

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, TAMPA DIVISION

Southwind Risk Retention Group v. Sod of Central Florida, Inc.,
Robert Adams, and Dmytro Hryhorash

Southwind · No. 8:25-cv-163-KKM-LSG · Decided January 13, 2026

SUMMARY

The United States Magistrate Judge recommends denying Southwind Risk Retention Group’s motion for default judgment and dismissing its declaratory-judgment complaint without prejudice for lack of subject-matter jurisdiction. The recommendation concludes that Southwind failed to establish that the amount in controversy exceeds \$75,000 because the underlying demand was not persuasive, the potential defense costs were not shown, and the indemnity issue was unripe while the underlying state-court action remained pending. The recommendation also advises terminating other pending motions and closing the case.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Tampa Division
WRITING FOR THE COURT	Lindsay S. Griffin
JURISDICTION	United States District Court for the Middle District of Florida, Tampa Division
DECIDED	January 13, 2026
DOCKET	8:25-cv-163-KKM-LSG
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 55(b) for default judgment in an insurance-coverage declaratory-judgment action. The magistrate judge issued a report and recommendation recommending denial of default judgment and dismissal without prejudice for lack of subject matter jurisdiction.
STANDARD OF REVIEW	A federal court has an independent obligation to determine whether subject matter jurisdiction exists, even without a party's challenge. On a default-judgment motion, the complaint must contain sufficient well-pleaded factual matter to state a plausible claim and must invoke jurisdiction over the claims and parties.

TOPICS

default judgment

subject matter jurisdiction

declaratory judgment

duty to defend

duty to indemnify

PRACTICE AREAS

civil procedure

insurance

commercial litigation

declaratory relief insurance

duty to defend

duty to indemnify

default judgment

QUESTIONS PRESENTED

1. Whether Southwind established that the amount in controversy exceeded \$75,000 for diversity jurisdiction.
2. Whether the pre-suit settlement demand and insurance policy limit adequately established the value of the declaratory action.
3. Whether Southwind's claim concerning the duty to indemnify was ripe while the underlying state-court action remained pending.
4. Whether default judgment was appropriate when the complaint failed to establish subject matter jurisdiction.

HOLDINGS

1. Southwind failed to establish that the value of the declaratory action exceeded \$75,000, exclusive of interest and costs; the policy limit and conclusory allegations were insufficient.
2. The pre-suit demand letter did not establish the amount in controversy because its non-economic damages demand lacked a factual basis and was merely puffery.
3. Southwind's claim for a declaration concerning its duty to indemnify was unripe because the insured had not been held liable in the underlying state-court action.

KEY QUOTATIONS

“A federal court must “determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party.”” (Section II.A)

“Accordingly, the settlement demand is nothing more than mere puffery.” (Section II.B)

“In other words, an unripe claim has no value, and an insurer cannot rely on an unripe claim to establish an amount in controversy.” (Section II.C)

FACTUAL BACKGROUND

Southwind issued a commercial automobile insurance policy to Sod of Central Florida covering specified vehicles and scheduled drivers. Robert Adams, an unscheduled driver, was involved in a March 22, 2024

automobile accident while driving a Peterbilt owned by Sod; Dmytro Hryhorash later sued Sod and Adams in Florida state court. Southwind sought declarations that it had no duty to defend or indemnify, but supplied no reliable evidence of the potential defense costs and relied on a pre-suit demand letter containing largely unsupported non-economic damages calculations. The state-court action remained pending and had not resulted in an adverse judgment.

PROCEDURAL HISTORY

Southwind filed a declaratory action concerning its duties to defend and indemnify arising from an automobile accident. After the defendants failed to timely appear or defend, the Clerk entered defaults, and Southwind moved for default judgment. The magistrate judge denied an earlier amended motion without prejudice for failure to adequately establish the amount in controversy, permitted another amended motion, and then recommended denial of the second amended motion and dismissal because Southwind still failed to establish diversity jurisdiction.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

The recommendation was to deny the second amended motion for default judgment, dismiss the complaint without prejudice for lack of subject matter jurisdiction, terminate all other pending motions, and close the case. The district judge was to consider the report and recommendation subject to the parties' fourteen-day objection period.

CASES CITED

- Surtain v. Hamlin Terrace Found., 789 F.3d 1239, 1244 (11th Cir. 2015)
- Cotton v. Massachusetts Mut. Life Ins. Co., 402 F.3d 1267, 1278 (11th Cir. 2005)
- Quire v. Smith, No. 21-10473, 2021 WL 3238806, at *2 (11th Cir. July 30, 2021)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Univ. of S. Ala. v. Am. Tobacco Co., 168 F.3d 405, 410 (11th Cir. 1999)
- Arbaugh v. Y&H Corp., 546 U.S. 500, 514 (2006)
- Travaglio v. Am. Express Co., 735 F.3d 1266, 1268 (11th Cir. 2013)
- Underwriters at Lloyds, London v. Osting-Schwinn, 613 F.3d 1079, 1095 (11th Cir. 2010)
- Morrison v. Allstate Indem. Co., et al., 228 F.3d 1255, 1261 (11th Cir. 2000)
- Hunt v. Wash. State Apple Advert. Comm'n, 432 U.S. 333, 347 (1977)
- First Mercury Ins. Co. v. Excellent Computing Distrib., Inc., 648 Fed. App'x 861, 864–65 (11th Cir. 2016)
- Am. Builders Ins. Co. RRG, Inc. v. Carrollton Premiere Roofing, Inc., No. 8:22-cv-2959-VMC-CPT, 2025 WL 1994539, at *4 (M.D. Fla. Jul. 2, 2025)

- Accident Ins. Co. v. DWF Installations, Inc., No. 6:24-cv-487-WWB-DCI, 2025 WL 807446, at *2 (M.D. Fla. Mar. 13, 2025)
- Obsidian Specialty Ins. Co. v. Southeast Restoration Grp., Inc., No: 6:24-cv-2255-PGB-LHP, 2025 WL 1707194, at *2 (M.D. Fla. Jun. 18, 2025)
- Southern-Owners Ins. Co. v. Maronda Homes, Inc. of Fla., No. 3:18-cv-1305-J-32MCR, 2019 WL 2929715, at *2 (M.D. Fla. Jul. 8, 2019)
- AIX Specialty Ins. Co. v. Gong Invs., LLC, No. 6:21-cv-1886-ACC-DCI, 2022 WL 22902249, at *2 (M.D. Fla. May 10, 2022)
- Burns v. Windsor Ins. Co., 31 F.3d 1092, 1097 (11th Cir. 1994)
- Zabic v. Cellco P'ship, Case No. 8:15-cv-2214-T-33EAJ, 2015 WL 5921851, at *3 (M.D. Fla. Oct. 9, 2015)
- Golden v. Dodge-Markham Co., Inc., 1 F. Supp. 2d 1360, 1364 (M.D. Fla. 1998)
- Poltar v. LM Gen. Ins. Co., 473 F. Supp. 3d 1341, 1345 (M.D. Fla. 2020)
- Jackson v. Select Portfolio Servicing, Inc., 651 F. Supp. 2d 1279, 1281 (S.D. Ala. Jul. 31, 2009)
- Mick v. De Vilbiss Air Power Co., No. 6:10-cv-1390-Orl-28GJK, 2010 WL 5140849, at *2 (M.D. Fla. Dec. 14, 2010)
- Reynolds v. Busch Ent. Corp., No. 8:03-cv-288-T-17MSS, 2003 WL 25569730, at *5 (M.D. Fla. June 18, 2003)
- Fontanez v. Progressive Express Ins. Co., No. 6:20-cv-01548-Orl-78EJK, 2021 WL 8892796, at *2 (M.D. Fla. Mar. 31, 2021)
- Katz v. Southern-Owners Ins. Co., No. 8:20-cv-2364-T-24CPT, 2020 WL 6537384, at *2 (M.D. Fla. Nov. 6, 2020)
- Washington v. Racetrac Petroleum, Inc., No: 6:16-cv-334-Orl-28GJK, 2016 WL 2658162, at *3 (M.D. Fla. May 9, 2016)
- Sullivan v. Everett Cash Mut. Ins. Co., No. 19-11943, 2023 WL 1521579, at *3–4 (11th Cir. 2023)
- Stonewall Ins. Co. v. Lopez, 544 F.2d 198, 199 (5th Cir. 1976)
- Maxum Indem. Co. v. Shahley, No. 3:25-cv-435-MMH-MCR, 2025 WL 1208764, at *2 (M.D. Fla. Apr. 25, 2025)
- Digit. Properties, Inc. v. City of Plantation, 121 F.3d 586, 589 (11th Cir. 1997)
- Am. Fid. & Cas. Co. v. Penn. Threshermen & Famers' Mut. Cas. Ins. Co., 280 F.2d 453, 461 (5th Cir. 1960)
- Allstate Ins. Co. v. Emps. Liab. Assurance Co., 445 F.2d 1278, 1281 (5th Cir. 1971)
- Progressive Express Ins. Co. v. Gardner, No. 3:25-cv-361-MMH-MCR, 2025 WL 1114632, at *2 (M.D. Fla. Apr. 15, 2025)
- Henderson ex rel. Henderson v. Shinseki, 562 U.S. 428, 434 (2011)
- Bonner v. City of Prichard, 661 F.2d 1206, 1207 (11th Cir. 1981)