

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA

**Elizabeth Larue v. West Virginia CVS Pharmacy, LLC, d/b/a
CVS/Pharmacy Store ID #6333, and Alyssa Waddell**

Larue · No. 5:25-cv-00519 · Decided April 16, 2026

SUMMARY

The court grants Elizabeth Larue’s motion for leave to file a first amended complaint and grants her motion to remand. The court permits joinder of CVS Pharmacy, Inc., the Roger Boone Family Trust, LLC, and unnamed defendants, concluding that the Trust’s West Virginia citizenship destroys diversity jurisdiction. The case is remanded to the Circuit Court of Greenbrier County, West Virginia.

CASE DETAILS

COURT	United States District Court for the Southern District of West Virginia
WRITING FOR THE COURT	Frank W. Volk
JURISDICTION	United States District Court for the Southern District of West Virginia
DECIDED	April 16, 2026
DOCKET	5:25-cv-00519
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiff moved to amend her complaint after removal to add potentially nondiverse defendants and moved to remand for untimely removal and lack of diversity jurisdiction. Defendants opposed both motions and separately moved to dismiss.
STANDARD OF REVIEW	The decision whether to permit post-removal joinder of a defendant whose joinder would destroy subject matter jurisdiction is committed to the sound discretion of the district court under 28 U.S.C. § 1447(e). Removal jurisdiction is narrowly construed, and doubts concerning federal jurisdiction are resolved in favor of remand.
PRECEDENTIAL VALUE	Unknown; memorandum opinion and order from a federal district court

TOPICS

- motion to amend
- subject matter jurisdiction
- civil procedure
- premises liability
- personal injury

PRACTICE AREAS

Civil procedure

Federal jurisdiction

Removal and remand

Personal injury

Premises liability

QUESTIONS PRESENTED

1. Whether removal was timely under 28 U.S.C. § 1446.
2. Whether the amount-in-controversy requirement for diversity jurisdiction was satisfied.
3. Whether complete diversity existed at the time of removal, including whether Waddell was fraudulently joined.
4. Whether the court should permit Larue to amend her complaint after removal to add defendants whose joinder would destroy subject matter jurisdiction under 28 U.S.C. § 1447(e).
5. Whether the action should be remanded after permitting the proposed amendment.

HOLDINGS

1. Removal was timely because CVS removed the action on August 26, 2025, within thirty days after it was served with the summons and complaint on July 28, 2025.
2. The amount in controversy more likely than not exceeded the jurisdictional minimum.
3. Complete diversity existed at removal because Waddell was improperly joined and her citizenship could be disregarded for jurisdictional purposes.
4. Leave to amend was granted because the equities under § 1447(e) favored permitting Larue to add the proposed defendants, including the diversity-destroying Trust.

KEY QUOTATIONS

“If after removal the plaintiff seeks to join additional defendants whose joinder would destroy subject matter jurisdiction, the court may deny joinder, or permit joinder and remand the action to the State court.” (Section II.A)

“Removal jurisdiction is narrowly construed. Remand is necessary if federal jurisdiction is doubtful.” (Section II.B)

“Those considerations are the tie breakers, and the § 1447(e) factors favor amendment and remand.” (Section II.B.3)

FACTUAL BACKGROUND

Larue alleged that CVS and Waddell were responsible for personal injuries she sustained at a CVS store. CVS removed the action based on diversity jurisdiction, and Larue later conceded that Waddell had been improperly named because she was not the store manager. Larue sought to replace Waddell with Doe defendants and add CVS Pharmacy Inc. and the Roger Boone Family Trust, LLC, which the court determined was a West Virginia citizen because all three of its members were domiciled in West Virginia. The complaint sought damages for serious and permanent injuries, medical expenses, pain and suffering, lost wages, and punitive damages.

PROCEDURAL HISTORY

Larue filed a personal-injury action in the Circuit Court of Greenbrier County, West Virginia, on July 22, 2025. CVS removed the action to federal court on August 26, 2025, invoking diversity jurisdiction. Larue then moved to amend to remove Alyssa Waddell and add CVS Pharmacy Inc., the Roger Boone Family Trust, LLC, and Doe defendants, and moved to remand. The district court granted leave to amend, ordered the amended complaint filed, granted remand, and directed the Clerk to return the case to the Circuit Court of Greenbrier County.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The proposed amended complaint was ordered filed, and the action was remanded to the Circuit Court of Greenbrier County, West Virginia. The Clerk was directed to send the opinion and order to counsel, any unrepresented party, and the state-court clerk.

CASES CITED

- Mayes v. Rapoport, 198 F.3d 457, 461-62, 464 (4th Cir. 1999)
- Gen. Tech. Applications, Inc. v. Exro Ltda, 388 F.3d 114, 121 (4th Cir. 2004)
- Central W. Va. Energy Co., Inc. v. Mountain State Carbon, LLC, 636 F.3d 101, 103 (4th Cir. 2011)
- Caterpillar Inc. v. Lewis, 519 U.S. 61, 68-69 (1996)
- Mulcahey v. Columbia Organic Chems. Co., 29 F.3d 148, 151 (4th Cir. 1994)
- Md. Stadium Auth. v. Ellerbe Becket, Inc., 407 F.3d 255, 260 (4th Cir. 2005)
- In re Business Men's Assur. Co. of America, 992 F.2d 181, 183 (8th Cir. 1993)
- Cheshire v. Coca-Cola Bottling Affiliated, Inc., 758 F. Supp. 1098, 1102 (D.S.C. 1990)
- Northrop Grumman Tech. Servs., Inc. v. DynCorp Int'l LLC, 865 F.3d 181, 186 (4th Cir. 2017)
- Francis v. Allstate Ins. Co., 709 F.3d 362, 367 (4th Cir. 2013)
- Alabama Great S. Ry. Co. v. Thompson, 200 U.S. 206, 216 (1906)
- Dixon v. Edwards, 290 F.3d 699, 710 (4th Cir. 2002)
- Gov't Emps. Ins. Co. v. Lally, 327 F.2d 568, 569 (4th Cir. 1964)
- Scott v. Cricket Commc'ns, LLC, 865 F.3d 189, 194 (4th Cir. 2017)
- Dart Cherokee Basin Operating Co., LLC v. Owens, 574 U.S. 81, 88 (2014)
- McKenzie v. Sevier, 244 W. Va. 416, 425, 854 S.E.2d 236, 245 (2020)
- King v. Bittinger, 160 W. Va. 129, 231 S.E.2d 239, 243 (1976)
- Cobb v. Delta Exports, Inc., 186 F.3d 675, 677-78 (5th Cir. 1999)
- Marshall v. Manville Sales Corp., 6 F.3d 229, 232-33 (4th Cir. 1993)
- B., Inc. v. Miller Brewing Co., 663 F.2d 545, 549 (5th Cir. 1981)
- Durm v. Heck's Inc., 184 W. Va. 562, 565, 401 S.E.2d 908, 910 (1991)

- Gum v. General Electric Co., 5 F. Supp. 2d 412, 414 (S.D. W. Va.)
- Coley v. Dragon Ltd., 138 F.R.D. 460, 465 (E.D. Va. 1991)
- Hensgens v. Deere & Co., 833 F.2d 1179, 1182 (5th Cir. 1987)
- Strawbridge v. Curtiss, 7 U.S. (3 Cranch) 267 (1806)

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