

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

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