

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Rajnee Huber and Thomas Huber v. Progressive Insurance Company

Huber · No. 25-1314 KK/SCY · Decided January 28, 2026

SUMMARY

The court quashes an order to show cause after plaintiffs’ counsel explained the failure to timely file Rule 7.1 citizenship disclosures and plaintiffs subsequently filed the required notices. The court concludes that the record establishes a prima facie basis for diversity jurisdiction despite inaccuracies in the amended notice of removal.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
WRITING FOR THE COURT	Steven C. Yarbrough
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	January 28, 2026
DOCKET	25-1314 KK/SCY
DISPOSITION	quashed
PROCEDURAL POSTURE	Defendant removed the insurance action to federal court on the basis of diversity jurisdiction. The Court issued an order requiring Plaintiffs to file notices under Federal Rule of Civil Procedure 7.1 identifying their citizenship, and later issued an order to show cause after Plaintiffs missed the deadline. Plaintiffs responded, filed the required notices through newly obtained federal counsel, and sought relief from the order to show cause.
PRECEDENTIAL VALUE	Unpublished district court order; precedential status not stated.

TOPICS

- subject matter jurisdiction
- civil procedure
- insurance

PRACTICE AREAS

- civil procedure
- insurance

QUESTIONS PRESENTED

1. Whether the order to show cause should be quashed after Plaintiffs failed to timely file the required Rule 7.1 citizenship notices.
2. Whether the amended notice of removal and other record evidence established diversity jurisdiction despite an incorrect allegation concerning Plaintiffs' citizenship.

HOLDINGS

1. The order to show cause was quashed because the Court accepted counsel's explanation for the missed deadline and Plaintiffs subsequently obtained federal counsel and promptly filed the required Rule 7.1 notices.
2. The amended notice of removal and the record established a prima facie case of diversity jurisdiction because the Rule 7.1 notices identified Rajnee Huber as a Nevada citizen, Thomas Huber as a New Mexico citizen, and Progressive as a citizen of Ohio and Delaware.

KEY QUOTATIONS

"The Court accepts counsel's explanation and quashes the Order to Show Cause." (Order text following Doc. 11)

"Therefore, a prima facie case as to diversity of citizenship exists." (Doc. 6 ¶ 5; Doc. 9)

FACTUAL BACKGROUND

Progressive removed the action based on diversity jurisdiction, alleging that both Plaintiffs were citizens of New Mexico. The Complaint stated that one Plaintiff resided in Nevada but did not allege either Plaintiff's citizenship. The Rule 7.1 notices later stated that Rajnee Huber was a Nevada citizen domiciled in Nevada and Thomas Huber was a New Mexico citizen domiciled in New Mexico; Progressive was alleged to be a citizen of Ohio and Delaware.

PROCEDURAL HISTORY

Progressive Insurance Company removed the action, alleging diversity jurisdiction but incorrectly stating that both Plaintiffs were New Mexico citizens. Because the Complaint alleged that one Plaintiff resided in Nevada and did not plead citizenship, the Court ordered Rule 7.1 notices. Plaintiffs missed the deadline, prompting an order to show cause, but counsel explained the failure and Plaintiffs then filed the notices. The Court accepted the explanation, quashed the order to show cause, and found that the amended notice of removal and record established diversity jurisdiction.

DISPOSITION

quashed

CASES CITED

- Whitelock v. Leatherman, 460 F.2d 507, 514 n.14 (10th Cir. 1972)
- State Farm Mut. Auto. Ins. Co. v. Dyer, 19 F.3d 514, 520 (10th Cir. 1994)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO
RAJNEE HUBER and THOMAS HUBER, Plaintiffs, vs. Civ. No. 25-1314 KK/SCY
PROGRESSIVE INSURANCE COMPANY, Defendant. ORDER QUASHING ORDER TO
SHOW CAUSE This matter comes before the Court sua sponte, following its Order To Show
Cause. Doc. 7. Defendant removed this action to federal court citing diversity jurisdiction.

Doc. 1 ¶ 3. The Court noted that the Notice of Removal alleged that both Plaintiffs are citizens of New Mexico, *id.*, yet the Complaint averred that one Plaintiff resided in Nevada, Doc. 1-1 ¶ 2. The Complaint did not allege the citizenship of any Plaintiff.

The Court accordingly ordered “Plaintiffs to file a Rule 7.1 notice within 14 days of the date of this Order” stating their citizenship. Doc. 5 at 2. Plaintiffs did not file the notices by the deadline. Doc. 7. In response to the Order to Show Cause, Plaintiffs’ counsel explains that his unfamiliarity with federal court resulted in his failure to review the Order to File Rule 7.1 Notices.

Doc. 11. Plaintiffs then obtained federal court counsel, who promptly filed Rule 7.1 notices. Doc. 9. The Court accepts counsel’s explanation and quashes the Order to Show Cause. The Court also finds that the Amended Notice of Removal establishes diversity jurisdiction.

The Amended Notice of Removal continues to incorrectly allege that both Plaintiffs are citizens of New Mexico. Doc. 6 ¶ 4. However, the Tenth Circuit has indicated that the Court may rely on other proof in the record indicating citizenship. See *Whitelock v. Leatherman*, 460 F.2d 507, 514 n.14 (10th Cir. 1972); *State Farm Mut. Auto. Ins. Co. v. Dyer*, 19 F.3d 514, 520 (10th Cir.

1994). The Rule 7.1 notices aver that “Plaintiff Rajnee Huber is a citizen of Nevada, domicile in Nevada and Thomas Huber is a citizen of New Mexico domiciled here in New Mexico.” Doc. 9. Defendant is a citizen of Ohio and Delaware. Doc. 6 § 5.

Therefore, a prima facie case as to diversity of citizenship exists. SO ORDERED. STEVEN ARBROUGH UNITED STATES MAGIS TE JUDGE