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### **Oil and Gas Alert: Supreme Court Holds That Evidence of Amount in Controversy Not Required to Remove Class Action to Federal Court**

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On December 15, 2014, the United States Supreme Court decided that a party seeking to remove a class action to federal court need not include evidence of the amount in controversy as part of its petition for removal. Instead, the party seeking removal need only plausibly state that the amount at stake exceeds \$5 million. The case is *Dart Cherokee Basin Operating Co. LLC v. Owens*, 574 U.S. ---, 2014 U.S. LEXIS 8435 (2014).

In the case, the plaintiff Brandon Owens filed a putative class action against Dart Cherokee Basin Operating Company, LLC, and Cherokee Basin Pipeline, LLC (Dart), claiming that Dart had improperly underpaid royalties under a number of oil and gas leases. Owens did not include a specific amount in controversy in the complaint, but general sought “damages” in a “fair and reasonable amount.”

Dart filed a petition for removal under the Class Action Fairness Act of 2005 (CAFA), which gives federal courts diversity jurisdiction over certain class actions in which the amount in controversy exceeds \$5 million. Dart stated in its petition for removal that the amount at stake was more than \$8 million but provided no evidence to support that statement.

Owens sought to remand the case to state court. The federal district court agreed, finding that the law of the Tenth Circuit required evidence of the amount in controversy as part of the removal petition. Dart appealed, but the Tenth Circuit declined to hear the appeal. Dart then sought review by the Supreme Court.

The Supreme Court ruled 5-4 that the district court incorrectly remanded the case to state court. The Court held that all that is required to establish the amount in controversy under CAFA is a “short and plain statement” that the amount exceeds \$5 million.

Should a dispute over the legitimacy of that amount arise after removal, then the district court will hear proof from each side and determine whether the defendant has satisfied the amount-in-controversy

requirement by a preponderance of the evidence. But evidence is not required with the removal petition.

The dissenting justices did not disagree that the district court had misinterpreted the law. Rather, they would have held that the Court lacked jurisdiction to hear the appeal because the Tenth Circuit had declined to hear it.

The Court's decision clarifies the standards for removal under CAFA. It may also affect the standards for removing cases in ordinary diversity cases, as the "short and plain statement" language the Court relied on applies in all removal cases.