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Class Actions: Ninth Circuit Holds No "Mass Action" Removal Without A Plaintiff Request For A Joint Trial

Addressing an issue of first impression, the Ninth Circuit held in *Romo v. Teva Pharmaceuticals USA, Inc.*, No. 13-56310 (Sept. 25, 2013), that a plaintiff's petition for coordination of state actions pursuant to California Code of Civil Procedure section 404 did not constitute a proposal for the actions to be tried jointly under the Class Action Fairness Act of 2005 (CAFA). CAFA authorizes removal of "mass actions," defined as "any civil action . . . in which monetary relief claims of 100 or more persons are proposed to be tried jointly on the ground that the plaintiffs' claims involve common questions of law or fact." 28 U.S.C. § 1332(d)(11)(B)(i). Distinguishing a Seventh Circuit decision that involved the consolidation of actions, the Ninth Circuit concluded that the section 404 petition focused on coordination of pretrial matters rather than trial. Therefore, the petition did not constitute a proposal to try the cases jointly and removal to federal court was not authorized under CAFA.

California Procedure: No Mandatory Relief For Failure To Oppose Summary Judgment

Joining the majority of other California courts of appeal to address the issue, the court in *Las Vegas Land & Development Co. v. Wilkie Way LLC*, No. B238921 (Sept. 19, 2013), held that the mandatory provision to set aside default judgments under California Code of Civil Procedure section 473(b) does not apply to summary judgments. The provision requires the court to vacate a "default" or "default judgment or dismissal" entered against a party when the party's counsel swears in an affidavit that the default or dismissal was "caused by the attorney's mistake, inadvertence, surprise, or neglect." The court concluded that the statute should be narrowly construed to apply only to proceedings wherein the defendant fails to answer the complaint. To extend the statute's protection to defendants who fail to oppose summary judgment, as one court of appeal has done, goes beyond what the Legislature intended, according to this court.

Ethics: They Say A Secret Is Something You Tell One Other Person

It is easy to let your guard down in certain social situations, but client confidences should never be brought to the party. JK Rowling recently [settled a lawsuit](#) against her London law firm, Russells, and others. Russells partner Chris Gossage revealed to his wife's best friend, Judith Callegari, the secret that the Harry Potter author had also written the then-obscure novel *The Cuckoo's Calling* under the pseudonym Robert Galbraith. One night in July, just after midnight, Callegari responded to a Twitter post from a *Sunday Times* reviewer praising *The Cuckoo's Calling* with the surprise news that Rowling was the author. Soon the whole world knew, and *The Cuckoo's Calling* jumped from 4,709 to the top of Amazon's sales chart. "[A]ngry and distressed that her confidences had been betrayed," Rowling sued Gossage and Callegari. Gossage appeared before the British High Court and apologized to Rowling. Russells, which had previously publically apologized to Rowling, reimbursed her legal costs and made a donation to The Soldier's Charity. Incidentally, Rowling promised to give all profits from *The Cuckoo's Calling* to the charity for three years, which is fitting as the book's protagonist, Cormoran Strike, is a wounded Afghanistan veteran.

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