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SOUTHERN DISTRICT OF CALIFORNIA  
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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

CHAYLA M. CLAY, on behalf of  
herself and others similarly situated,

Plaintiff,

vs.

CHOBANI LLC; SAFEWAY, INC.;  
and THE VONS COMPANIES, INC.,

Defendants.

CASE NO. 14cv2258 (BEN) (DBH)

**ORDER DENYING PLAINTIFF'S  
MOTION TO REMAND**

Before this Court is a Motion to Remand to the San Diego Superior Court, pursuant to 28 U.S.C. § 1447(c), filed by Plaintiff Chayla M. Clay. Plaintiff's motion is denied.

**I. BACKGROUND**

According to the Complaint, Plaintiff Chayla M. Clay is a citizen of the state of California and resides in San Diego County. Over the last three years, Plaintiff has purchased Chobani yogurt for personal consumption within California. *Id.* Chobani is a Delaware limited liability company with its principal executive office

1 in New York and is a citizen of Delaware and New York. Defendant Safeway, Inc.  
2 is a Delaware corporation headquartered in California. Defendant The Vons  
3 Companies, Inc. is a Michigan corporation headquartered in California. *Id.* Vons  
4 and Safeway were distributors of Chobani's yogurt in California during the Class  
5 Period.

6 Plaintiff filed her Complaint on August 21, 2014, in the Superior Court of the  
7 State of California County of San Diego (Case No.: 37-2014-00028267-CU-BT-  
8 CTL). According to the Complaint, Chobani "has become the best-selling brand of  
9 Greek yogurt in the United States." The Plaintiff seeks to represent a California  
10 class including "[a]ll persons who, while residing in California within the last four  
11 (4) years, made retail purchases in California of the Chobani Products and/or such  
12 subclasses as the Court may deem appropriate."<sup>1</sup> ( Compl. ¶ 55). Plaintiff states  
13 that she "is informed and believes that there are hundreds of thousands of Class  
14 members." ( Compl. ¶ 58). According to the Complaint, however, the amount in  
15 controversy "likely *does not* exceed the sum or value of \$5,000,000." ( Compl. ¶  
16 14-15; Defs.' Notice of Removal ¶ 28) (emphasis added).

17 Plaintiff alleges California state law claims. Specifically, Plaintiff alleges a  
18 violation of California's Unfair Competition Law (UCL), Cal. Bus. & Prof. Code §§  
19 17200, *et seq.*; False Advertising Law (FAL), Cal. Bus. & Prof. Code §§ 17500, *et*  
20 *seq.*; Consumers Legal Remedies Act (CLRA), Cal. Civ. Code §§ 1750, *et seq.*; and  
21 negligent misrepresentation. The Complaint alleges that Chobani generated  
22 revenues estimated to be \$1 billion for the year 2012; and in California alone,  
23 Defendants have "collected tens of millions of dollars." ( Compl. ¶ 14). "As a  
24 result of Defendants' wrongful conduct, Plaintiff and members of the Class have  
25 suffered and continue to suffer economic losses and other general and specific  
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27 <sup>1</sup> Plaintiff later restates the class as "[a]ll person [sic] who, while residing in  
28 California within the applicable statute of limitations, made retail purchases, within  
California, of Chobani Products(s) and/or such subclasses as Plaintiff and/or Court may  
deem appropriate."

1 damages, including but not limited to the amounts paid for the Products, and any  
2 interest that would have been accrued on those monies.” ( Compl. ¶ 71).

3 On September 23, 2014, Defendants removed the state action on the ground  
4 that this Court has original jurisdiction under the Class Action Fairness Act of 2005  
5 (CAFA).

6 Attached to the Notice of Removal, Defendants submitted the Declaration of  
7 John Bellardini (First Bellardini Declaration). According to the declaration,  
8 Bellardini is the Vice President of Finance and the Treasurer for Chobani, LLC.  
9 Bellardini declares with “certainty that Chobani’s revenues from the sale of the  
10 Challenged Products in California during the last four years has been substantially  
11 in excess of \$5 million.” (First Bellardini Decl. ¶¶ 1, 2, 3). According to Bellardini,  
12 the amount Plaintiff seeks would be even higher due to the other Defendants’  
13 retailers’ markup, which are not reflected in his calculations. (First Bellardini Decl.  
14 ¶ 5).

15 Defendants’ Notice of Removal further states that a factually similar class  
16 action was filed *before* Plaintiff’s Complaint. Specifically, on June 19, 2013, *Stoltz,*  
17 *et al. v. Chobani, LLC, et al.* was filed in the Eastern District of New York against  
18 one of the same Defendants in this case, Chobani, LLC.<sup>2</sup> *Stoltz* also alleges a  
19 violation of “California Consumer Legal Remedies Act, Cal. Civ. Code § 1750, *et*  
20 *seq.*, and California’s Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et*  
21 *seq.*”

22 Plaintiff now seeks a remand back to the California state courts.

## 23 II. DISCUSSION

24  
25 Plaintiff argues that the Defendants cannot establish the amount in  
26 controversy exceeds \$5,000,000 because the First Bellardini Declaration is

27  
28 <sup>2</sup> *Stoltz, et al. v. Chobani, LLC, et al.*, 14-cv-03827, ECF No. 1 (E.D.N.Y. June 19, 2014)

1 inadmissible hearsay, and the declaration does not contain “any numbers that serve  
2 as a basis for his findings.” In response, Defendants filed a second Bellardini  
3 Declaration which states that the amount in controversy far *exceeds* \$5,000,000 for  
4 a single year *alone*. Defendants also point out that Plaintiff’s own factual  
5 allegations establish an amount in controversy in excess of \$5,000,000. As  
6 explained later, the amount in controversy requirement for CAFA jurisdiction has  
7 been satisfied for this stage of the proceedings.

8  
9 Plaintiff also argues the “local controversy” exception. According to  
10 Plaintiff, the facts of both her Complaint and the *Stoltz* complaint are the same, but  
11 her claims are purely local. Because the plaintiffs in *Stoltz* amended their complaint  
12 to include a California subclass *after* Plaintiff’s Complaint here was filed, the  
13 argument goes that no other similar class action existed when Plaintiff filed her  
14 Complaint in state court. As discussed below, the local controversy exception does  
15 not apply.

### 16 III. LEGAL STANDARDS

17 CAFA provides a federal district court with original jurisdiction over a  
18 putative class action when the parties are minimally diverse, the putative class  
19 consists of at least 100 members, and the aggregate amount in controversy exceeds  
20 the threshold amount of \$5,000,000. Title 28 U.S.C. § 1332(d)(2); 28 U.S.C. §  
21 1332(d)(5)(B); *see Serrano v. 180 Connect, Inc.*, 478 F.3d 1018, 1021 (9th Cir.  
22 2007). In determining whether that threshold is met, the claims of the individual  
23 class members are aggregated. 28 U.S.C. § 1332(d)(6). These rules apply to  
24 proposed classes and it does not matter whether the class has yet been certified. 28  
25 U.S.C. § 1332(d)(8). However, whether the class has been certified matters if the  
26 Plaintiff attempts to stipulate to an amount below the CAFA threshold amount. *See*  
27 *Standard Fire Ins. Co. v. Knowles*, 133 S. Ct. 1345, 1349 (2013) (holding Plaintiff  
28

1 may not stipulate to the minimum amount in controversy for the class before a class  
2 is certified).

3 “CAFA’s primary objective [is to ensure] Federal court consideration of  
4 *interstate* cases of *national* importance.” *Standard Fire Ins. Co.*, 133 S. Ct. at 1350  
5 (2013) (emphasis added) (internal quotations omitted). However, there is an  
6 exception to federal CAFA jurisdiction known as the “local controversy” exception.  
7 *Serrano*, 478 F.3d at 1023. The “party seeking remand bears the burden to prove an  
8 exception to CAFA’s jurisdiction.” *Serrano*, 478 F.3d at 1022.

#### 9 10 **IV. ANALYSIS**

##### 11 **A. Removal Under CAFA**

12 The parties disagree over whether CAFA was properly invoked by the  
13 Defendants. This Court finds that it has original jurisdiction over the Plaintiff’s  
14 putative class action under CAFA.  
15

##### 16 **1. The Parties Are Minimally Diverse**

17 Parties to a class action are minimally diverse when “any member of a class  
18 of plaintiffs is a citizen of a State different from any defendant[.]” 28 U.S.C.  
19 § 1332(d)(1)(2); *see Serrano*, 478 F.3d at 1021. Because neither party contests that  
20 Plaintiff is a citizen of California, one looks to whether any of the Defendants are  
21 minimally diverse from the Plaintiff. For purposes of 28 U.S.C. § 1332(d) and  
22 § 1453, a corporation is deemed to be a citizen of the state where it has its principal  
23 place of business and the state under whose laws it is organized. 28 U.S.C.  
24 § 1332(c). The principal place of business “should normally be the place where the  
25 corporation maintains its headquarters.” *Hertz Corp. v. Friend*, 559 U.S. 77, 93  
26 (2010).  
27  
28

1 Defendant, Chobani, LLC is organized under the laws of Delaware and  
2 headquartered in New York. Thus, Chobani is a citizen of Delaware and New York.  
3 Because the Plaintiff is a citizen of California, CAFA's minimal diversity  
4 requirement is satisfied.

## 5 **2. The Proposed Class Exceeds 100 Members**

6  
7 A plaintiff's allegations may satisfy CAFA's numerosity requirement. *See*  
8 *Kuxhausen v. BMW Fin. Servs. NA LLC*, 707 F.3d 1136, 1140 (9th Cir. 2013); *see*  
9 *also Visendi v. Bank of Am., N.A.*, 733 F.3d 863, 868 (9th Cir. 2013). There is no  
10 argument on this point.

## 11 **3. The Amount in Controversy Exceeds \$5,000,000**

12  
13 "In any class action, the claims of the individual class members shall be  
14 aggregated to determine whether the matter in controversy exceeds the sum or value  
15 of \$5,000,000, exclusive of interests and costs." 28 U.S.C. § 1332(d)(6). When a  
16 defendant alleges the amount in controversy exceeds the CAFA threshold, the  
17 notice to remove need only include "a plausible allegation that the amount in  
18 controversy exceeds the jurisdictional threshold." *Dart Cherokee Basin Operating*  
19 *Co., LLC v. Owens*, 135 S. Ct. 547, 554 (2014) (holding the district court  
20 erroneously remanded to state court when the defendant had submitted an affidavit  
21 in support of his calculation on the amount in controversy). "[T]he defendant's  
22 amount-in-controversy allegation should be accepted when not contested by the  
23 plaintiff or questioned by the court." *Id.* at 553. However, when those allegations  
24 are challenged by the plaintiff, *Dart* says: "both sides submit proof and the court  
25 decides, by a preponderance of the evidence, whether the amount-in-controversy  
26 requirement has been satisfied." *Id.* at 553-4 (internal quotations omitted).

27 Here, Defendants have submitted two declarations of an executive officer.  
28 The Ninth Circuit has not yet detailed a procedure for the submission of evidence

1 when a plaintiff controverts the defendant's allegation on the minimum amount in  
2 controversy. However, two opinions provide guidance: *Ibarra v. Manheim*  
3 *Investments, Inc.*, 775 F.3d 1193 (9th Cir. 2015) and *LaCross v. Knight Transp.*  
4 *Inc.*, 775 F.3d 1200, 1202-03 (9th Cir. 2015). Under these decisions, Defendants  
5 must "persuade the court that the estimate of damages in controversy is a reasonable  
6 one." *Ibarra*, 775 F.3d at 1197-98. The district court should consider "*real*  
7 *evidence* and the reality of what is at stake in the litigation," and provide each party  
8 a "fair opportunity to submit proof." *Ibarra*, 775 F.3d at 1198, 1200 (emphasis  
9 added). The "evidence may be direct or circumstantial. . . [and] may require a chain  
10 of reasoning that includes assumptions . . . [that] need some reasonable ground  
11 underlying them." *Ibarra*, 775 F.3d at 1199-200.

12  
13 *LaCross* further concludes that defendants satisfy that burden of proof when  
14 they "rel[y] on a reasonable chain of logic" based on the allegations of the  
15 complaint, and "present[] sufficient evidence to establish that the amount in  
16 controversy exceeds \$5 million." *LaCross*, 775 F.3d at 1201 (reversing district  
17 court's judgment that the amount in controversy was not satisfied); *see also Unutoa*  
18 *v. Interstate Hotels & Resorts, Inc.*, No. 2:14-CV-09809-SVW-PJ, 2015 WL  
19 898512, at \*2 (C.D. Cal. Mar. 3, 2015) ("a court should deny a motion to remand  
20 where a defendant calculates the amount in controversy by relying on the clear  
21 allegations of the complaint regarding the frequency of violation and potential  
22 liability calculations supported by real evidence"). Here, Defendants have  
23 presented a reasonable chain of logic supported by the Bellardini Declarations, and  
24 relying on Plaintiff's own allegations.

25 First, it is worth noting that while Plaintiff's Complaint stipulates that the  
26 amount in controversy "likely" *does not* exceed the CAFA threshold, the stipulation  
27 means little. *Standard Fire* held that before a class is certified, the lead plaintiff  
28 lacks the authority to bind class members on the amount in controversy because of

1 the possibility that the “stipulation may not survive the class certification process.”  
2 *Standard Fire*, 133 S. Ct. at 1348-49 (finding that in erroneously remanding the  
3 case to state court, the District Court should have ignored the stipulation by the lead  
4 Plaintiff of an uncertified class that the minimum amount in controversy will not  
5 exceed the \$5,000,000 CAFA threshold); *see also Rodriguez v. AT & T Mobility*  
6 *Servs. LLC*, 728 F.3d 975, 978 (9th Cir. 2013) (emphasizing that the district court is  
7 to ignore nonbinding stipulations made by a plaintiff on the amount in controversy).  
8 At this stage, the class has not been certified and Plaintiff therefore lacks the  
9 authority to stipulate that the minimum amount in controversy will not exceed the  
10 CAFA threshold.

11       Second, Defendants have relied on the factual allegations of the Complaint.  
12 *LaCross*, 775 F.3d at 1201. Defendants argue that Plaintiff’s own factual  
13 allegations indicate the amount in controversy exceeds \$5,000,000. Plaintiff’s own  
14 Complaint states that “[a]s a direct result of Defendants’ unlawful and deceptive  
15 sales practices” and “based on public filings with the federal government,” Chobani  
16 generated revenues estimated to be \$1 billion for the year 2012; and in California  
17 alone, Defendants have “collected tens of millions of dollars.” Assuming the  
18 allegations of the Complaint are true, the putative class is entitled to the “tens of  
19 millions of dollars” that Defendants have collected.

20  
21       Nor has Plaintiff submitted any evidence, such as her own affidavit,  
22 indicating what she paid for the allegedly mislabeled products and from which  
23 other calculations could be reasonably extrapolated. *See Ibarra*, 775 F.3d at 1199  
24 (“Ibarra contested the assumption, but did not assert an alternative violation rate  
25 grounded in real evidence, such as an affidavit by Ibarra asserting how often he was  
26 denied meal and rest breaks.”).

27       In relying on the allegations of Plaintiff’s Complaint, Defendants have thus  
28 established a “reasonable chain of logic.” *LaCross*, 775 F.3d at 1200, 1201. With

1 respect to *Ibarra's* “real evidence,” Plaintiff contests the admissibility of the First  
2 Bellardini Declaration as hearsay, on the grounds that its assertions must be  
3 supported by facts or numbers under *Gaus* and *Lowdermilk*. Neither of these cases  
4 apply.<sup>3</sup> When considering the amount in controversy on a motion to remove,  
5 “summary-judgment-type” evidence, such as affidavits or declarations, are to be  
6 considered. *Ibarra*, 775 F.3d at 1198, 1200; *Valdez v. Allstate Ins. Co.*, 372 F.3d  
7 1115, 1117 (9th Cir. 2004). Mr. Bellardini, as the Vice President of Finance and the  
8 Treasurer for Chobani, LLC., declares under his general knowledge and experience  
9 gained while working for Chobani, specific knowledge gained “by virtue of the  
10 duties, responsibilities, and obligations of [his] current position at Chobani, and  
11 personal knowledge obtained in the ordinary course of business and from reviewing  
12 corporate records created maintained by Chobani,” with “certainty that Chobani’s  
13 revenues from the sale of the Challenged Products in California during the *last four*  
14 *years* has been substantially in excess of \$5 million.” (First Bellardini Decl. ¶¶ 1, 2,  
15 3) (emphasis added). Plaintiff’s allegation is further supported because Mr.  
16 Bellardini declares that “Chobani’s revenues from the sale of *all* Challenged  
17 Products in California over the *entirety* of the Class Period would be substantially in  
18 excess” of \$5,000,000. (First Bellardini Decl. ¶ 4) (emphasis added). Mr.  
19 Bellardini also declares, “with certainty that Chobani’s revenues from the California  
20 sales of the Challenged Products in 2013 alone, i.e. a single year of the class period,  
21 were well in excess of \$5 million.” (Second Bellardini Decl. ¶ 5). Both of these  
22 statements directly support the Plaintiff’s allegation that “tens of millions” have  
23 been collected in California, and that Chobani’s “estimated sales revenue in 2012”  
24 was \$1,000,000,000. ( Compl. ¶14). According to Mr. Bellardini, the amount

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26 <sup>3</sup> *Gaus* is distinguishable because it did not deal with removal under CAFA original  
27 jurisdiction. See *Gaus v. Miles, Inc.*, 980 F.2d 564, 567 (9th Cir. 1992). *Lowdermilk* has been  
28 effectively overruled by *Standard Fire Insurance*. *Standard Fire*, 133 S. Ct. at 1348-49; *Rodriguez*  
*v. AT & T Mobility Servs. LLC*, 728 F.3d 975, 977 (9th Cir. 2013) (“we hold that *Lowdermilk* has been  
effectively overruled, and that the proper burden of proof imposed upon a defendant to establish the  
amount in controversy is the preponderance of the evidence standard.”); see *Lowdermilk v. U.S. Bank*  
*Nat’l Ass’n*, 479 F.3d 994 (9th Cir. 2007).

1 Plaintiff seeks would be even higher due to the other Defendants' retailers' markup,  
2 which are not reflected in his calculations.

3 The evidence submitted by Defendants supports their conclusion that  
4 Plaintiff's own Complaint puts the amount in controversy in excess of \$5,000,000.  
5 "[T]he reality of what is at stake in the litigation" is beyond the CAFA threshold  
6 requirement because Plaintiff has put an amount more than \$5,000,000 into  
7 controversy. *Ibarra*, 775 F.3d at 1198. Defendants have satisfied their burden.  
8 Because Defendants have satisfied their burden to establish original jurisdiction  
9 pursuant to CAFA, the burden now shifts to Plaintiff to prove that an exception to  
10 CAFA applies in order warrant a remand.

### 11 **B. The Local Controversy Exception Does Not Apply**

12 As previously mentioned, Plaintiff argues the "local controversy" exception  
13 applies. A district court is to decline jurisdiction under CAFA when the matter is a  
14 "local controversy." § 1332(d)(4). The Plaintiff "bears the burden to prove an  
15 exception to CAFA's jurisdiction." *Serrano*, 478 F.3d at 1021-22. The local  
16 controversy rule is:  
17

18 A district court shall decline to exercise jurisdiction . . . (A)(i) over a  
19 class action in which – (I) greater than two-thirds of the members of all  
20 proposed plaintiff classes in the aggregate are citizens of the State in  
21 which the action was originally filed; (II) at least 1 defendant is a  
22 defendant – (aa) from whom significant relief is sought by members of  
23 the plaintiff class; (bb) whose alleged conduct forms a significant basis  
24 for the claims asserted by the proposed plaintiff class; and (cc) who is a  
25 citizen of the State in which the action was originally filed; and (III)  
26 principal injuries resulting from the alleged conduct or any related  
27 conduct of each defendant were incurred in the State in which the  
28 action was originally filed; and (ii) during the 3-year period preceding  
the filing of that class action, *no* other class action has been filed  
asserting the same or similar factual allegations against *any* of the  
defendants on behalf of the same *or other persons*[.]

1 28 U.S.C. § 1332(d)(4) (emphasis added). The exception is to be read mindful of  
2 CAFA's primary objective, which is to ensure Federal court consideration of  
3 *interstate* cases of *national* importance.<sup>4</sup> *Standard Fire*, 133 S. Ct. at 1350.

4 Under subsections 1332(d)(4)(A)(i)(II)(bb), when an allegedly defective  
5 product is sold in all fifty states, but a class action is only brought on behalf of an  
6 in-state class against an out-of-state manufacturer and a few in-state retailers, the  
7 Ninth Circuit has recognized that the "local controversy" exception does not apply.  
8 The exception does not apply where "the great bulk of any damage award is sought  
9 from the manufacturer . . . rather than from the local [retailers]." *Coleman v. Estes*  
10 *Exp. Lines, Inc.*, 631 F.3d 1010, 1018 (9th Cir. 2011) (discussing the application of  
11 the "local controversy" rule in light of the Senate Judiciary Committee's intent  
12 stated in S. Rep No. 109-14). The exception requires that one "real" defendant be  
13 local. *Id.* Determining whether a particular defendant is "small change" can be  
14 made solely on the basis of the allegations in the complaint. *Id.*

15  
16 According to the Complaint, Chobani is the real defendant. It sells the  
17 allegedly mislabeled product in all fifty states, and the product "has become the  
18 best-selling brand of Greek yogurt in the United States." ( Compl. ¶ 14).  
19 Defendants Vons and Safeway are distributors. ( Compl. ¶ 21). Although the Vons  
20 and Safeway have allegedly collected "tens of millions of dollars from the sale" of  
21 Chobani yogurt, it is Chobani that has an "estimated sales revenue in 2012 of \$1  
22 billion." ( Compl. ¶ 14). Under subsection (d)(4)(A)(i)(II)(aa), the allegations of the  
23 Complaint indicate that the relief sought from Vons and Safeway is "small change"  
24 compared to what is sought from the real defendant, Chobani. *Coleman*, 631 F.3d  
25

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26  
27 "Congress enacted CAFA in 2005 to 'curb perceived abuses of the class action  
28 device which, in the view of CAFA's proponents, had often been used to litigate  
multistate or even national class actions in state courts.'" *Corber v. Xanodyne Pharm.,*  
*Inc.*, 771 F.3d 1218, 1222 (9th Cir. 2014) (citing *Tanoh v. Dow Chem. Co.*, 561 F.3d  
945, 952 (9th Cir. 2009)).

1 at 1018. The exception does not fit because the real Defendant, Chobani, is not a  
2 citizen of California.

3 Even if the requirements of subsection (d)(4)(A)(i) were satisfied here (which  
4 they are not), this case would still not satisfy the local controversy requirements of  
5 (d)(4)(A)(ii), because the New York *Stoltz* case was filed first. For example, in  
6 *Bridewell-Sledge v. Blue Cross of California*, a class action was not remanded  
7 under the local controversy exception because it was filed second. *See Bridewell-*  
8 *Sledge v. Blue Cross of California*, No. CV 14-04744 MMM CWX, 2015 WL  
9 179779 (C.D. Cal. Jan. 14, 2015). There, two related class actions were filed on the  
10 same day against the same defendant. The first was filed “13 minutes and 50  
11 seconds” before the second class action. *Bridewell-Sledge*, 2015 WL 179779, at  
12 \*10. The court remanded the first action under the “local controversy” exception,  
13 but not the second action.

14  
15 Here, *Stoltz* was filed first. Both the *Stoltz* action and the Complaint here  
16 name the same defendant, Chobani. In fact, most of the *Stoltz* Complaint is copied  
17 verbatim into Plaintiff’s Complaint. The *Stoltz* action alleges a violation of the  
18 same California laws at issue here. *Stoltz*, was filed approximately three months  
19 *prior* to Plaintiff’s Complaint. Therefore, this matter is not a true local controversy  
20 under CAFA. The claims against Chobani are of substantial national interest, as  
21 demonstrated by the existence of the first-filed New York *Stoltz* class action.  
22 *Standard Fire*, 133 S. Ct. at 1350. Moreover, the controversy cannot be said to be  
23 truly local under subsections §§ 1332(d)(4)(A)(i) or (d)(4)(A)(ii). Therefore, the  
24 Plaintiff has failed to establish the matter as a “local controversy.”

### 25 **C. There is No Presumption Against Removal**

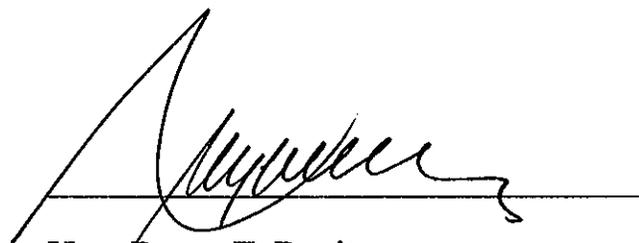
26  
27 The Plaintiff contends that removal was improper because there is a strong  
28 presumption against removal. The Court in *Dart* disagrees. “It suffices to point out

1 that no antiremoval presumption attends cases invoking CAFA, which Congress  
2 enacted to facilitate adjudication of certain class actions in federal court.” *Dart*, 135  
3 S. Ct. at 554 (holding that the District Court erroneously applied a presumption  
4 against removal of a CAFA claim). There is no presumption for CAFA cases.

5  
6 **V. CONCLUSION**

7 Because the Defendants have shown by a preponderance of the evidence the  
8 minimum amount in controversy exceeds \$5,000,000, this Court has original  
9 jurisdiction under CAFA. Because Plaintiff has not satisfied her burden of proving  
10 that an exception to CAFA jurisdiction applies, Plaintiff’s Motion to Remand is  
11 hereby **DENIED**.

12 DATED: 8/10, 2015

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15 Hon. Roger T. Benitez  
16 United States District Judge  
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