

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 26-8040

KEVIN D. JARVIS, Acting Commissioner of the New Jersey Department of Labor and Workforce Development,

v.

AMAZON.COM, INC.; AMAZON LOGISTICS, INC.,
Petitioners

(D.N.J. No. 2:25-cv-18014)

Present: BIBAS, MATEY and MONTGOMERY-REEVES, *Circuit Judges*

Submitted are

1. Petition by Petitioners for Leave to Appeal pursuant to 28 U.S.C. 1453(c) Class Action Fairness Act Review of Remand Orders
2. Response by Respondent in Opposition to Petition for Leave to Appeal pursuant to 28 U.S.C. 1453(c) Class Action Fairness Act Review of Remand Orders
3. Brief of Competitive Enterprise Institute as Amicus Curiae in Support of Defendant-Applicants
4. Reply Brief for Petitioners

in the above-captioned case.

Respectfully,

Clerk

ORDER

BIBAS, *Circuit Judge*. New Jersey's Commissioner of Labor sued Amazon under state law on behalf of a group of Amazon Delivery Partners. Amazon argues that his suit duplicates an earlier class action brought by the same group and that we should treat it as such. We decline Amazon's invitation to do so and DENY its petition to appeal under 28 U.S.C. § 1453(c).

The Class Action Fairness Act (CAFA) grants a district court jurisdiction if it confronts a “class action.” 28 U.S.C. § 1332(d)(2). A “class action” is any civil action “filed under [R]ule 23 of the Federal Rules of Civil Procedure or similar State statute.” *Id.* § 1332(d)(1). A state statute is similar to Rule 23 if it contains the “defining characteristics” of Rule 23. *Erie Ins. Exch. v. Erie Indem. Co. (Erie I)*, 722 F.3d 154, 159 (3d Cir. 2013). But if “the relevant state rules are dissimilar to Rule 23,” the case “falls beyond the scope of CAFA jurisdiction.” *Erie Ins. Exch. by Stephenson v. Erie Indem. Co. (Erie II)*, 68 F.4th 815, 820 (3d Cir. 2023).

The Commissioner sued under a New Jersey statute that lacks most of Rule 23’s defining characteristics. *See* N.J. Stat. Ann. § 34:1A-1.12. As the District Court observed, it features no class certification mechanism and no opt-out procedures. It lacks features resembling Rule 23’s prerequisites, such as numerosity or commonality. *See Erie I*, 722 F.3d at 159. And it does not specify what notice must be given to absent class members. *Id.* Thus, it is not “similar” to Rule 23 under CAFA, and the Commissioner’s suit is not a “class action” under 28 U.S.C. § 1332(d)(1)(B).

Because the action does not fall within CAFA as a “class action,” the District Court lacked subject-matter jurisdiction over it. So it lacked jurisdiction to grant a stay, and correctly remanded the suit as required by 28 U.S.C. § 1447(c).

* * * * *

We thus DENY the Petition for Leave to Appeal pursuant to 28 U.S.C. Section 1453(c) Class Action Fairness Act Review of Remand Orders.

By the Court,

s/Stephanos Bibas
Circuit Judge

Dated: October 5, 2026
cc: All Counsel of Record



A True Copy:

Patricia A. Dodszeweit

Patricia S. Dodszeweit, Clerk