

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH,
CENTRAL DIVISION

Benjamin White; White Cloud Adventures LLC v. Recreation Risk
Retention Group, Inc.; Jared Potter

White v. Recreation Risk Retention Group · No. 2:25-cv-00215 · Decided March 23, 2026

SUMMARY

The United States District Court for the District of Utah granted Plaintiffs’ motion to remand an insurance coverage dispute to Utah’s Third District Court. The court held that complete diversity was absent because Plaintiff Benjamin White, Plaintiff White Cloud Adventures LLC, and Defendant Jared Potter were Utah citizens, and Defendant Recreation Risk Retention Group failed to establish fraudulent joinder or grounds for realignment. The court also rejected federal question jurisdiction based on the Liability Risk Retention Act and Federal Arbitration Act, concluding that the claims arose under state law.

CASE DETAILS

COURT	United States District Court for the District of Utah, Central Division
WRITING FOR THE COURT	Tena Campbell
JURISDICTION	United States District Court for the District of Utah, Central Division
DECIDED	March 23, 2026
DOCKET	2:25-cv-00215
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiffs moved to remand an insurance-coverage action removed from Utah state court. The federal district court granted the motion after concluding that neither diversity jurisdiction nor federal-question jurisdiction existed.
STANDARD OF REVIEW	The removing party bears the burden of establishing subject matter jurisdiction by a preponderance of the evidence. Removal statutes are strictly construed, doubts are resolved in favor of remand, and jurisdiction must be affirmatively apparent from the record.
PRECEDENTIAL VALUE	unpublished
PARTIES	Recreation Risk Retention Group, Inc. v. Benjamin White, White Cloud Adventures LLC

TOPICS

subject matter jurisdiction

civil procedure

insurance coverage

declaratory relief insurance

arbitration

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the court had diversity jurisdiction despite the common Utah citizenship of plaintiffs and defendant Jared Potter because Potter was allegedly fraudulently joined or should be realigned.
2. Whether the Liability Risk Retention Act created federal-question jurisdiction over plaintiffs' state-law insurance and contract claims.
3. Whether the Federal Arbitration Act supplied an independent basis for federal-question jurisdiction.

HOLDINGS

1. The court lacked diversity jurisdiction because the plaintiffs and Jared Potter were all Utah citizens, and Recreation failed to establish that Potter was fraudulently joined or should be realigned. White, White Cloud, and Potter had a substantial adverse interest concerning whether Potter's release was effective, making Potter a real and substantial party to the controversy.
2. The Liability Risk Retention Act did not create federal-question jurisdiction because plaintiffs' claims for breach of contract, breach of the implied covenant, breach of fiduciary duty, and declaratory relief arose under state law. Recreation's reliance on federal preemption was a defense that did not appear on the face of the well-pleaded complaint.
3. The Federal Arbitration Act did not supply federal-question jurisdiction because it did not create the source of plaintiffs' causes of action and could not substitute for an independent jurisdictional basis.

KEY QUOTATIONS

“Federal courts are courts of limited jurisdiction, possessing only that power authorized by Constitution and statute.”

“But these claims (including the additional claim for declaratory judgment about what the insurance policies require) do not arise under federal law—they arise under state law.”

“Accordingly, the court finds that it lacks both federal question and diversity jurisdiction and must remand the case to state court.”

FACTUAL BACKGROUND

The action arose from a 2023 paragliding crash in which Jared Potter suffered severe injuries and permanent disability while receiving instruction from Benjamin White. White and White Cloud sought insurance coverage and declarations concerning policies issued by Recreation, including whether a release and USHPA membership requirements were satisfied. Recreation disputed coverage and demanded arbitration, then removed plaintiffs'

Utah state-court action after plaintiffs named Potter as a defendant. White, White Cloud, and Potter were all alleged to be Utah citizens, while Recreation was a Vermont corporation.

PROCEDURAL HISTORY

Jared Potter sued Benjamin White and White Cloud Adventures LLC in Utah state court concerning injuries from a paragliding accident. White and White Cloud later sued Recreation Risk Retention Group, Inc. and Potter in Utah state court regarding insurance coverage, declaratory relief, and related contractual duties. Recreation removed the action to the District of Utah, asserting diversity jurisdiction based on fraudulent joinder or realignment of Potter and federal-question jurisdiction based on the Liability Risk Retention Act and Federal Arbitration Act. The court granted plaintiffs' motion to remand to Utah's Third District Court.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The Clerk of Court was directed to remand the action to Utah's Third District Court.

CASES CITED

- Pueblo of Jemez v. United States, 790 F.3d 1143, 1151 (10th Cir. 2015)
- Rywelski v. Biden, No. 23-5099, 2024 WL 1905670, at *1 (10th Cir. May 1, 2024), cert. denied, 145 S. Ct. 444 (2024)
- Home Depot U.S.A., Inc. v. Jackson, 587 U.S. 435, 437-38 (2019)
- McCollum v. McCollum, No. 21-3231, 2022 WL 1151135, at *2 (10th Cir. Apr. 19, 2022)
- Nicodemus v. Union Pacific Corp., 318 F.3d 1231, 1235 (10th Cir. 2003)
- Ravenswood Investment Co., L.P. v. Avalon Correctional Services, 651 F.3d 1219, 1223 (10th Cir. 2011)
- Newman-Green, Inc. v. Alfonzo-Larrain, 490 U.S. 826, 829 & n.1 (1989)
- Board of County Commissioners v. Suncor Energy (U.S.A.) Inc., 25 F.4th 1238, 1250 (10th Cir. 2022)
- Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987)
- Fajen v. Foundation Reserve Insurance Co., 683 F.2d 331, 333 (10th Cir. 1982)
- Oklahoma Farm Bureau Mutual Insurance Co. v. JSSJ Corp., 149 F. App'x 775, 778 (10th Cir. 2005)
- Dart Cherokee Basin Operating Co., LLC v. Owens, 574 U.S. 81 (2014)
- Montoya v. Chao, 296 F.3d 952, 955 (10th Cir. 2002)
- McPhail v. Deere & Co., 529 F.3d 947, 953 (10th Cir. 2008)
- Franchise Tax Board v. Construction Laborers Vacation Trust for Southern California, 463 U.S. 1, 9-10 (1983)
- Metropolitan Life Insurance Co. v. Taylor, 481 U.S. 58, 63-64 (1987)
- Brazell v. Waite, 525 F. App'x 878, 881 (10th Cir. 2013)
- Symes v. Harris, 472 F.3d 754, 761 (10th Cir. 2006)

- *City of Indianapolis v. Chase National Bank*, 314 U.S. 63, 69-70, 74-75 (1941)
- *Long v. Halliday*, 768 F. App'x 811, 813-14 (10th Cir. 2019)
- *Price v. Wolford*, 608 F.3d 698, 704-05 (10th Cir. 2010)
- *Farmers Alliance Mutual Insurance Co. v. Jones*, 570 F.2d 1384 (10th Cir. 1978)
- *Restoration Risk Retention Group, Inc. v. Gutierrez*, 880 F.3d 339, 345-46 (7th Cir. 2018)
- *Vaden v. Discover Bank*, 556 U.S. 49, 59 (2009)

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