PREFACE

By Gregory C. Cook

*The Class Action Fairness Act: Law and Strategy* is our effort to produce the definitive book on CAFA. To the best of our knowledge, this is the first book to be devoted entirely to CAFA.

It is the right time for this book to be written. CAFA has now been in effect for over eight years, and it is appropriate to step back and survey the state of the law. The statutory language is not a model of clarity; therefore, much of the heavy lifting has been left to the federal courts, and our book highlights that case law.

In keeping with the finest traditions of the Litigation Section of the American Bar Association, this book will focus on practical advice for lawyers who must tackle the sometimes confounding technicalities of this law in the real world. For instance, chapter 1 includes a not-to-be-missed reference chart of the key changes made by CAFA.

Since many of CAFA’s provisions mark major departures from longstanding federal jurisdictional and class action law, this statute cries out for a simple roadmap suitable for all practitioners. CAFA drastically altered removal law, settlement law and appeals procedures and standards, and includes vague jurisdictional provisions, multifactor tests, and complex exceptions. Many of these provisions include traps for the unwary, with potentially dire consequences for clients. Our book aims to tackle CAFA’s provisions, with in-depth analysis of statutory language, descriptions of key judicial interpretations, and specific suggested strategies for practitioners. CAFA has created important new strategic considerations for both plaintiffs and defendants. We hope this book will provide both plaintiff and defense counsel with a clearer picture of the statute, its case law, and helpful strategies, so attorneys can make better-informed decisions for their clients.

In addition, our book includes “deep dive” scholarship into this act and its background. We believe that chapter 2 is the first comprehensive
effort to chronicle the legislative history of CAFA. This chapter alone makes this book an essential resource for your legal reference library.

*The Class Action Fairness Act: Law and Strategy* is a true example of the power of collaboration that comes from the ABA. The book includes the contributions of 21 authors, with most chapters including authors from both the defense and plaintiff camps. While many of the authors are from the leadership of the Class Action and Derivative Suits Committee, two of the eleven chapters are written by members of the Appeals Committee and the Mass Torts Committee of the ABA Litigation Section. I cannot thank these authors enough for their dedication and sharing of their expertise, through long nights of editing—after coming home from their day jobs. They have been exceptionally patient throughout the progress of the book, in spite of my repeated requests for updates and edits. They are all outstanding lawyers. I have learned an immeasurable amount from working with each of them.

I want to say a special thank-you to the members of the Book Publishing Board of the ABA Litigation Section for their strong support of this project. It is clear this book could never have been a reality without them, including the support of co-chair Spencer Punnett. In particular, Jeffery Berger, the liaison from the Book Publishing Board, has been invaluable and is one of the best editors that I have ever met. He has gone far beyond what would be expected and is an integral part of this team.

Likewise, I want to thank the Class Action and Derivative Suits Committee for their support and staffing of this book. Long after I left the chair of the committee, they continued to support me. They are the core of this project and a true example of the best of committees within the ABA.

Of particular note are the contributions of Jocelyn Larkin, co-chair with me of the Class Action and Derivative Suits Committee. This book was her idea, and I was privileged to have her expert consultation, as well as writing, throughout this project. She is an outstanding lawyer and writer.

The Appeals Committee and the Mass Torts Committee have also been strong supporters and partners on this project. Their contributions have exceeded all expectations. I also want to recognize the support of the ABA Litigation Section and its staff.
I should finally thank those who have helped me personally with this project. First, Neah Mitchell and Chase Espy of Balch & Bingham, L.L.P., provided important assistance with proofreading and review of countless pages of text. Second, I would like to acknowledge the support and editorial assistance of my long-suffering and wonderful wife, Kimberly Barlow Cook. Finally, I must thank my hardworking and talented paralegal (Candi Sherman) and assistant (Jamie Miller) for their assistance.