

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA, CHARLESTON DIVISION

Palmetto Bluff Investments, LLC v. Westchester Surplus Lines
Insurance Company, a Georgia corporation, and ACE Fire
Underwriters Insurance Co., a Pennsylvania corporation

No. 9:23-cv-05263-DCN (D.S.C. Mar. 10, 2026) · No. No. 9:23-cv-05263-DCN · Decided March 10, 2026

SUMMARY

The United States District Court for the District of South Carolina grants Palmetto Bluff Investments, LLC’s motion to voluntarily dismiss its insurance coverage action without prejudice under Federal Rule of Civil Procedure 41(a)(2). The court concludes that complete diversity is lacking because the plaintiff and one defendant are both citizens of Georgia, and it declines to order jurisdictional discovery. The court also determines that attorneys’ fees and costs may be imposed as a condition of dismissal and begins evaluating the amount of that award.

CASE DETAILS

COURT	United States District Court for the District of South Carolina, Charleston Division
WRITING FOR THE COURT	David C. Norton
JURISDICTION	United States District Court for the District of South Carolina, Charleston Division
DECIDED	March 10, 2026
DOCKET	No. 9:23-cv-05263-DCN
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 41(a)(2) to voluntarily dismiss its diversity insurance-coverage action without prejudice after discovering that it shared Georgia citizenship with a defendant. Defendants opposed dismissal, sought jurisdictional discovery, and alternatively requested attorneys' fees and costs as a condition of dismissal.
STANDARD OF REVIEW	The court independently determined subject-matter jurisdiction by weighing jurisdictional evidence, including evidence outside the pleadings, without treating factual allegations as presumptively true.

The decision whether to allow Rule 41(a)(2) dismissal and impose conditions was committed to the court's discretion.

PRECEDENTIAL VALUE

nonprecedential

TOPICS

subject matter jurisdiction

attorney fees

costs

insurance coverage

PRACTICE AREAS

civil procedure

insurance coverage

commercial litigation

QUESTIONS PRESENTED

1. Whether the court had subject-matter jurisdiction under 28 U.S.C. § 1332 when PBI's LLC membership structure traced to a Georgia citizen and Westchester was a Georgia corporation.
2. Whether jurisdictional discovery was warranted to test PBI's declaration concerning its citizenship.
3. Whether attorneys' fees and costs should be imposed as a condition of voluntary dismissal under Federal Rule of Civil Procedure 41(a)(2), and, if so, in what amount.

HOLDINGS

1. The court lacked subject-matter jurisdiction because PBI and Westchester were both citizens of Georgia, defeating complete diversity under 28 U.S.C. § 1332(a).
2. Jurisdictional discovery was not warranted because defendants supplied no concrete basis to question the credibility of PBI's declaration tracing its citizenship.
3. The court could condition voluntary dismissal without prejudice on PBI's payment of defendants' attorneys' fees and costs that were attributable to nontransferable work.
4. PBI was required to pay \$22,954.50 in attorneys' fees and \$1,291.21 in costs, for a total of \$24,245.71, as a condition of dismissal without prejudice.

KEY QUOTATIONS

“For the foregoing reasons, the court GRANTS PBI’s motion to voluntarily dismiss this action and ORDERS PBI to pay \$24,245.71 of Defendants’ costs and fees as a condition to dismissal without prejudice.”
(Conclusion § IV)

FACTUAL BACKGROUND

PBI, a South Carolina LLC, owns and operates the Palmetto Bluff residential and recreational preserve through subsidiaries. After homeowners challenged proposed limits on short-term renters' access to amenities, PBI sought coverage under directors-and-officers and professional-liability policies issued by Westchester and ACE. PBI later learned that its layered LLC and partnership ownership structure included Paxton Griffin, a Georgia citizen, making PBI a Georgia citizen; Westchester was also a Georgia corporation.

PROCEDURAL HISTORY

PBI filed this federal declaratory-judgment action asserting diversity jurisdiction and seeking insurance coverage for an underlying state-court action. After discovery was largely completed and defendants filed summary-judgment motions, PBI moved for voluntary dismissal based on newly discovered information showing that its LLC membership traced to a Georgia citizen. The court denied jurisdictional discovery, found complete diversity lacking, granted dismissal without prejudice subject to payment of \$24,245.71 in fees and costs, and deemed the pending motions moot.

DISPOSITION

dismissed

CASES CITED

- Velasco v. Gov't of Indon., 370 F.3d 392, 398 (4th Cir. 2004)
- Jungquist v. Sheikh Sultan Bin Khalifa Al Nahyan, 115 F.3d 1020, 1027-28 (D.C. Cir. 1997)
- Adams v. Bain, 697 F.2d 1213, 1219 (4th Cir. 1982)
- Mundo-Violente v. Kerry, 180 F. Supp. 3d 442, 448 (W.D. Va. 2016)
- United States v. Jadhav, 555 F.3d 337, 348 (4th Cir. 2009)
- Bender v. Williamsport Area Sch. Dist., 475 U.S. 534, 541 (1986)
- Brickwood Contractors, Inc. v. Datanet Eng'g, Inc., 369 F.3d 385, 390 (4th Cir. 2004)
- United States v. Cotton, 535 U.S. 625, 630 (2002)
- Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 89 (1998)
- Navy Fed. Credit Union v. LTD Fin. Servs., LP, 972 F.3d 344, 352-53 (4th Cir. 2020)
- Johnson v. Advance Am., 549 F.3d 932, 937 n.2 (4th Cir. 2008)
- Cent. W. Va. Energy Co. v. Mountain State Carbon, LLC, 636 F.3d 101, 103 (4th Cir. 2011)
- Smiley v. Forcepoint Federal LLC, 2018 WL 3631885, at *2 (E.D. Va. July 31, 2018)
- Americold Realty Trust v. Conagra Foods, Inc., 577 U.S. 378, 379 (2016)
- Jennings v. HCR ManorCare Inc., 901 F. Supp. 2d 649, 651 (D.S.C. 2012)
- Grupo Dataflux v. Atlas Global Group, L.P., 541 U.S. 567, 569-70 (2004)
- Martinez v. Duke Energy Corp., 130 F. App'x 629, 635 (4th Cir. 2005)
- Mylan Labs. Inc. v. Akzo N.V., 2 F.3d 56, 64 (4th Cir. 1993)
- Lu v. Ariabin, 334 F. App'x 594, 594-95 (4th Cir. 2009)
- Fernandez v. Groundworks Operations, LLC, 2023 WL 1110942, at *3 (D.S.C. Jan. 30, 2023)
- Davis v. USX Corp., 819 F.2d 1270, 1273, 1276 (4th Cir. 1987)
- Cooter & Gell v. Hartmarx Corp., 496 U.S. 384, 395 (1990)
- Best Indus., Inc. v. CIS BIO Int'l, 1998 WL 39383, at *2, *4 (4th Cir. Feb. 2, 1998)
- Caufield v. EMC Mortg. Corp., 803 F. Supp. 2d 519, 529-30 (S.D.W. Va. 2011)
- Barber v. Kimbrell's Inc., 577 F.2d 216, 226 n.28 (4th Cir. 1978)

- *Keystone NE, Inc. v. Keystone Retaining Wall Sys., LLC*, 2014 WL 4198818, at *3 n.3 (D.S.C. Aug. 22, 2014)
- *Victor Stanley, Inc. v. Creative Pipe, Inc.*, 2011 WL 2552472, at *4 (D. Md. June 29, 2011), report and recommendation adopted, 2011 WL 13308409 (D. Md. June 15, 2011)
- *Super Duper, Inc. v. Mattel, Inc.*, 2009 WL 866463, at *3 (D.S.C. Mar. 31, 2009), *aff'd*, 382 F. App'x 308 (4th Cir. 2010)
- *Cobranchi v. City of Parkersburg*, 2022 WL 5250297, at *2 (S.D.W. Va. Oct. 6, 2022)
- *Black v. Mantei Assocs., Ltd.*, 2024 WL 1681314, at *4 (D.S.C. Apr. 18, 2024)
- *Lyman v. Greyhound Lines, Inc.*, 2022 WL 772752, at *12 (D.S.C. Mar. 14, 2022)
- *W.S. v. Daniels*, 2019 WL 5448374, at *4-5 (D.S.C. Oct. 24, 2019), *aff'd in part, vacated in part, remanded on other grounds*, 2022 WL 621785 (4th Cir. Mar. 3, 2022)
- *Ellington v. Hayward Baker, Inc.*, 2019 WL 4058967, at *4-5 (D.S.C. Aug. 28, 2019)
- *Baldanzi v. WFC Holdings Corp.*, 2010 WL 125999, at *4-5 (S.D.N.Y. Jan. 12, 2010)
- *LOP Capital LLC v. Cosimo LLC*, 2013 WL 1901231, at *3 (D.S.C. May 7, 2013)
- *N.C. ex rel. Stein v. Tinted Brew Liquid Co., LLC*, 2020 WL 13553831, at *3 (M.D.N.C. Jan. 30, 2020)
- *Morris v. Bland*, 2015 WL 12910631, at *4 (D.S.C. Jan. 15, 2015)
- *Pelczynski v. Orange Lake Country Club, Inc.*, 2014 WL 2095173, at *7 (D.S.C. May 20, 2014)