

U.S.C. § 1332(d) (2005).

CAFA provides for jurisdiction when:

the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and is a class action in which-

(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

28 U.S.C. § 1332(d) (2). There must be at least 100 class members. 28 U.S.C. § 1332(d) (5) (B).

Kaye has pleaded sufficient facts to establish a prima facie basis for CAFA jurisdiction. With regard to the amount in controversy, Kaye alleges that 10,000 or more faxes have been sent by defendants in violation of TCPA. TCPA provides for statutory damages of \$500 for each violation. 47 U.S.C. § 227 (b) (2) (G) (ii) (3). Thus, the amount in controversy can exceed \$5 million. Kaye alleges that the citizenship of the parties satisfies CAFA's requirement of minimal diversity. And Kaye alleges that there are thousands of class members.

Defendants have moved to dismiss the complaint, partly on the basis that CAFA's requirements cannot be met as a matter of law. In this regard, defendants urge that the case is unsuitable for adjudication as a class action under Rule 23.

A district judge may certify a class only after determining

