



## New Law Brings Significant Changes to Removal, Federal Jurisdiction, and Venue

As 2011 drew to a close, President Obama quietly signed into law a significant rewriting of the federal jurisdiction and venue statutes. The Federal Courts Jurisdiction and Venue Clarification Act of 2011 (the "JVCA"), which passed Congress unanimously, took effect on January 6, 2012. Most notably for businesses that face litigation in state courts, the JVCA significantly affects how and when defendants can remove those cases to federal court:

**Removal timing in cases with multiple defendants.** In cases involving multiple defendants, the federal circuits had been split on when the clock started on the 30-day deadline for removal. Some circuits began counting the 30 days when the first defendant was served (or otherwise received the initial pleading), while other circuits allowed removal for 30 days after the last defendant was served. Under the JVCA, each defendant has 30 days from service to remove the case, regardless of when the other defendants were served. If an earlier-served defendant misses the deadline, it may still consent to a later-served defendant's removing the case (though the earlier-served defendant may not itself remove the case). The JVCA also codifies the longstanding judge-made rule that all defendants must consent to removal.

**New exception to current one-year time limit on diversity removal.** The old, ironclad rule that prevented diversity removal after one year from the filing of the case now has a limited exception. If the district court finds that the plaintiff acted in bad faith to prevent a defendant from removing the action, the court can permit the removal even if the one-year time limit has passed.

**Amount in controversy changes.** Defendants should now have an easier time demonstrating the necessary amount in controversy for diversity removals. If the complaint demands in excess of \$75,000, the amount-in-controversy requirement is satisfied. If the complaint does not demand a specific sum, a defendant may assert an amount in controversy in the notice of removal. The district court will evaluate the amount in controversy using a preponderance-of-the-evidence standard. Even if the complaint demands a sum lower than the statutory minimum, a defendant may still assert a higher amount in the notice of removal, so long as the relevant state would allow for recovery in excess of the sum demanded.

If a case is not removable solely because the amount-in-controversy requirement is not met, information obtained in the state court proceeding (including discovery) that relates to the amount in controversy can be used for an "other paper" removal. A defendant has one year from commencement of the action to remove a case based on "other paper," subject to the new bad-faith exception discussed above.

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**Sever and remand for nonremovable claims.** If a case involves both removable and nonremovable claims, a defendant may remove the entire case to federal court. In such a case, the JVCA requires that, upon removal, the district court must sever the nonremovable claims and remand them to the state court.

In addition to these and other changes affecting removal, the JVCA also makes significant modifications to venue and transfer rules in the federal courts. You can find the full text of text of the JVCA by clicking [here](#). The House Report, which details the reasons behind these changes, is available [here](#).

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