

Changes were made in phraseology.

§ 1694. Patent infringement action

In a patent infringement action commenced in a district where the defendant is not a resident but has a regular and established place of business, service of process, summons or subpoena upon such defendant may be made upon his agent or agents conducting such business.

(June 25, 1948, ch. 646, 62 Stat. 945.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 109 (Mar. 3, 1911, ch. 231, § 48, 36 Stat. 1100).

Venue provisions of section 109 of title 28, U.S.C., 1940 ed., appear in section 1400 of this title.

Changes were made in phraseology.

§ 1695. Stockholder's derivative action

Process in a stockholder's action in behalf of his corporation may be served upon such corporation in any district where it is organized or licensed to do business or is doing business.

(June 25, 1948, ch. 646, 62 Stat. 945.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 112 (Mar. 3, 1911, ch. 231, § 51, 36 Stat. 1101; Sept. 19, 1922, ch. 345, 42 Stat. 849; Mar. 4, 1925, ch. 526, § 1, 43 Stat. 1264; Apr. 16, 1936, ch. 230, 49 Stat. 1213).

The phrase "is organized or licensed to do business or is doing business" was substituted for the words "resides or is found," as more specific and to conform to section 1391 of this title.

Venue provisions of section 112 of title 28, U.S.C., 1940 ed., appear in section 1391 and 1401 of this title. Other provisions are incorporated in section 1693 of this title.

Changes were made in phraseology.

§ 1696. Service in foreign and international litigation

(a) The district court of the district in which a person resides or is found may order service upon him of any document issued in connection with a proceeding in a foreign or international tribunal. The order may be made pursuant to a letter rogatory issued, or request made, by a foreign or international tribunal or upon application of any interested person and shall direct the manner of service. Service pursuant to this subsection does not, of itself, require the recognition or enforcement in the United States of a judgment, decree, or order rendered by a foreign or international tribunal.

(b) This section does not preclude service of such a document without an order of court.

(Added Pub. L. 88-619, § 4(a), Oct. 3, 1964, 78 Stat. 995.)

§ 1697. Service in multiparty, multiforum actions

When the jurisdiction of the district court is based in whole or in part upon section 1369 of this title, process, other than subpoenas, may be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.

(Added Pub. L. 107-273, div. C, title I, § 11020(b)(4)(A)(i), Nov. 2, 2002, 116 Stat. 1828.)

EFFECTIVE DATE

Section applicable to a civil action if the accident giving rise to the cause of action occurred on or after

the 90th day after Nov. 2, 2002, see section 11020(c) of Pub. L. 107-273, set out as a note under section 1369 of this title.

CHAPTER 114—CLASS ACTIONS

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1711.	Definitions.
1712.	Coupon settlements.
1713.	Protection against loss by class members.
1714.	Protection against discrimination based on geographic location.
1715.	Notifications to appropriate Federal and State officials.

§ 1711. Definitions

In this chapter:

(1) CLASS.—The term "class" means all of the class members in a class action.

(2) CLASS ACTION.—The term "class action" means any civil action filed in a district court of the United States under rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed under a State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representatives as a class action.

(3) CLASS COUNSEL.—The term "class counsel" means the persons who serve as the attorneys for the class members in a proposed or certified class action.

(4) CLASS MEMBERS.—The term "class members" means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.

(5) PLAINTIFF CLASS ACTION.—The term "plaintiff class action" means a class action in which class members are plaintiffs.

(6) PROPOSED SETTLEMENT.—The term "proposed settlement" means an agreement regarding a class action that is subject to court approval and that, if approved, would be binding on some or all class members.

(Added Pub. L. 109-2, § 3(a), Feb. 18, 2005, 119 Stat. 5.)

REFERENCES IN TEXT

Rule 23 of the Federal Rules of Civil Procedure, referred to in par. (2), is set out in the Appendix to this title.

EFFECTIVE DATE

Chapter applicable to any civil action commenced on or after Feb. 18, 2005, see section 9 of Pub. L. 109-2, set out as an Effective Date of 2005 Amendment note under section 1332 of this title.

FINDINGS AND PURPOSES

Pub. L. 109-2, § 2, Feb. 18, 2005, 119 Stat. 4, provided that:

"(a) FINDINGS.—Congress finds the following:

"(1) Class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

"(2) Over the past decade, there have been abuses of the class action device that have—

"(A) harmed class members with legitimate

claims and defendants that have acted responsibly;

"(B) adversely affected interstate commerce; and

"(C) undermined public respect for our judicial system.

“(3) Class members often receive little or no benefit from class actions, and are sometimes harmed, such as where—

“(A) counsel are awarded large fees, while leaving class members with coupons or other awards of little or no value;

“(B) unjustified awards are made to certain plaintiffs at the expense of other class members; and

“(C) confusing notices are published that prevent class members from being able to fully understand and effectively exercise their rights.

“(4) Abuses in class actions undermine the national judicial system, the free flow of interstate commerce, and the concept of diversity jurisdiction as intended by the framers of the United States Constitution, in that State and local courts are—

“(A) keeping cases of national importance out of Federal court;

“(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

“(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

“(b) PURPOSES.—The purposes of this Act [see Short Title of 2005 Amendments note set out under section 1 of this title] are to—

“(1) assure fair and prompt recoveries for class members with legitimate claims;

“(2) restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate cases of national importance under diversity jurisdiction; and

“(3) benefit society by encouraging innovation and lowering consumer prices.”

§ 1712. Coupon settlements

(a) CONTINGENT FEES IN COUPON SETTLEMENTS.—If a proposed settlement in a class action provides for a recovery of coupons to a class member, the portion of any attorney’s fee award to class counsel that is attributable to the award of the coupons shall be based on the value to class members of the coupons that are redeemed.

(b) OTHER ATTORNEY’S FEE AWARDS IN COUPON SETTLEMENTS.—

(1) IN GENERAL.—If a proposed settlement in a class action provides for a recovery of coupons to class members, and a portion of the recovery of the coupons is not used to determine the attorney’s fee to be paid to class counsel, any attorney’s fee award shall be based upon the amount of time class counsel reasonably expended working on the action.

(2) COURT APPROVAL.—Any attorney’s fee under this subsection shall be subject to approval by the court and shall include an appropriate attorney’s fee, if any, for obtaining equitable relief, including an injunction, if applicable. Nothing in this subsection shall be construed to prohibit application of a lodestar with a multiplier method of determining attorney’s fees.

(c) ATTORNEY’S FEE AWARDS CALCULATED ON A MIXED BASIS IN COUPON SETTLEMENTS.—If a proposed settlement in a class action provides for an award of coupons to class members and also provides for equitable relief, including injunctive relief—

(1) that portion of the attorney’s fee to be paid to class counsel that is based upon a portion of the recovery of the coupons shall be calculated in accordance with subsection (a); and

(2) that portion of the attorney’s fee to be paid to class counsel that is not based upon a portion of the recovery of the coupons shall be calculated in accordance with subsection (b).

(d) SETTLEMENT VALUATION EXPERTISE.—In a class action involving the awarding of coupons, the court may, in its discretion upon the motion of a party, receive expert testimony from a witness qualified to provide information on the actual value to the class members of the coupons that are redeemed.

(e) JUDICIAL SCRUTINY OF COUPON SETTLEMENTS.—In a proposed settlement under which class members would be awarded coupons, the court may approve the proposed settlement only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members. The court, in its discretion, may also require that a proposed settlement agreement provide for the distribution of a portion of the value of unclaimed coupons to 1 or more charitable or governmental organizations, as agreed to by the parties. The distribution and redemption of any proceeds under this subsection shall not be used to calculate attorneys’ fees under this section.

(Added Pub. L. 109–2, §3(a), Feb. 18, 2005, 119 Stat. 6.)

§ 1713. Protection against loss by class members

The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member substantially outweigh the monetary loss.

(Added Pub. L. 109–2, §3(a), Feb. 18, 2005, 119 Stat. 7.)

§ 1714. Protection against discrimination based on geographic location

The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

(Added Pub. L. 109–2, §3(a), Feb. 18, 2005, 119 Stat. 7.)

§ 1715. Notifications to appropriate Federal and State officials

(a) DEFINITIONS.—

(1) APPROPRIATE FEDERAL OFFICIAL.—In this section, the term “appropriate Federal official” means—

(A) the Attorney General of the United States; or

(B) in any case in which the defendant is a Federal depository institution, a State depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing (as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the person who has the primary