

Nos. 06-16324-CC & 06-16325-CC

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

KATIE LOWERY, ET AL.,
Plaintiffs-Appellees,

v.

HANNA STEEL CORP., ET AL.,
Defendants-Appellants.

On Permissive Appeal Pursuant to 28 U.S. C. § 1453(c)(1)
from the United States District Court for the
Northern District of Alabama
Case No. 2:06-cv-01370-WMA
(The Honorable William M. Acker, Jr.)

THE CHAMBER OF COMMERCE OF THE UNITED STATES OF
AMERICA'S MOTION FOR LEAVE TO FILE BRIEF AS *AMICUS*
CURIAE IN SUPPORT OF APPELLANTS' MOTION FOR REHEARING
EN BANC OR ALTERNATIVELY FOR PANEL REHEARING

The Chamber of Commerce of the United States of America ("the Chamber") hereby moves this Court, pursuant to Federal Rule of Appellate Procedure 29 and Eleventh Circuit Rule 35-6, for leave to file a brief as *amicus curiae* in support of Appellants' Motion for Rehearing. For the following reasons, the Chamber's motion should be granted:

1. The Chamber is the world's largest business federation, with an underlying membership of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country. The Chamber is well positioned to assist the Court in evaluating the parties' arguments because the Chamber regularly advances the interests of its members in courts throughout the country on issues of critical concern to the business community, and has participated as *amicus curiae* in numerous cases addressing jurisdictional issues, including *Kircher v. Putnam Funds Trust*, 547 U.S. ---, 126 S.Ct. 2145 (2006).

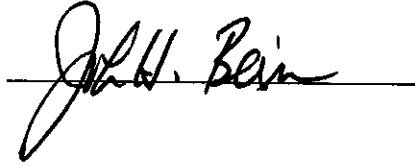
2. The Chamber's members are frequently defendants in individual cases and class actions in which the existence of federal diversity jurisdiction is at issue. In addition, the Chamber was involved – on behalf of its members – in organizing support for the much needed class action reforms reflected in the Class Action Fairness Act (“CAFA”). As a result, the organization has a wealth of experience in interpreting the jurisdictional requirements set forth in CAFA and is uniquely suited to provide the Court with significant guidance in addressing the policy goals and intent of the legislation – an issue not addressed in detail in the parties' briefs and that might otherwise escape the Court's attention.

3. The Chamber and its members have a strong interest in seeking rehearing of the panel's April 11, 2007 opinion, which substantially raised the burden on defendants removing cases to federal court by: (1) holding that defendants must present "clear" evidence that federal jurisdiction exists in their removal papers or face remand; and (2) barring district courts from allowing parties to engage in jurisdictional discovery after removal of a case. The panel's opinion, if left undisturbed, will have the practical effect of allowing plaintiffs in the Eleventh Circuit to evade federal jurisdiction in diversity cases simply by failing to plead facts related to the monetary value of their claims. Such a result will have far-reaching effects on companies that do business in the United States, many of which are members of the Chamber. Specifically, these rulings will threaten the ability of American businesses to fairly defend themselves against claims subject to federal jurisdiction.

4. For the foregoing reasons, the Chamber respectfully submits that it is well-qualified to assist the Court in evaluating the arguments raised by the parties in this case.

WHEREFORE, the Chamber of Commerce of the United States of America respectfully requests that this Court grant it leave to appear as *amicus curiae* and to file a brief in support of Appellants. If granted, the Chamber requests that the Court file and consider the attached brief.

Respectfully submitted by:

A handwritten signature in black ink, appearing to read "John H. Beisner", is written over a horizontal line.

May 9, 2007

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