

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
OHIO, EASTERN DIVISION

Miller v. C.R. Bard, Inc.

Miller · No. 2:25-cv-390; MDL Case No. 2:18-md-2846 · Decided March 19, 2026

SUMMARY

The United States District Court for the Southern District of Ohio granted Plaintiff Paul Miller’s motion to remand a products-liability action removed from New Jersey state court. The court held that removal by C.R. Bard, a New Jersey forum defendant, was improper under the forum defendant rule because permitting snap removal would be inconsistent with congressional intent.

CASE DETAILS

COURT	United States District Court for the Southern District of Ohio, Eastern Division
WRITING FOR THE COURT	Edmund A. Sargus, Jr.
JURISDICTION	United States District Court for the Southern District of Ohio, Eastern Division
DECIDED	March 19, 2026
DOCKET	2:25-cv-390; MDL Case No. 2:18-md-2846
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiff moved to remand a diversity products-liability action removed from New Jersey state court by the defendant forum citizen before service.
STANDARD OF REVIEW	The removing defendant bears the burden of establishing federal jurisdiction, and doubts concerning removal are resolved in favor of remand.
PRECEDENTIAL VALUE	nonprecedential district court order

TOPICS

- civil procedure
- subject matter jurisdiction
- statutory interpretation
- federalism
- products liability

PRACTICE AREAS

- civil procedure
- products liability
- removal and remand

QUESTIONS PRESENTED

1. Whether an unserved forum defendant may remove a diversity action under the 'properly joined and served' language of 28 U.S.C. § 1441(b)(2).
2. Whether Bard's pre-service removal, or 'snap removal,' was improper because it would defeat the congressional purpose underlying the forum defendant rule.

HOLDINGS

1. A forum defendant may not remove this diversity action before service merely because the defendant had not yet been 'properly joined and served.' Bard's snap removal was improper, and the case had to be remanded.

KEY QUOTATIONS

“The purpose underlying the “joined and served” language in section 1441(b)(2) is “to prevent gamesmanship by plaintiffs, who might name an in-state defendant against whom he or she does not have a valid claim in a complaint filed in state court to defeat otherwise permissible removal by the non-forum defendant(s).””

“The Ethington court thus declined to allow “snap removal” by the unserved forum defendant in that case.”

FACTUAL BACKGROUND

Miller, a Connecticut citizen, sued C.R. Bard, a New Jersey citizen, in New Jersey state court under New Jersey products-liability law for injuries allegedly caused by a Bard hernia mesh device. The parties did not dispute diversity of citizenship or that the amount in controversy exceeded \$75,000. Bard removed the action before Miller served Bard, relying on the 'properly joined and served' language in the forum defendant rule.

PROCEDURAL HISTORY

Paul Miller filed a New Jersey products-liability action against C.R. Bard, Inc. in the Superior Court of New Jersey. Bard removed the action to federal court the next day before it had been served, and the case was transferred from the District of New Jersey to the Southern District of Ohio as part of multidistrict litigation. The court granted Miller's motion to remand and directed the Clerk to return the case to the Superior Court of New Jersey.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The Clerk was directed to return the case to the Superior Court of New Jersey and close the case on the Southern District of Ohio's docket.

CASES CITED

- *Coyne v. Am. Tobacco Co.*, 183 F.3d 488, 493 (6th Cir. 1999)
- *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 108–09 (1941)
- *Ethington v. Gen. Elec. Co.*, 575 F. Supp. 2d 855, 860–61, 864 (N.D. Ohio 2008)
- *Gordon v. Goodyear Tire & Rubber Co.*, No. 5:21-cv-1097, 2022 WL 34069, at *4 (N.D. Ohio Jan. 3, 2022)
- *Grimm Sci. Indus., Inc. v. Foam Supplies, Inc.*, No. 2:22-cv-1477, 2022 WL 16569213, at *5 (S.D. Ohio Nov. 1, 2022)