

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

Nicholson v. Buckeye Forest at North Olmsted, LLC

Nicholson · No. 1:25CV2289 · Decided March 24, 2026

SUMMARY

The United States District Court for the Northern District of Ohio denied Pam Sue Nicholson’s motion to remand her age-discrimination action against Buckeye Forest at North Olmsted, LLC. The court held that a telephonic settlement demand, an email referring to an unreasonable demand without stating an amount, and the amended complaint did not provide the solid and unambiguous information required to trigger the 30-day removal period under 28 U.S.C. § 1446. The court concluded that the defendant timely removed the case after receiving sworn discovery responses establishing that the amount in controversy exceeded \$75,000.

CASE DETAILS

COURT	United States District Court for the Northern District of Ohio, Eastern Division
WRITING FOR THE COURT	Christopher A. Boyko
JURISDICTION	United States District Court for the Northern District of Ohio, Eastern Division
DECIDED	March 24, 2026
DOCKET	1:25CV2289
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to remand a removed state-law age-discrimination action to the Cuyahoga County Common Pleas Court, arguing that the defendant's removal was untimely under 28 U.S.C. § 1446.
STANDARD OF REVIEW	The removing defendant bears the burden of establishing federal subject matter jurisdiction, and removal statutes are strictly construed. The court determined whether the documents received by defendant provided solid and unambiguous information that the case had become removable under 28 U.S.C. § 1446(b)(3).
PRECEDENTIAL VALUE	unpublished district court opinion; precedential status unknown

TOPICS

subject matter jurisdiction

civil procedure

employment discrimination

age discrimination

PRACTICE AREAS

civil procedure

civil rights

employment law

QUESTIONS PRESENTED

1. Whether plaintiff's telephonic settlement demand and defense counsel's follow-up email constituted an amended pleading, motion, order, or other paper providing notice of removability under 28 U.S.C. § 1446(b)(3).
2. Whether plaintiff's amended complaint provided sufficient information to trigger the 30-day removal period under 28 U.S.C. § 1446(b)(3).
3. Whether defendant timely removed the action after receiving plaintiff's sworn discovery responses establishing an amount in controversy exceeding \$75,000.

HOLDINGS

1. A verbal settlement demand communicated by telephone, together with an email that confirmed discussion of an unreasonable demand without stating a dollar amount, did not constitute sufficient notice of removability under 28 U.S.C. § 1446(b)(3).
2. The amended complaint did not trigger the 30-day removal period because its prayer for compensatory and punitive damages in excess of \$25,000, plus fees and costs, did not provide facts or a definitive claimed amount showing that the amount in controversy exceeded \$75,000.
3. Defendant timely removed the action because plaintiff's sworn discovery responses provided solid and unambiguous information that the amount in controversy exceeded \$75,000, and the action therefore satisfied diversity subject matter jurisdiction under 28 U.S.C. § 1332.

KEY QUOTATIONS

“Neither the initial Complaint, the telephonic settlement demand nor the operative Amended Complaint constitutes the amended pleading, motion, order or other paper required by 28 U.S.C. § 1446 to begin the 30-day removal clock.” (at 5)

“The sworn discovery responses Plaintiff served upon Defendant were solid and unambiguous information and actual notice that the amount in controversy met the jurisdictional amount for removal.” (at 6)

“For these reasons, the Motion (ECF DKT #5) of Plaintiff Pam Sue Nicholson to Remand to Cuyahoga County Common Pleas Court is denied.” (at 7)

FACTUAL BACKGROUND

Plaintiff alleged that defendant terminated her after 14 years of employment for pretextual reasons and replaced her with someone 30 years younger. Her amended state-court complaint sought compensatory and punitive damages in excess of \$25,000, along with attorney fees and costs, but did not specify wages, back wages, or a definitive total amount. In sworn discovery responses served on September 23, 2025, plaintiff identified

\$311,768 in damages, including lost wages, non-economic damages, punitive damages, fees, and costs, and admitted that she sought more than \$75,000.

PROCEDURAL HISTORY

Plaintiff filed an age- and disability-discrimination complaint in Cuyahoga County Common Pleas Court on April 9, 2025, and filed an amended complaint on May 13, 2025, retaining only the age-discrimination claim. After receiving plaintiff's sworn discovery responses on September 23, 2025, defendant removed the action on October 23, 2025, asserting diversity jurisdiction based on an amount in controversy exceeding \$75,000. Plaintiff moved to remand, and the district court denied the motion.

DISPOSITION

other

CASES CITED

- *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 541 (1986)
- *Marbury v. Madison*, 1 Cranch 137, 5 U.S. 137 (1803)
- *Crabtree v. Wal-Mart*, 2006 WL 897210, at *1 (E.D. Ky. Apr. 4, 2006)
- *Richmond v. Int'l Bus. Machs. Corp.*, 919 F. Supp. 107 (E.D.N.Y. 1996)
- *Clark v. Paul Gray, Inc.*, 306 U.S. 583 (1939)
- *Curry v. U.S. Bulk Transp., Inc.*, 462 F.3d 536, 540 (6th Cir. 2006)
- *Owens v. Brock*, 860 F.2d 1363, 1367 (6th Cir. 1988)
- *Rogers v. Wal-Mart Stores, Inc.*, 230 F.3d 868, 872 (6th Cir. 2000)
- *Gafford v. General Elec. Co.*, 997 F.2d 150, 158 (6th Cir. 1993)
- *Cole v. Great Atl. & Pacific Tea Co.*, 728 F. Supp. 1305, 1307 (E.D. Ky. 1990)
- *Warthman v. Genoa Twp. Bd. of Trs.*, 549 F.3d 1055, 1059 (6th Cir. 2008)
- *Alexander v. Elec. Data Sys. Corp.*, 13 F.3d 940, 949 (6th Cir. 1994)
- *Brierly v. Alusuisse Flexible Packaging, Inc.*, 184 F.3d 527, 534 (6th Cir. 1999)
- *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 108-109 (1941)
- *Walsh v. Am. Airlines, Inc.*, 264 F. Supp. 514, 515 (E.D. Ky. 1967)
- *Breymann v. Pennsylvania, O. & D. R.R.*, 38 F.2d 209, 212 (6th Cir. 1930)
- *Berera v. Mesa Medical Group, PLLC*, 779 F.3d 352, 364 (6th Cir. 2015)
- *Peters v. Lincoln Elec. Co.*, 285 F.3d 456, 466 (6th Cir. 2002)