

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
GEORGIA, ATLANTA DIVISION

Marcus Ingram, et al. v. Hickory Park Apartments, LLC d/b/a
Freedom Park Apartments, LLC, et al.

Ingram · No. 1:25-CV-5932-TWT · Decided June 22, 2026

SUMMARY

The United States District Court for the Northern District of Georgia denied the plaintiffs’ motion to remand, concluding that nondiverse defendant Denardlo T. Fendall had not been timely served and would be dismissed. The court granted Radiant Property Management, LLC’s motion to dismiss claims for negligent security, maintaining a nuisance, damages, and punitive damages, and denied the motion to stay discovery as moot. The remaining properly served defendants remained in the action.

CASE DETAILS

COURT	United States District Court for the Northern District of Georgia, Atlanta Division
WRITING FOR THE COURT	Thomas W. Thrash, Jr.
JURISDICTION	United States District Court for the Northern District of Georgia, Atlanta Division
DECIDED	June 22, 2026
DOCKET	1:25-CV-5932-TWT
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs brought a Georgia personal-injury action in state court. Defendant Radiant removed the action based on diversity jurisdiction and moved to dismiss under Federal Rule of Civil Procedure 12(b)(6). Plaintiffs moved to remand, and Radiant and Garver moved to stay discovery pending resolution of the dismissal motion.
STANDARD OF REVIEW	On the motion to remand, the court construed removal statutes narrowly, resolved jurisdictional uncertainties in favor of remand, and evaluated the allegations in the light most favorable to plaintiffs. On the Rule 12(b)(6) motion, the court accepted well-pleaded facts as true, construed them in plaintiffs' favor, and applied the plausibility and fair-notice pleading standards. The fraudulent-joinder inquiry

	required determining whether there was any possibility that a state court would recognize a viable claim against the nondiverse defendant.
PRECEDENTIAL VALUE	Unknown; federal district court opinion marked per curiam and unpublished in the provided metadata.
PARTIES	Marcus Ingram, Jarius Gibson v. Hickory Park Apartments, LLC d/b/a Freedom Park Apartments, LLC, Hickory Park Apartments, LTD, Trinity Property Consultants, LLC, Denardlo T. Fendall, Radiant Property Management, LLC, Garver Asset Protection, LLC, John Doe 1, John Doe 2

TOPICS

motions to dismiss

subject matter jurisdiction

service of process

pleadings

premises liability

PRACTICE AREAS

civil procedure

personal injury

premises liability

negligence

remedies

QUESTIONS PRESENTED

1. Whether the nondiverse defendant was fraudulently joined and whether the action should be remanded for lack of complete diversity.
2. Whether the court could dismiss Denardlo T. Fendall for failure to timely serve process after removal.
3. Whether the negligent-security claim against Radiant adequately alleged a duty based on the foreseeability of third-party criminal conduct.
4. Whether the nuisance claim was impermissibly pleaded as a shotgun complaint in violation of Federal Rule of Civil Procedure 8(a)(2).
5. Whether the claims for general damages, special damages, punitive damages, and attorney fees were adequately supported after dismissal of the underlying tort claims.

HOLDINGS

1. The motion to remand was denied because Fendall was fraudulently joined and, after his dismissal, complete diversity existed among the remaining parties.
2. Fendall was dismissed without prejudice because plaintiffs did not timely serve him after removal and did not show good cause for the failure.
3. The negligent-security claim against Radiant was dismissed because the complaint did not adequately allege the duty element, specifically foreseeability of the third-party shooting.
4. The nuisance claim against Radiant was dismissed because the complaint improperly incorporated prior allegations without identifying which defendant committed which conduct, violating the short-and-plain-statement requirement.

5. The damages-related claims against Radiant were dismissed because the underlying negligent-security and nuisance claims were dismissed, the special-damages allegations were conclusory, and the complaint did not allege the basis for punitive damages or attorney fees.

KEY QUOTATIONS

“removal statutes are construed narrowly; where plaintiff and defendant clash about jurisdiction, uncertainties are resolved in favor of remand.” (at 3)

“he is not an insurer of an invitee’s safety.” (at 8)

“The most common type [of shotgun pleading]—by a long shot—is a complaint containing multiple counts where each count adopts the allegations of all preceding counts, causing each successive count to carry all that came before and the last count to be a combination of the entire complaint.” (at 10)

FACTUAL BACKGROUND

On October 11, 2021, Marcus Ingram and Jarius Gibson were visiting a family friend at Freedom Park Apartments in Atlanta, Georgia, when unknown assailants suddenly fired into a crowd. Both plaintiffs sustained serious injuries and received medical treatment at Grady Hospital. They alleged that the apartment-related defendants owned, operated, controlled, or managed the premises and were negligent in security and maintenance, while John Doe defendants were alleged to have committed assault and battery.

PROCEDURAL HISTORY

Plaintiffs alleged negligent security, nuisance, assault, and battery arising from a shooting at an apartment complex. Radiant removed the case to federal court on October 16, 2025. The court denied remand after concluding that nondiverse defendant Denardlo T. Fendall had been fraudulently joined and was subject to dismissal for lack of timely service. The court granted Radiant's motion to dismiss, dismissed Fendall, left the other properly served defendants in the case, and denied the motion to stay discovery as moot.

DISPOSITION

other

CASES CITED

- 941 F.3d 1116, 1122 (11th Cir. 2019)
- 511 U.S. 375, 377 (1994)
- 31 F.3d 1092, 1095 (11th Cir. 1994)
- 515 F. Supp. 3d 1367, 1373 (S.D. Ga. 2021)
- 374 F. Supp. 2d 1222, 1224-25 (N.D. Ga. 2005)
- 663 F.3d 1329, 1333-34 (11th Cir. 2011)
- 125 Ga. App. 423, 426 (1972)
- 986 F. Supp. 2d 1324, 1331 (N.D. Ga. 2013)

- 476 F.3d 1277, 1281 (11th Cir. 2007)
- 316 Ga. 718, 721-22, 724-25, 727-28 (2023)
- 792 F.3d 1313, 1321 (11th Cir. 2015)
- 2024 WL 4583192, at *2 (M.D. Ga. Oct. 25, 2024)
- 805 Fed. Appx. 987, 991 (11th Cir. 2020)
- 85 Ga. App. 124, 126 (1951)
- 110 Ga. 340 (1900)
- 93 F.4th 1315, 1336 (11th Cir. 2024)

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