UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

Thomas Towns v. State Farm Fire and Casualty Company; and Kevin Murphy Insurance Agency, Inc.

Towns · No. CIV-25-1102-D · Decided April 10, 2026

SUMMARY

The United States District Court for the Western District of Oklahoma grants Plaintiff Thomas Towns's motion to remand an insurance dispute to the District Court of Grady County, Oklahoma. The court concludes that State Farm failed to establish fraudulent joinder of the nondiverse insurance agency, either because Towns could not state a claim against the agency or because he committed actual fraud in pleading jurisdictional facts.

CASE DETAILS

COURT	United States District Court for the Western District of Oklahoma
WRITING FOR THE COURT	Timothy D. DeGiusti
JURISDICTION	United States District Court for the Western District of Oklahoma
DECIDED	April 10, 2026
DOCKET	CIV-25-1102-D
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiff moved to remand a removed diversity action, arguing that the nondiverse insurance agency was not fraudulently joined. The district court granted the motion and remanded the action to state court.
STANDARD OF REVIEW	On a motion to remand involving alleged fraudulent joinder, the removing party bears a heavy burden to establish either actual fraud in the pleading of jurisdictional facts or the inability of the plaintiff to establish any cause of action against the nondiverse defendant in state court. Factual and legal issues are resolved in favor of the plaintiff, and the standard is more exacting than the Rule 12(b)(6) dismissal standard.
PRECEDENTIAL VALUE	Nonprecedential district-court order
PARTIES	Thomas Towns v. State Farm Fire and Casualty Company, Kevin Murphy Insurance Agency, Inc.

TOPICS

subject matter jurisdiction · civil procedure · insurance coverage · negligent misrepresentation · pleadings

PRACTICE AREAS

Civil procedure · Insurance law · Insurance procurement · Removal and remand

QUESTIONS PRESENTED

1. Whether State Farm established that Murphy Insurance Agency, the nondiverse defendant, was fraudulently joined because Towns had no possible cause of action against it under Oklahoma law.
2. Whether State Farm established actual fraud in Towns's pleading of jurisdictional facts.
3. Whether the case should be remanded for lack of subject-matter jurisdiction.

HOLDINGS

1. State Farm did not establish with complete certainty that Towns could not establish a claim against Murphy Agency in Oklahoma state court; therefore, Murphy Agency was not shown to have been fraudulently joined.
2. State Farm did not establish that Towns lied in his pleadings or otherwise committed actual fraud in pleading jurisdictional facts.
3. Because State Farm failed to establish fraudulent joinder, complete diversity was not shown and the federal court lacked subject-matter jurisdiction.

KEY QUOTATIONS

> *"To establish fraudulent joinder, the removing party must demonstrate either: 1) actual fraud in the pleading of jurisdictional facts, or 2) inability of the plaintiff to establish a cause of action against the non-diverse party in state court."*

> *"The nonliability of a defendant alleged to have been fraudulently joined must be "established with complete certainty.""*

> *"This standard is more exacting than that for dismissing a claim under FED. R. CIV. P. 12(b)(6)."*

FACTUAL BACKGROUND

Towns alleged that hail damaged his home and that State Farm failed to provide the full insurance benefits he expected under his homeowners policy. He alleged that State Farm characterized roof damage as cosmetic, changed the date of loss, stopped payment on an issued check, and later withheld benefits. Towns also alleged that Murphy Agency promised to procure broad, full-replacement hail coverage and made representations and omissions concerning coverage limitations and State Farm's claim-handling practices.

PROCEDURAL HISTORY

Towns filed an action in the District Court of Grady County, Oklahoma, alleging insurance-related claims against State Farm and the nondiverse Murphy Agency. State Farm removed the case under 28 U.S.C. § 1332, asserting complete diversity through fraudulent joinder and an amount in controversy exceeding the jurisdictional threshold. The federal district court concluded that State Farm failed to establish fraudulent joinder and actual fraud in the pleadings, found that subject-matter jurisdiction was lacking, granted the motion to remand, and directed the clerk to send a certified copy of the order to the state court.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The case is remanded to the District Court of Grady County, Oklahoma. The clerk must mail a certified copy of the order to the clerk of that court. Each side bears its own attorney fees, costs, and expenses incurred as a result of removal and remand.

CASES CITED

- Dutcher v. Matheson, 733 F.3d 980, 988 (10th Cir. 2013)
- McPhail v. Deere & Co., 529 F.3d 947, 955 (10th Cir. 2008)
- Fajen v. Found. Rsrv. Ins. Co., 683 F.2d 331, 333 (10th Cir. 1982)
- Sanelli v. Farmers Ins. Co., No. CIV-23-263-SLP, 2023 WL 3775177, at *2 (W.D. Okla. June 2, 2023)
- Montano v. Allstate Indem., No. 99-2225, 2000 WL 525592, at *1-*2 (10th Cir. Apr. 14, 2000) (unpublished)
- Brazell v. Waite, 525 F. App’x 878, 881 (10th Cir. 2013)
- Dodd v. Fawcett Publications, Inc., 329 F.2d 82, 85 (10th Cir. 1964)
- Smoot v. Chicago, Rock Island & Pac. R.R. Co., 378 F.2d 879, 881-82 (10th Cir. 1967)
- Kutz v. State Farm Fire & Cas. Co., 189 P.3d 740, 744-45 (Okla. 2008)
- Rotan v. Farmers Ins. Grp. of Companies, Inc., 83 P.3d 894, 895 (Okla. 2003)
- McDow v. State Farm Fire & Cas. Co., No. CIV-22-927-F, 2022 WL 17960457, at *2 (W.D. Okla. Dec. 27, 2022)
- Foster v. State Farm Fire & Cas. Co., No. CIV-24-222-PRW, 2025 WL 392728, at *3 (W.D. Okla. Feb. 4, 2025)
- Specialty Beverages, L.L.C. v. Pabst Brewing Co., 537 F.3d 1165, 1180-81 (10th Cir. 2008)
- Nerad v. AstraZeneca Pharmaceuticals, Inc., 203 F. App’x 911, 913 (10th Cir. 2006)
- Coover v. State Farm Fire and Cas. Co., No. CIV-25-334-PRW, 2025 WL 3470868
- Pruitt v. State Farm Fire & Cas. Co., No. CIV-25-43-D, 2025 WL 1030353, at *4 (W.D. Okla. Apr. 7, 2025)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA THOMAS TOWNS,)) Plaintiff,)) v.) Case No. CIV-25-1102-D) STATE FARM

FIRE AND CASUALTY) (Remanded to Grady County COMPANY; and KEVIN MURPHY) District Court, Case No. INSURANCE AGENCY, INC.,) CJ-2025-197)) Defendants.) ORDER Before the Court is Plaintiff's Motion to Remand [Doc.

No. 11]. Defendant State Farm Fire and Casualty Company filed a response [Doc. No. 13], to which Plaintiff replied [Doc. No. 14]. The matter is fully briefed and at issue. PLAINTIFF'S ALLEGATIONS Plaintiff's property was damaged by a hailstorm, for which Plaintiff filed a claim under his homeowner's policy, issued by State Farm.

Because Plaintiff did not provide a precise date of loss, State Farm "unilaterally, purposefully, and arbitrarily assigned a date of loss as June 15, 2023 to [Plaintiff's] claim." [Doc. No. 1-5, at ¶ 36]. As further alleged in Plaintiff's Amended Petition [Doc. No. 1-5], State Farm hired Seek Now to inspect Plaintiff's property, which inspection occurred on October 31, 2024.

Id. at ¶ 39. According to Plaintiff, the Seek Now inspector and Plaintiff's roofer "both agreed that hail damage was present on the asphalt roof, aluminum gutters, garage doors, and exterior garage door." Id. at ¶ 41. "In response to [Seek Now's] photographs and findings, Defendant State Farm claimed the photographs were not sufficient and [it] would need to schedule another inspection." Id. at ¶ 43.

When the second inspection occurred, the new inspector advised Plaintiff's roofer that the damage on the roof was cosmetic. Id. at ¶ 48. Ultimately, State Farm determined that Plaintiff's home "sustained damage to [the] exhaust cap, attic vent cover, and 20 feet of guttering, but did not find any hail damage to the roof of [Plaintiff's] home." Id. at ¶ 53. State Farm estimated that it would cost $585.94 to repair any damage, and Plaintiff's roofer estimated it would cost $46,325.45 to repair and replace Plaintiff's roof, gutters, window vents and accessories, exterior door, and garage door.

Id. at ¶¶ 52-54. State Farm denied any further investigation or payment of insurance benefits for the damage to Plaintiff's roof. Id. at ¶ 56. Thereafter, another hailstorm further damaged Plaintiff's property on May 17, 2025. Id. at ¶ 57.

After an inspection, State Farm found damage to Plaintiff's roof and informed Plaintiff that $10,948.04 would be paid to replace Plaintiff's roof, identifying the date of loss as the original June 15, 2023 date. Id. at ¶¶ 61-62. Within hours of State Farm's letter confirming payment, "State Farm issued a stop payment of the check and once again withheld benefits from [Plaintiff]." Id. at ¶ 64.

In the stop-payment notification, State Farm had changed the date of loss to May 17, 2025. Id. at ¶ 65. Thereafter, State Farm wrote to Plaintiff that—for the May 17, 2025 date of loss—"we have not received the requested additional information: **ITEM LIST**." Id. at ¶¶ 66-67.

For Plaintiff's claims against Kevin Murphy Insurance Agency, Inc. (Murphy Agency), he alleges that "Murphy Agency offered to procure homeowner's insurance from Defendant State Farm for [Plaintiff's] home to the specific and certain breadth requested by [Plaintiff]." Id. at ¶ 69. Plaintiff specifically requested "coverage for his home, including the roof in the event of a hail storm," the "best policy Defendant State Farm had to offer," and "coverage that fully replaced damage done to his home so that he had nothing to worry about." Id. Plaintiff further alleges that Murphy Agency "represented orally, in marketing materials, during renewals, and personal conversations, that the Defendant State Farm policy Defendant Murphy Agency sold [Plaintiff] would 'fully replace' his roof after hail damage, while Defendant Murphy Agency was fully aware of Defendant State Farm's internal 'Hail Focus' protocols narrowly redefining hail damage and routinely denying roof claims." Id. at ¶ 87.

Plaintiff further "relied upon these specific representations made by Defendant Murphy Agency." Id. According to Plaintiff, Murphy Agency "continu[ed] renewals year after year, increasing dwelling limits (and therefore premiums and profits) without verifying that the dwelling or roof met Defendant State Farm's undisclosed underwriting restrictions." Id. Murphy Agency allegedly "advis[ed] [Plaintiff] to open a claim (call State Farm's 800 number) without disclosing that Defendant State Farm would arbitrarily select a loss date and apply the hidden exclusion of 'cosmetic damage' to defeat [Plaintiff's] claim to insurance benefits." Id. Plaintiff also alleges that "[b]y affirmatively promising to procure broad, worry-free, full replacement cost coverage, including coverage for hail damage to [Plaintiff's] roof, while omitting critical limitations, exclusions, and internal claims- handling practices, Defendant Murphy Agency created a false impression that [Plaintiff's] roof was fully insured against hail loss." Id. at ¶ 90.

State Farm filed a timely Notice of Removal [Doc. No. 1], in which it contends that complete diversity exists under 28 U.S.C. § 1332, and the amount in controversy exceeds the threshold for diversity jurisdiction. Although Murphy Agency is a non-diverse party, State Farm contends that Murphy Agency was fraudulently joined by Plaintiff to defeat diversity jurisdiction.

Before the Court is Plaintiff's motion to remand, arguing that State Farm cannot establish fraudulent joinder and that this case should be remanded to the District Court of Grady County. STANDARD OF DECISION "To establish fraudulent joinder, the removing party must demonstrate either: 1) actual fraud in the pleading of jurisdictional facts, or 2) inability of the plaintiff to establish a cause of action against the non-diverse party in state court." Dutcher v. Matheson, 733 F.3d 980, 988 (10th Cir.

2013) (internal quotation omitted). As the removing party, State Farm must establish federal jurisdiction exists. See McPhail v. Deere & Co., 529 F.3d 947, 955 (10th Cir. 2008). "Removal statutes are to be strictly construed, and all doubts are to be resolved against removal." Fajen v. Found. Rsrv. Ins. Co., 683 F.2d 331, 333 (10th Cir. 1982) (internal citation omitted).

To satisfy the “heavy burden on the party asserting fraudulent joinder,” State Farm must show under the “actual fraud” prong that Plaintiff essentially “lied in the pleadings.” Sanelli v. Farmers Ins. Co., No. CIV-23-263-SLP, 2023 WL 3775177, at *2 (W.D. Okla. June 2, 2023) (quotation omitted).

Under the “inability to establish a cause of action” prong, State Farm must show that there is no possibility that Plaintiff would be able to establish a cause of action against Murphy Agency in state court. See Montano v. Allstate Indem., No. 99-2225, 2000 WL 525592, at *1 (10th Cir. Apr. 14, 2000) (unpublished)1 (quotations and citation omitted); Brazell v. Waite, 525 F. App’x 878, 881 (10th Cir.

2013) (citation omitted) (“[T]he removing party must show that the plaintiff has ‘no cause of action’ against the fraudulently joined defendant.”). “[U]pon specific allegations of fraudulent joinder, the court may pierce the pleadings, … consider the entire record, and determine the basis of joinder by any means available.” Dodd v. Fawcett Publications, Inc., 329 F.2d 82, 85 (10th Cir.

1964) (citations omitted); see also Smoot v. Chicago, Rock Island & Pac. R.R. Co., 378 F.2d 879, 881-82 (10th Cir. 1967). The nonliability of a defendant alleged to have been fraudulently joined must be “established with complete certainty.” Smoot, 378 F.2d at 882; Dodd, 329 F.2d at 85. “This standard is more exacting than that for dismissing a claim under FED.

R. CIV. P. 12(b)(6).” Montano, 2000 WL 525592, at *2. “[A]ll factual and legal issues must be resolved in favor of the plaintiff.” Dutcher, 733 F.3d at 988. DISCUSSION I. Inability to State Cause of Action Under Oklahoma law, “[a]n agent has the duty to act in good faith and use reasonable care, skill and diligence in the procurement of insurance and an agent is liable to the insured if, by the agent’s fault, insurance is not procured as promised and the insured suffers a loss.” Kutz v. State Farm Fire & Cas.

Co., 189 P.3d 740, 744-45 (Okla. 2008) 1 Unpublished opinions are cited pursuant to FED. R. APP. P. 32.1(a) and 10th Cir. R. 32.1(A). (citation omitted). To that end, agents must “offer coverage mandated by law and coverage for needs that are disclosed by the insureds….” Rotan v. Farmers Ins. Grp. of Companies, Inc., 83 P.3d 894, 895 (Okla. 2003). “[C]onstructive fraud [or negligent misrepresentation] consists of ‘any breach of duty which, without an actually fraudulent intent, gains an advantage to the person in fault, or any one claiming under him, by misleading another to [his] prejudice, or to the prejudice of any one claiming under him[.]” McDow v. State Farm Fire & Cas.

Co., No. CIV-22-927-F, 2022 WL 17960457, at *2 (W.D. Okla. Dec. 27, 2022) (quoting OKLA. STAT. tit. 15, § 59). “This duty could arise, even though it might not exist in the first instance, once a defendant voluntarily chooses to speak to plaintiff about a particular subject matter.” Foster v. State Farm Fire & Cas. Co., No. CIV-24-222-PRW, 2025 WL 392728, at *3 (W.D.

Okla. Feb. 4, 2025) (citing Specialty Beverages, L.L.C. v. Pabst Brewing Co., 537 F.3d 1165, 1180-81 (10th Cir. 2008)). Based on the above allegations contained in Plaintiff's Amended Petition [Doc. No. 1-5], and although Plaintiff's claims against Murphy Agency are not a "sure-thing," the Court finds that State Farm has not met its heavy burden to establish with complete certainty that Plaintiff cannot establish a claim against Murphy Agency in state court.

See Nerad v. AstraZeneca Pharmaceuticals, Inc., 203 F. App'x 911, 913 (10th Cir. 2006); Montano, 2000 WL 525592, at *2 ("A claim which can be dismissed only after an intricate analysis of state law is not so wholly insubstantial and frivolous that it may be disregarded for purposes of diversity jurisdiction."); see also Coover v. State Farm Fire and Cas. Co., et al., No. CIV-25-334-PRW, 2025 WL 3470868 (finding remand appropriate where "open questions remain regarding the scope of the agents' roles in procurement of the policies, whether [the] [p]laintiffs requested or were promised more extensive coverage than they received, the precise duties that may be imposed on insurance agents under Oklahoma law, the representations made by the agents, the existence and the agents' knowledge of a widespread scheme to shortchange insured parties when making claims for hail and wind damage, and more.").

Accordingly, the Court finds that State Farm has not met its "heavy burden" to establish fraudulent joinder, and remand is appropriate. II. Actual Fraud in the Pleading of Jurisdictional Facts As stated above, to establish actual fraud in the pleading of jurisdictional facts "basically requires a showing that plaintiff lied in the pleadings." Sanelli, 2023 WL 3775177, at *2.

In response to Plaintiff's motion to remand, State Farm argues that Plaintiff has engaged in fraud in the pleading of jurisdictional facts by recycling near-identical complaints and by mis-alleging that Plaintiff's claims were denied due to cosmetic damage.

To the first point, this Court has previously found that allegations of cookie-cutter complaints are, alone, insufficient to establish fraudulent joinder. See Pruitt v. State Farm Fire & Cas. Co., No. CIV-25-43-D, 2025 WL 1030353, at *4 (W.D. Okla. Apr. 7, 2025).

The Court further finds sufficient support in the record for Plaintiff's understanding that his claim was denied because of mere cosmetic damage to his roof. See Doc. No. 1-5, at ¶ 48 ("When Black Dog Roofing pointed out the clear hail damage to [Plaintiff's] roof, Mr. Tackett [of Seek Now] advised Black Dog Roofing that the damage being pointed out was 'cosmetic.' This 'cosmetic' damage classification fits perfectly with Defendant State Farm's claims-handling system, designed to deny or underpay claims.").

State Farm's arguments for actual fraud in the pleadings speak to the merits of Plaintiff's underlying claims, not whether Plaintiff committed actual fraud in the pleadings. For these reasons, the Court finds that State Farm has not met its high burden to show actual fraud in the pleading of jurisdictional facts. CONCLUSION For the reasons stated herein, the Court finds that State Farm has not established fraudulent joinder, and this Court lacks subject-matter jurisdiction.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Remand [Doc. No. 11] is GRANTED, and the case is REMANDED to the District Court of Grady County, Oklahoma. The Clerk of Court shall mail a certified copy of this Order to the clerk of the District Court of Grady County. Each side shall bear their own attorney's fees, costs, and expenses incurred as a result of the removal and remand.

IT IS SO ORDERED this 10" day of April, 2026. \ ° ~ 2 Wy TIMOTHY D. DeGIUSTI Chief United States District Judge