

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
NORTH CAROLINA

Curtis O’Neil Moore v. Wheelihan Motor Group, Inc. and Harley-Davidson Motor Company, Inc.

Moore · No. 1:25-cv-1184 · Decided April 24, 2026

SUMMARY

The United States District Court for the Middle District of North Carolina grants the plaintiff’s motion to remand a state-law tort and warranty action to state court. The court holds that complete diversity was lacking because the plaintiff and one defendant were both North Carolina domiciliaries, and that pre-service or “snap removal” cannot cure the absence of complete diversity. The court expressly declines to decide whether snap removal is otherwise permissible under 28 U.S.C. § 1441(b)(2).

CASE DETAILS

COURT	United States District Court for the Middle District of North Carolina
WRITING FOR THE COURT	Lindsey A. Freeman
JURISDICTION	United States District Court for the Middle District of North Carolina
DECIDED	April 24, 2026
DOCKET	1:25-cv-1184
DISPOSITION	remanded
PROCEDURAL POSTURE	Harley-Davidson removed a North Carolina state-law tort action to federal court based on diversity jurisdiction before either defendant had been served. Moore moved to remand, arguing that complete diversity was absent because Moore and Wheelihan were both citizens of North Carolina.
STANDARD OF REVIEW	The court strictly construed removal jurisdiction, resolved doubts in favor of remand, and independently assured itself that subject-matter jurisdiction existed. The removing defendant bore the burden of establishing federal jurisdiction.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion; precedential status unknown

TOPICS

subject matter jurisdiction

civil procedure

interstate disputes

PRACTICE AREAS

civil procedure

federal jurisdiction

removal and remand

products liability

QUESTIONS PRESENTED

1. Whether the district court had original diversity jurisdiction over the removed action when the plaintiff and one defendant were both citizens of North Carolina.
2. Whether pre-service or 'snap removal' under 28 U.S.C. § 1441(b)(2) could permit removal despite the absence of complete diversity.
3. Whether the lack of complete diversity required the court to remand the action sua sponte or upon the plaintiff's motion.

HOLDINGS

1. A state-court action may not be removed based on diversity jurisdiction unless complete diversity exists among the parties. Because Moore and Wheelihan were both North Carolina domiciliaries, the action lacked complete diversity and was not within the court's original diversity jurisdiction.
2. Snap removal, to the extent it is permissible under 28 U.S.C. § 1441(b)(2), cannot be invoked to cure or avoid a lack of complete diversity and cannot create federal subject-matter jurisdiction.
3. The court was not required to decide whether § 1441(b)(2) generally permits snap removal because the absence of complete diversity independently required remand.
4. The court had a duty to assure itself that subject-matter jurisdiction existed and could raise the absence of complete diversity sua sponte; Moore's failure to identify the defect did not waive it.

KEY QUOTATIONS

“Snap removal or not, an absence of complete diversity makes a federal forum unavailable.” (Analysis § II)

“The forum-defendant rule is procedural, rather than jurisdictional, so “it cannot confer jurisdiction where it does not exist.”” (Conclusion)

“Only state-court actions that originally could have been filed in federal court may be removed to federal court by a defendant.” (Analysis § I)

FACTUAL BACKGROUND

Moore, a North Carolina domiciliary, sustained serious injuries in a motorcycle accident near Burlington, North Carolina. He alleged that defects in the motorcycle caused the accident and sued the motorcycle's manufacturer, Harley-Davidson, and seller, Wheelihan, under North Carolina law. Moore and Wheelihan were both domiciled in North Carolina, while Harley-Davidson was domiciled in Wisconsin. Harley-Davidson removed before either defendant had been served.

PROCEDURAL HISTORY

Moore filed an action in Alamance County Superior Court on December 17, 2025, and filed an amended complaint the next day, asserting negligence and breach-of-warranty claims arising from a motorcycle accident. Before service was effectuated on either defendant, Harley-Davidson removed the action on December 27, 2025, invoking diversity jurisdiction and the forum-defendant rule's properly-joined-and-served language. The district court granted Moore's motion to remand because the parties lacked complete diversity and the removal statute could not create subject-matter jurisdiction.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The action was remanded to the Alamance County Superior Court, North Carolina.

CASES CITED

- Caterpillar Inc. v. Lewis, 519 U.S. 61, 62, 68 (1996)
- Strawbridge v. Curtiss, 3 Cranch 267, 267 (1806)
- Wis. Dep't of Corr. v. Schacht, 524 U.S. 381, 388 (1998)
- Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987)
- Home Depot U.S.A., Inc. v. Jackson, 587 U.S. 435, 441 (2019)
- M & B Oil, Inc. v. Federated Mut. Ins. Co., 66 F.4th 1106, 1109–10 (8th Cir. 2023)
- Mulcahey v. Columbia Organic Chems. Co., 29 F.3d 148, 151 (4th Cir. 1994)
- Palisades Collections LLC v. Shorts, 552 F.3d 327, 336 (4th Cir. 2008)
- Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994)
- Navy Fed. Credit Union v. LTD Fin. Servs., LP, 972 F.3d 344, 352 (4th Cir. 2020)
- Lewis v. United States, 519 U.S. 61, 68 n.3 (1996)
- Owen Equip. & Erection Co. v. Kroger, 437 U.S. 365, 373 (1978)
- Encompass Ins. Co. v. Stone Mansion Rest. Inc., 902 F.3d 147, 151–54 (3d Cir. 2018)
- Gibbons v. Bristol-Myers Squibb Co., 919 F.3d 699, 704–07 (2d Cir. 2019)
- Tex. Brine Co., LLC v. Am. Arb. Ass'n, Inc., 955 F.3d 482, 485–87 (5th Cir. 2020)
- In re Levy, 52 F.4th 244, 246–47 (5th Cir. 2022) (per curiam)
- Hanson v. Depot LBX, Inc., 756 F. Supp. 3d 56, 59, 68–69, 75 (W.D. Va. 2024)
- Androus v. Androus, 747 F. Supp. 3d 904, 906–10 (E.D. Va. 2024)
- Univ. of N.C. Hosps. at Chapel Hill v. United Healthcare of N.C., Inc., No. 1:25-cv-107, 2026 WL 710539, at *3 n.4 (M.D.N.C. Mar. 13, 2026)
- Burrell v. Bayer Corp., 918 F.3d 372, 378 (4th Cir. 2019)
- Clark v. Sweeney, 607 U.S. 7, 9 (2025) (per curiam)
- Brickwood Contractors, Inc. v. Datanet Eng'g, Inc., 369 F.3d 385, 390 (4th Cir. 2004)

- Hertz Corp. v. Friend, 559 U.S. 77, 80–81 (2010)
- Newman-Green, Inc. v. Alfonzo-Larrain, 490 U.S. 826, 830 (1989)
- Pullman Co. v. Jenkins, 305 U.S. 534, 541 (1939)
- Rao v. J.P. Morgan Chase Bank, N.A., 153 F.4th 541, 548–49 (7th Cir. 2025)
- Lawhorne v. Walgreens Boots All., Inc., No. 3:19-cv-16, 2019 WL 3046106, at *4 (W.D. Va. July 11, 2019)
- Cook v. Bob Evans Farms, Inc., No. 2:11-cv-1017, 2012 WL 407261, at *4 (S.D.W. Va. Feb. 8, 2012)

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