigate class actions in state court because the claims of putative class members could not be aggregated to meet the threshold requirement for federal diversity jurisdiction. However, CAFA removed that obstacle by establishing federal jurisdiction for class actions with at least 100 class members, more than \$5 million in controversy considering all class members' combined claims, and minimal diversity (*i.e.*, at least one plaintiff and one defendant from different states).

Despite Congress's clear intent to provide increased access to the federal system for interstate class actions, plaintiffs sought to develop a tactic to avoid CAFA jurisdiction by pleading only equitable claims for relief (*e.g.*, restitution or injunctions) while foregoing otherwise viable legal claims for money damages. Doing so, plaintiffs argued, deprived federal courts of "equitable jurisdiction," requiring remand to state court despite the existence of CAFA jurisdiction. The doctrine of equitable jurisdiction limits a federal court's right to award equitable relief when the plaintiff can obtain adequate legal relief and is intended to preserve a defendant's right to a jury trial for legal claims. Nonetheless, multiple federal district courts in California have remanded class actions to state court over the last several years for lack of equitable jurisdiction resulting from plaintiffs' intentional failure to plead their adequate legal claims.

The Ninth Circuit, however, recently rejected this tactic in *Ruiz v. The Bradford Exchange*. In its order reversing remand of a class action to state court for lack of equitable jurisdiction, the *Ruiz* Court held that a defendant must be afforded the right to waive its "lack of equitable jurisdiction" defense to remain in federal court. In so holding, the Ninth Circuit recognized the difference between equitable jurisdiction, which it found to be waivable, and subject matter jurisdiction, which is an unwaivable limit on the federal court's power. The Ninth Circuit's decision in *Ruiz* provides an avenue for corporate class action defendants to stay in federal court despite plaintiffs' attempts to subvert CAFA.

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