

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Rajnee Huber and Thomas Huber v. Progressive Insurance Company

Civ. No. 25-1314 KK/SCY (D.N.M. Jan. 2, 2026) · No. Civ. No. 25-1314 KK/SCY · Decided January 2, 2026

SUMMARY

The United States District Court for the District of New Mexico orders the plaintiffs to file citizenship disclosure statements under Federal Rule of Civil Procedure 7.1(a)(2). It permits the defendant to amend its notice of removal to adequately plead diversity jurisdiction, including the parties' citizenship, and warns that the action may be remanded if the amendment is not timely filed.

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 2, 2026
DOCKET	Civ. No. 25-1314 KK/SCY
DISPOSITION	other
PROCEDURAL POSTURE	Defendant removed a state-court insurance action to federal court based on diversity jurisdiction. On sua sponte review of the Notice of Removal, the court ordered plaintiffs to file Rule 7.1 citizenship disclosures and directed defendant to amend the notice of removal to cure deficient jurisdictional allegations.
STANDARD OF REVIEW	The court independently and sua sponte reviewed whether subject matter jurisdiction existed.
PRECEDENTIAL VALUE	unpublished district-court order; precedential status unknown

TOPICS

- subject matter jurisdiction
- pleadings
- civil procedure
- insurance

PRACTICE AREAS

- civil procedure
- insurance

QUESTIONS PRESENTED

1. Whether the court had a sua sponte duty to examine the sufficiency of the alleged diversity jurisdiction.
2. Whether a notice of removal adequately invokes diversity jurisdiction when it alleges only that a defendant is not a citizen of a particular state rather than affirmatively alleging the defendant's citizenship.
3. Whether plaintiffs had to file citizenship disclosures under Federal Rule of Civil Procedure 7.1(a)(2) and whether defendant could amend the Notice of Removal to cure defective jurisdictional allegations.

HOLDINGS

1. A federal court has a sua sponte duty to determine whether subject matter jurisdiction exists.
2. A party invoking diversity jurisdiction must affirmatively allege the citizenship of each relevant party; it is insufficient merely to allege that a defendant is not a citizen of the same state as a plaintiff.
3. The court ordered plaintiffs to file citizenship disclosures under Rule 7.1(a)(2) and permitted defendant to amend the Notice of Removal to allege facts sufficient to establish diversity jurisdiction, subject to Rule 11.

KEY QUOTATIONS

“The Court has a sua sponte duty to determine whether subject matter jurisdiction exists.”

“A party invoking diversity jurisdiction must specifically allege the citizenship of each defendant, not just that a defendant is not a citizen of the same state as any plaintiff.”

“To be sufficient to invoke jurisdiction, the Notice of Removal must affirmatively state Defendant’s citizenship.”

FACTUAL BACKGROUND

Progressive removed the plaintiffs' insurance action to federal court, invoking diversity jurisdiction. The Notice of Removal alleged that both plaintiffs were citizens of New Mexico and used negative statements regarding the defendant's citizenship, while the complaint stated that one plaintiff lived in Nevada. The defendant's citizenship was not affirmatively alleged.

PROCEDURAL HISTORY

Progressive Insurance Company removed the action from state court under 28 U.S.C. § 1441, asserting diversity jurisdiction. The court found that the Notice of Removal relied on negative citizenship allegations, failed to affirmatively allege the defendant's citizenship, and appeared inconsistent regarding one plaintiff's citizenship. The court ordered plaintiffs to file compliant Rule 7.1 disclosures and allowed defendant to amend the Notice of Removal; it warned that failure to amend could result in remand.

DISPOSITION

other

REMAND INSTRUCTIONS

Plaintiffs must file a Rule 7.1(a)(2) citizenship disclosure statement by January 16, 2026. Defendant must amend the Notice of Removal by January 23, 2026, if compliant allegations can be made consistent with Rule 11. If no amended notice is filed by that date, the court may remand the action to state court.

CASES CITED

- Tuck v. United States Auto. Ass'n, 859 F.2d 842, 844 (10th Cir. 1988)
- ADA Carbon Sols. (Red River), LLC v. Atlas Carbon, LLC, 146 F.4th 1296, 1306 (10th Cir. 2025)
- Dutcher v. Matheson, 733 F.3d 980, 985 (10th Cir. 2013)
- Cameron v. Hodges, 127 U.S. 322, 322 (1888)
- Dancel v. Groupon, Inc., 940 F.3d 381, 385 (7th Cir. 2019)
- Dalton v. Teva N. Am., 891 F.3d 687, 690 (7th Cir. 2018)
- Purchasing Power, LLC v. Bluestem Brands, Inc., 851 F.3d 1218, 1226 (11th Cir. 2017)
- D.B. Zwirn Special Opportunities Fund, L.P. v. Mehrotra, 661 F.3d 124, 125-26 (1st Cir. 2011)
- Thurston v. Page, 920 F. Supp. 152, 154 (D. Kan. 1996)
- McCracken v. Murphy, 328 F. Supp. 2d 530, 535 (E.D. Pa. 2004)
- Hendrix v. New Amsterdam Casualty Co., 390 F.2d 299, 300-02 (10th Cir. 1968)
- Buell v. Sears, Roebuck & Co., 321 F.2d 468, 471 (10th Cir. 1963)

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 TO FILE RULE 7.1 NOTICE
AND AMEND NOTICE OF REMOVAL This matter comes before the Court sua sponte,
following its review of the Notice of Removal. Doc. 1. Defendant removed this action to federal
court citing diversity jurisdiction.

Id. ¶ 3. The Court has a sua sponte duty to determine whether subject matter jurisdiction exists. See Tuck v. United States Auto. Ass'n, 859 F.2d 842, 844 (10th Cir. 1988). Under 28 U.S.C. § 1332(a), federal courts have “original jurisdiction in all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs and is between citizens of different States....” When a plaintiff files a civil action in state court over which the federal court would have original jurisdiction based on diversity of citizenship, the defendant may remove the action to federal court, provided that no defendant is a citizen of the State in which such action is brought.

See 28 U.S.C. § 1441(a), (b). “[T]he ultimate burden of establishing complete diversity” lies with “the party seeking to invoke federal jurisdiction.” ADA Carbon Sols. (Red River), LLC v. Atlas

Carbon, LLC, 146 F.4th 1296, 1306 (10th Cir. 2025); Dutcher v. Matheson, 733 F.3d 980, 985 (10th Cir. 2013).

The Notice of Removal relies on “negative” statements of citizenship (i.e., asserting a party is not a citizen of a particular state instead of asserting the that the party is a citizen of a particular state). Doc. 1 ¶ 4. A party invoking diversity jurisdiction must specifically allege the citizenship of each defendant, not just that a defendant is not a citizen of the same state as any plaintiff.

Cameron v. Hodges, 127 U.S. 322, 322 (1888); Dancel v. Groupon, Inc., 940 F.3d 381, 385 (7th Cir. 2019); see also Dalton v. Teva N. Am., 891 F.3d 687, 690 (7th Cir. 2018); Purchasing Power, LLC v. Bluestem Brands, Inc., 851 F.3d 1218, 1226 (11th Cir. 2017); D.B. Zwirn Special Opportunities Fund, L.P. v. Mehrotra, 661 F.3d 124, 125-26 (1st Cir. 2011); Thurston v. Page, 920 F. Supp. 152, 154 (D.

Kan. 1996); McCracken v. Murphy, 328 F. Supp. 2nd 530, 535 (E.D. Pa. 2004). A corporation is deemed to be a citizen of the state in which it is incorporated and in which it maintains its principal place of business. See 28 U.S.C. § 1332(c).

To be sufficient to invoke jurisdiction, the Notice of Removal must affirmatively state Defendant’s citizenship. Further, the Notice of Removal alleges that both Plaintiffs are citizens of New Mexico, id., yet the Complaint avers that one Plaintiff lives in Nevada, Doc. 1-1 ¶ 2.

The Court notes that Rule 7.1 requires a party to file a disclosure statement as to its own citizenship. See Fed. R. Civ. P. 7.1(a)(2) (“In an action in which jurisdiction is based on diversity under 28 U.S.C. § 1332(a), a party or intervenor must, unless the court orders otherwise, file a disclosure statement.

The statement must name—and identify the citizenship of—every individual or entity whose citizenship is attributed to that party or intervenor: when the action is filed in or removed to federal court.”); see also id. Committee Notes - 2022 Amendment (“The disclosure does not relieve a party that asserts diversity jurisdiction from the Rule 8(a)(1) obligation to plead the grounds for jurisdiction, but is designed to facilitate an early and accurate determination of Jurisdiction.”).

In keeping with this intent, the Court orders Plaintiffs to file a Rule 7.1 notice within 14 days of the date of this Order. After the citizenship disclosure statements are filed, the Court will give Defendant the opportunity to file an amended notice of removal to allege facts necessary to sustain diversity Jurisdiction. See Hendrix v. New Amsterdam Casualty Co., 390 F.2d 299, 300-02 (10th Cir.

1968) (permitting amendment of notice of removal to allege principal place of business of the defendant, along with citizenship, rather than mere residence, of the plaintiff); Buell v. Sears,

Roebuck & Co., 321 F.2d 468, 471 (10th Cir. 1963) (permitting amendment after appeal to allege corporation's principal place of business); see also 28 U.S.C. § 1653 ("Defective allegations of Jurisdiction may be amended, upon terms, in the trial or appellate courts.").

IT IS HEREBY ORDERED that Plaintiffs file a citizenship disclosure statement that fully complies with Rule 7.1(a)(2) no later than January 16, 2026. IT IS HEREBY ORDERED that Defendant amend the Notice of Removal to properly allege facts sufficient for diversity jurisdiction, if such allegations can be made in compliance with the dictates of Rule 11 of the Federal Rules of Civil Procedure, no later than January 23, 2026.

IT IS FURTHER ORDERED that if such an amended notice of removal is not filed by January 23, 2026, the Court may remand this action back to state district court. lie STEVEN C. Y, ROUGH UNITED STATES MAGISTRAFE JUDGE