UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

IN RE: GENERAC SOLAR POWER SYSTEMS MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION

MDL No. 23-MD-3078

This Document Relates to All Cases

DECISION AND ORDER

In this multidistrict litigation, plaintiffs allege that a component in solar power storage systems manufactured and marketed by Generac Power Systems, Inc. ("Generac"), is defective. Plaintiffs bring proposed class actions against Generac and its parent company, Generac Holdings, Inc., to recover for economic losses allegedly caused by the defect. They assert claims for breach of warranty under state law and the Magnuson-Moss Warranty Act ("MMWA" or "the Act"), and state-law claims for negligent and fraudulent misrepresentation, unjust enrichment, and violation of state consumer protection statutes. Plaintiffs assert that federal original jurisdiction exists under the Class Action Fairness Act of 2005 ("CAFA").

Defendants have filed a motion to dismiss the Consolidated Class Action Complaint on various grounds. I address most of those grounds in a separate opinion. However, I issue this opinion to address defendants' motion to dismiss plaintiffs' claims under the MMWA for lack of subject-matter jurisdiction. *See* Fed. R. Civ. P. 12(b))1). As discussed more fully below, defendants contend that because plaintiffs do not satisfy the jurisdictional requirements of the MMWA, a federal court does not have subject-matter jurisdiction to adjudicate the MMWA claims, even though the court has original jurisdiction

over all state-law claims under CAFA. Because this is an issue on which there is a split of authority, I have decided to analyze it in detail.

I. BACKGROUND

Generac is an energy technology company that manufactures solar energy power systems. The present case involves Generac's "PWRcell" system, which is intended for residential use. It connects to rooftop solar panel arrays to convert and store electricity generated by the panels. A component of this system known as the "SnapRS" (in the plural, "Snaps") is designed to protect against electrical surges such as those caused by lightning strikes. Plaintiffs allege that the Snaps do not work properly. They allege that the components become overactive—repeatedly turning off and on—which causes them to overheat, bubble, burn, and explode. Plaintiffs allege that a malfunctioning SnapRS can cause a house to catch fire. However, no plaintiff has experienced a fire, and plaintiffs do not seek damages for personal injury or for damage to a residence. Instead, plaintiffs allege that the malfunctioning component makes the PWRcell systems worth less than what plaintiffs paid for them, causing economic losses.

Plaintiffs allege a variety of legal theories, nearly all of which are based on state law. These include breach of implied warranty, breach of express warranty, fraud, unjust enrichment, and violation of various state consumer-protection statutes. Plaintiffs also assert a breach-of-warranty claim under the MMWA that arises out of the same facts as plaintiffs' state-law warranty claims. This claim is brought on behalf of the 31 individual named plaintiffs, and as a proposed class action on behalf of a nationwide class of all purchasers of the allegedly defective Generac system.

Defendants move to dismiss the MMWA claim for lack of subject-matter jurisdiction. They contend that plaintiffs do not satisfy the conditions placed on the MMWA's grant of subject-matter jurisdiction to federal district courts. Plaintiffs concede that they do not satisfy those conditions, but they contend that the court may exercise subject-matter jurisdiction under CAFA's expansion of the diversity jurisdiction or under the supplemental jurisdiction.

II. DISCUSSION

Congress passed the Magnuson-Moss Warranty Act of 1975, 15 U.S.C. §§ 2301–12, in response to perceived problems with warranties on consumer goods. *See* Kurt A. Strasser, *Magnuson-Moss Warranty Act: An Overview and Comparison with UCC Coverage, Disclaimer, and Remedies in Consumer Warranties*, 27 Mercer L. Rev. 1111, 1113 (1976). The Act aims to make warranties more understandable to the consumer and to create a mechanism for more easily enforcing express or implied warranties. *Id.* As is relevant here, the Act allows a consumer who is damaged by the failure of a supplier to comply with the obligations imposed by the MMWA or by a written or implied warranty to bring a cause of action for damages or other relief. 15 U.S.C. § 2310(d)(1). The MMWA provides that the suit may be brought in either state or federal court, but the Act makes the federal jurisdiction it confers subject to three conditions: (1) the amount in controversy of any individual claim must be greater than or equal to $25, (2) the aggregate value of all claims in the suit must be greater than or equal to $50,000, and (3) if the case is brought as a class action, there must be at least 100 named plaintiffs. *Id.* § 2310(d)(3). Under this "unusual jurisdictional clause," an aggrieved customer may sue on state-law

claims in federal court whether or not the parties are diverse. *Gardynski-Leschuck v. Ford Motor Co.*, 142 F.3d 955, 956 (7th Cir. 1998).

The present case is brought as a class action, but there are fewer than 100 named plaintiffs. Thus, the MMWA does not confer original jurisdiction to hear the claim. However, the court has original jurisdiction over plaintiffs' state-law claims under the amendments to the diversity jurisdiction made by the Class Action Fairness Act of 2005. *See* 28 U.S.C. § 1332(d). Jurisdiction under CAFA exists because there are 100 or more putative class members, the aggregate amount in controversy exceeds $5 million (exclusive of interest and costs), and plaintiffs and Generac are citizens of different states. Plaintiffs contend that CAFA's original jurisdiction extends to the MMWA claim or, in the alternative, that the court may exercise supplemental jurisdiction over the MMWA claim under 28 U.S.C. § 1367. Defendants dispute that jurisdiction over the MMWA claim is conferred by either CAFA or § 1367. I begin with the question of exercising supplemental jurisdiction under § 1367 because, at least in the Seventh Circuit, the answer is clear.

A. Supplemental Jurisdiction

The supplemental-jurisdiction statute provides as follows:

> Except as provided in [other subsections of the statute] or as expressly provided otherwise by Federal statute, in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

28 U.S.C. § 1367(a). Here, regardless of whether CAFA confers original jurisdiction over plaintiffs' MMWA claim, it unquestionably confers jurisdiction over all plaintiffs' state-law claims for breach of warranty, fraud, and violation of state consumer-protection laws. Further, because the MMWA claim and the state-law claims arise out of a common

nucleus of operative facts, the MMWA claim forms part of the same case or controversy as the state-law claims. *See Prolite Bldg. Supply, LLC v. MW Mfrs., Inc.*, 891 F.3d 256, 258 (7th Cir. 2018). Thus, unless another federal statute "expressly provides otherwise," *see* § 1367(a), I may exercise supplemental jurisdiction over the MMWA claim.[1]

Defendants, however, contend that § 1367(a)'s proviso applies here. Citing two unpublished district-court cases,[2] they argue that the MMWA's requirement that a federal class action have at least 100 named plaintiffs expressly negates supplemental jurisdiction. But the Seventh Circuit has twice implicitly rejected this argument. In *Burzlaff v. Thoroughbred Motorsports, Inc.*, 758 F.3d 841, 844–45 (7th Cir. 2014), and *Voelker v. Porsche Cars North America, Inc.*, 353 F.3d 516, 521–22 (7th Cir. 2003), the court held that a district court may exercise supplemental jurisdiction over an MMWA claim even though the claim did not meet the amount-in-controversy requirement of § 2310(d)(3)(B).[3] In neither case did the court view the MMWA's jurisdiction-conferring provision as a statute "expressly provid[ing]" that a district court does not have supplemental jurisdiction over an MMWA claim. Defendants note that, in these cases, the Seventh Circuit was presented with individual MMWA claims rather than class actions, and that therefore the court did not have to consider the 100-named-plaintiff requirement of § 2310(d)(3)(C).

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[1] Section 1367(c) allows me to decline to exercise supplemental jurisdiction for certain reasons. Defendants do not argue that I should decline to exercise supplemental jurisdiction for any listed reason, and at this point in the case, I do not see any reason to decline jurisdiction.

[2] *Granato v. Apple Inc.*, Case No. 22-cv-02316, 2023 WL 4646038 (N.D. Cal. July 19, 2023); *Borchardt v. Mako Marine Int'l, Inc.*, No. 08–61199, 2011 WL 4636799 (S.D. Fla. Oct. 6, 2011).

[3] The Third Circuit reached the same conclusion in *Suber v. Chrysler Corp.*, 104 F.3d 578, 588 n.12 (3d Cir. 1997).

However, that requirement and the amount-in-controversy requirement are part of the same subsection of the MMWA, and it is not possible to construe one requirement as an express negation of supplemental jurisdiction but not the other. Either all of § 2310(d)(3) expressly negates supplemental jurisdiction, or none of it does. Accordingly, the reasoning of *Burzlaff* and *Voelker* dictates the outcome of this case.

Even if *Burzlaff* and *Voelker* did not apply to the 100-named-plaintiff requirement, I would reach the same result as a matter of original statutory interpretation. For the proviso in § 1367(a) to apply, the federal statute must "expressly provide" that a district court may not exercise supplemental jurisdiction over the claim. In a case involving a similar proviso in the removal statute, *see* 28 U.S.C. § 1441(a), the Supreme Court warned against reading the term "expressly" out of the proviso. *Breuer v. Jim's Concrete of Brevard, Inc.*, 538 U.S. 691, 696–97 (2003). The D.C. Circuit has extended this reasoning to the proviso in the supplemental-jurisdiction statute. *See Lindsay v. Gov't Employees Ins. Co.*, 448 F.3d 416, 422 (D.C. Cir. 2006). In *Lindsay*, the court held that the opt-in requirement of the Fair Labor Standards Act ("FLSA")—which requires the members of a collective action to affirmatively opt into the case to be part of it rather than passively decline to opt out, as in a class action under Federal Rule of Civil Procedure 23—was not a statute expressly negating supplemental jurisdiction over state-law class actions filed under Rule 23. *Id.* Applying *Breuer*, the D.C. Circuit held that the part of the FLSA creating the opt-in requirement did not preclude supplemental jurisdiction because

it did not expressly prohibit the exercise of supplemental jurisdiction over state-law class actions and did not mention supplemental jurisdiction at all. *Id.*[4]

As with the FLSA provision at issue in *Lindsay*, the MMWA's 100-named-plaintif requirement does not expressly prohibit the exercise of supplemental jurisdiction and does not mention supplemental jurisdiction at all.[5] At best, the requirement *implies* that a federal court may not exercise supplemental jurisdiction over an MMWA claim, which is insufficient to negate supplemental jurisdiction. Thus, the proviso in § 1367(a) does not apply here.

B. Original Jurisdiction under CAFA

The federal courts are divided on the question of whether they may exercise jurisdiction over an MMWA claim under CAFA. In a non-precedential decision, the Sixth Circuit concluded that a district court may exercise jurisdiction under CAFA even if the case does not satisfy the requirements of the MMWA's jurisdiction-conferring provision. *Kuns v. Ford Motor Co.*, 543 F. App'x 572, 574 (6th Cir. 2013). More recently, the Ninth and Third Circuits have held in published opinions that CAFA does not confer federal jurisdiction over MMWA claims that do not satisfy the MMWA's jurisdiction-conferring provision. *Rowland v. Bissell Homecare, Inc.*, 73 F.4th 177, 182–85 (3d Cir. 2023); *Floyd v. Am. Honda Motor Co., Inc.*, 966 F.3d 1027, 1034–35 (9th Cir. 2020). District courts have reached differing conclusions. *See Ghaznavi v. De Longhi America, Inc.*, No. 22

[4] The Seventh Circuit adopted this part of *Lindsay* in *Ervin v. OS Restaurant Services, Inc.*, 632 F.3d 971, 979 (7th Cir. 2011).

[5] Of course, the MMWA was enacted more than a decade before supplemental-jurisdiction statute was passed in 1990, and so it would be surprising for it to use the term "supplemental jurisdiction." But the same was true of the FLSA provision at issue in *Lindsay*, which was enacted in 1947. *See Lindsay*, 448 F.3d at 419.

Civ. 1871, 2023 WL 4931610, at *7–8 (2023) (collecting some cases). The Seventh Circuit has not yet weighed in on the debate. *See Ware v. Best Buy Stores, LP*, 6 F.4th 726, 733 n.2 (7th Cir. 2021).

Because this issue is one of statutory interpretation, I begin with the text of the MMWA's jurisdictional provision. *See Bartenwerfer v. Buckley*, 598 U.S. 69, 74 (2023). The statutory text that both creates a civil cause of action under the MMWA and confers jurisdiction on state and federal courts provides in relevant part as follows:

> [A] consumer who is damaged by a failure of a supplier, warrantor, or service contractor to comply with any obligation under this chapter, or under a written warranty, implied warranty, or service contract, may bring a suit for damages and other legal and equitable relief—
>
> (A) in any court of competent jurisdiction in any State or District of Columbia; or
>
> (B) in an appropriate district court of the United States, subject to paragraph (3) of this subsection.

15 U.S.C. § 2310(d)(1). Subsection (3) provides as follows:

> No claim shall be cognizable in a suit brought under paragraph (1)(B) of this subsection—
>
> (A) if the amount in controversy of any individual claim is less than the sum or value of $25;
>
> (B) if the amount in controversy is less than the sum or value of $50,000 (exclusive of interest and costs) computed on the basis of all clams to be determined in this suit; or
>
> (C) if the action is brought as a class action, and the number of named plaintiffs is less than one hundred.

Id. § 2310(d)(3).

The first thing to notice about the statutory text is that it does not purport to strip the federal courts of jurisdiction that might be conferred by a statute other than the MMWA. Instead, the text merely limits the federal jurisdiction conferred by the MMWA itself. Paragraph (1) of subsection (d) creates the federal cause of action and allows a

"suit" to be brought in either state or federal court. But the federal jurisdiction conferred by paragraph (1) is subject to the limitations in paragraph (3). That paragraph, in turn, states that no "claim" shall be cognizable in a "suit" brought "under paragraph (1)(B) of [subsection (d)]" unless the appliable amount-in-controversy and named-plaintiff requirements are met. Thus, by its terms, paragraph (3) simply limits the jurisdiction conferred by paragraph (1)(B). This leaves open the possibility of bringing a "claim" in federal court to enforce the cause of action created by paragraph (1) in a "suit" brought under a different statute conferring original jurisdiction on a district court—that is, in a "suit" *not* "brought under paragraph (1)(B) of [subsection (d)]."

Nonetheless, principles of statutory interpretation mandate that the MMWA be construed to strip federal courts of jurisdiction under certain statutes granting federal-question jurisdiction. When the MMWA was enacted, a federal statute conferred original jurisdiction on district courts over "any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies." 28 U.S.C. § 1337 (1970). The MMWA is an Act of Congress regulating commerce. Thus, unless the MMWA's jurisdictional limitations stripped a federal court of jurisdiction under § 1337, those limitations would be entirely superfluous, since any MMWA claim could have been brought under § 1337 regardless of the amount in controversy or the number of named plaintiffs. Because a court must when possible avoid rendering statutory language superfluous, *see Biden v. Texas*, 597 U.S. 785, 799 (2022), the MMWA's jurisdictional limitations must be construed as precluding an MMWA claim from being brought in federal court under § 1337. Indeed, the legislative history of the MMWA confirms that Congress intended for the MMWA's jurisdictional limitations to

preclude jurisdiction under § 1337. Specifically, the House Report on the MMWA states the following:

> Under the provisions of section 1337 of title 28, United States Code, the district courts of the United States have original jurisdiction of any civil action or proceeding arising under any act of Congress regulating commerce. The legislation herein reported is, of course, an act of Congress regulating commerce. This original jurisdiction vested in the district courts by section 1337 pertains without regard to the amount in controversy in any civil action or proceeding. In the absence of [the jurisdictional limitations in the MMWA] a civil action on a warranty under the legislation could be brought in a district court of the United States without regard to the amount involved.

H.R. Rep. No. 93-1107, at 42–43 (1974), *as reprinted in* 1974 U.S.C.C.A.N. 7702, 7724. Accordingly, a claim that does not meet the MMWA's jurisdictional requirements cannot be brought in federal court under a statute conferring federal-question jurisdiction.[6]

However, the question remains whether Congress intended to strip federal courts of diversity jurisdiction over an MMWA. There is good reason to think that Congress did not intend this result. According to the legislative history of the MMWA, the purpose of the Act's jurisdiction-limiting provisions is "to avoid trivial or insignificant actions being brought as class actions in the federal courts." H.R. Rep. No. 93-1107, at 42, 1974 U.S.C.C.A.N. at 7724. When Congress passed the MMWA, the statute conferring diversity jurisdiction had a $10,000 amount-in-controversy requirement. *See* 28 U.S.C. § 1332(a) (1970). Further, the claims of multiple plaintiffs could not have been aggregated to reach the

[6] The version of the general federal-question statute existing at the time Congress passed the MMWA included a $10,000 amount-in-controversy requirement. See 28 U.S.C. § 1331(a) (1970). Thus, § 1331 would not necessarily have rendered the MMWA's jurisdictional limitations superfluous. Nonetheless, courts have generally recognized that a federal court may not exercise original jurisdiction over an MMWA claim under § 1331 unless the MMWA's jurisdictional requirements are satisfied. *See Burzlaff*, 758 F.3d at 844 (noting that "federal question jurisdiction under 28 U.S.C. § 1331 is not available" when MMWA's amount-in-controversy requirement is not met).

$10,000 minimum. *See Zahn v. Int'l Paper Co.*, 414 U.S. 291, 301 (1973). Thus, to bring an MMWA claim under the diversity jurisdiction—either individually or as a class action—each claim had to satisfy the $10,000 amount-in-controversy requirement. It is hard to describe a class action in which each plaintiff claims more than $10,000 (as measured in 1974 dollars) as a "trivial or insignificant action." For this reason, it is unlikely that Congress intended to preclude diversity jurisdiction over an MMWA claim.

The text of the MMWA supports this result. The language to interpret is the part of § 2310(d)(3) referring to "a suit brought under paragraph (1)(B) of [subsection (d)]." In general, a suit brought in federal court under the diversity jurisdiction is not a suit brought under the jurisdiction-conferring provisions of the MMWA. Instead, such a suit is brought under § 1332. Although one could say that a suit under § 1331 or § 1337 is a suit brought under those sections rather than under the jurisdiction-conferring provisions of the MMWA, the key difference is that, under § 1331 and § 1337, federal-question jurisdiction would not exist but for the federal cause of action created by the MMWA. Thus, any suit that depends on the MMWA to create federal-question jurisdiction is "brought under" the MMWA. But diversity jurisdiction does not depend on the existence of a federal cause of action; it depends on the citizenship of the parties and the amount in controversy. Thus, a suit brought to enforce the MMWA under the diversity jurisdiction is not "brought under" the jurisdiction-conferring provisions of the MMWA. *See also Wetzel v. Am. Motors Corp.*, 693 F. Supp. 246, 250–51 (E.D. Penn. 1988) ("The limitation of jurisdictional amount [in the MMWA] applies by its terms to suits *brought under* the statute; if the suit is brought under the statute, jurisdiction is based on 28 U.S.C. § 1331 or § 1337 and not on 28 U.S.C. § 1332, diversity of citizenship.").

In the present case, plaintiffs do not allege that their claims satisfy the $75,000 amount-in-controversy requirement for regular diversity jurisdiction. Instead, they rely on CAFA's extension of diversity jurisdiction to class actions in which the aggregate amount in controversy exceeds $5 million. *See* 28 U.S.C. § 1332(d)(2). But there is no reason to treat CAFA diversity jurisdiction differently from regular diversity jurisdiction for purposes of the MMWA. Again, Congress's intent in enacting the jurisdiction-limiting provisions of the MMWA was to avoid creating federal jurisdiction over small warranty claims. But a class action in which the aggregate amount in controversy exceeds $5 million is not a small claim. Indeed, the Congress that passed the MMWA apparently viewed an aggregate amount in controversy of $50,000 as sufficient to warrant federal jurisdiction. *See* 15 U.S.C. § 2310(d)(3)(B). Thus, nothing in the text or history of the MMWA suggests that the Congress that passed the MMWA would have intended to preclude federal courts from exercising jurisdiction over an MMWA claim if the conditions specified in CAFA were met. *See also In re General Motors Air Conditioning Mktg. & Sales Practices Litig.*, 568 F. Supp. 3d 837, 843 (E.D. Mich. 2021) (noting that MMWA case meeting CAFA requirements is not trivial or insignificant); *Weisblum v. Prophase Labs, Inc.*, 88 F. Supp. 3d 283, 294 (S.D.N.Y. 2015) (same).

As noted, however, the Ninth and Third Circuits have held that CAFA does not supply federal jurisdiction over MMWA claims. *Rowland*, 73 F.4th at 185; *Floyd*, 966 F.3d at 1030. The holding in each case is based on the premise that the MMWA's jurisdictional requirements are intended to preclude a federal court from exercising jurisdiction over an MMWA claim that does not satisfy those requirements. *See Rowland*, 73 F.4th at 183; *Floyd*, 966 F.3d at 1034. Notably, however, in neither case does the court perform an

analysis of the statute's text to justify that premise. In *Floyd*, the Ninth Circuit asserts that the plain language of the MMWA's jurisdictional requirements determine whether an MMWA claim is "cognizable in *federal* court." 966 F.3d at 1034. The court does not actually analyze that language, other than to quote it, and the court uses a bracketed phrase to change the most important language. As explained above, the key language is the phrase "a suit brought under paragraph (1)(B) of [subsection (d)]"—does this mean all suits brought in federal court, or only those based on federal-question jurisdiction? The Ninth Circuit uses brackets to change this language to "a suit brought [in district court]," thereby assuming without analysis that the phrase applies to both federal-question and diversity suits. *Id.* Similarly, in *Rowland*, the Third Circuit assumes without analysis that Congress intended for the MMWA's jurisdictional requirements to supply "the only avenue for litigating MMWA claims in federal court." 73 F.4th at 182. To be sure, the Third Circuit does some statutory interpretation to show that the MMWA's authorizing suit "in any court of competent jurisdiction in any State or the District of Columbia" does not separately authorize suits in federal court. *See id.* at 180–82. But the court does not analyze whether the statutory text strips federal courts of diversity jurisdiction. Instead, when the court turns to its analysis of CAFA, it simply assumes that the MMWA and CAFA are "irreconcilable." *Id.* at 183.

As I have explained, a better interpretation of the MMWA's jurisdictional provisions is that Congress did not intend for them to strip federal courts of diversity jurisdiction. Under this interpretation, all the other reasons given by the Ninth and Third Circuits for holding that CAFA does not supply jurisdiction fall away. The balance of the Ninth Circuit's reasoning focuses on whether a court should find that CAFA implicitly repealed the

MMWA's jurisdictional requirements by implication. *Floyd*, 966 F.3d at 1034–35. This depends on the assumption that CAFA could be viewed as repealing the relevant part of the MMWA. But if the MMWA's jurisdictional provisions do not apply to diversity jurisdiction in the first place, then CAFA does not in any sense "repeal" those provisions. Rather, each statute creates distinct jurisdictional requirements. Under CAFA, the parties must be minimally diverse, the aggregate amount in controversy must exceed $5 million, and there must be at least 100 class members. Under the MMWA, diversity is not required, but the aggregate amount in controversy must be at least $50,000 and there must be at least 100 named plaintiffs. These statutes can coexist: in cases where the parties are not minimally diverse or the aggregate amount in controversy is less than $5 million, the MMWA's jurisdictional provisions will determine whether a federal court has jurisdiction. Therefore, a court must give effect to each statute. *See Epic Systems Corp. v. Lewis*, 584 U.S. 497, 510–11 (2018).

The Third Circuit invoked the principle of statutory interpretation that "a statute dealing with a narrow, precise, and specific subject is not submerged by a later enacted statute covering a more generalized spectrum." *Rowland*, 73 F.4th at 184 (quoting *Radzanower v. Touche Ross & Co.*, 426 U.S. 148, 153 (1976)). But CAFA does not "submerge" the jurisdictional provisions of the MMWA. The MMWA still governs when the parties are not diverse or the aggregate amount in controversy does not exceed $5 million. Thus, even if CAFA could be regarded as "covering a more generalized spectrum" than the jurisdictional provisions of the MMWA, the underlying statutory principle would not apply. Similarly, relying on the presumption that Congress is aware of existing law, the Third Circuit noted that Congress could have addressed the MMWA's jurisdictional

requirements when it enacted CAFA but did not. *Id.* at 184–85 (citing *Hall v. United States*, 566 U.S. 506, 516 (2012)). But if Congress did not regard the MMWA as displacing diversity jurisdiction in the first place, it would have had no reason to address the MMWA's requirements. And because the better interpretation of the MMWA is that it leaves diversity jurisdiction intact, Congress likely intended for both the MMWA and CAFA to be separate ways to establish federal jurisdiction over an MMWA claim.

Accordingly, I conclude that CAFA provides an independent basis for subject-matter jurisdiction over plaintiffs' MMWA claims.

III. CONCLUSION

For the reasons stated, **IT IS ORDERED** that defendants' motion to dismiss plaintiff's MMWA claims for lack of subject-matter jurisdiction (ECF No. 32) is **DENIED**.

Dated at Milwaukee, Wisconsin, this 24th day of May, 2024.

/s/ Lynn Adelman
LYNN ADELMAN
District Judge