

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

**Brad Baryenbruch, and Dean Health Plan, Inc. v. SilencerCo, LLC,
SilencerCo Weapons Research, LLC, and Granite State Insurance
Company**

Baryenbruch v. SilencerCo · No. 26-cv-16-jdp · Decided February 11, 2026

SUMMARY

The court addresses party alignment, diversity-of-citizenship allegations, and the parties' stipulation regarding dismissal of certain claims in this products liability action involving an allegedly defective firearm suppressor. The court realigns Dean Health Plan, Inc. as a plaintiff and requires defendants to supplement their jurisdictional allegations by February 25, 2026. The court accepts defendants' withdrawal of their motion to dismiss and directs plaintiff to file an amended complaint omitting counts five through seven.

CASE DETAILS

COURT	United States District Court for the Western District of Wisconsin
WRITING FOR THE COURT	James D. Peterson
JURISDICTION	United States District Court for the Western District of Wisconsin
DECIDED	February 11, 2026
DOCKET	26-cv-16-jdp
DISPOSITION	other
PROCEDURAL POSTURE	Defendants removed this products liability action from Wisconsin state court based on alleged diversity jurisdiction. The court issued an order addressing party alignment, the adequacy of the allegations of diversity citizenship, withdrawal of a motion to dismiss, and amendment of the complaint.
PRECEDENTIAL VALUE	unknown

TOPICS

subject matter jurisdiction

joinder

motion to amend

products liability

civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Dean Health Plan, Inc. could be treated as an involuntary plaintiff when it appeared and indicated that it wished to participate in the action.
2. Whether defendants adequately alleged the citizenship of all parties to establish diversity jurisdiction under 28 U.S.C. § 1332.
3. Whether the parties could voluntarily dismiss only counts five through seven through a stipulation and amended pleading rather than by court order.

HOLDINGS

1. Dean Health Plan, Inc. was realigned as a plaintiff because it had appeared and indicated that it wanted to participate, and the Federal Rules of Civil Procedure do not permit a plaintiff unilaterally to force another party to join as an involuntary plaintiff.
2. Defendants had not adequately alleged the citizenship of the parties to establish diversity jurisdiction. They were required to provide supplemental materials establishing Baryenbruch's domicile, Granite State Insurance Company's state of incorporation and principal place of business, and the citizenship of the members of each defendant limited liability company.
3. The parties' stipulation constituted written consent to amend under Federal Rule of Civil Procedure 15(a)(1)(2), so no court order was needed to remove counts five through seven. Plaintiff was directed to file the amended complaint as a separate docket entry, and defendants' withdrawal of their motion to dismiss was accepted.

KEY QUOTATIONS

“And “there is nothing in the Federal Rules of Civil Procedure that permits a plaintiff unilaterally to force another party to join his lawsuit as an involuntary plaintiff.””

“To adequately allege the citizenship of an LLC, defendants must identify the LLC’s members, identify the domicile of each individual member, and identify the state of incorporation and principal place of business of each corporate member.”

FACTUAL BACKGROUND

Brad Baryenbruch alleges that a gun suppressor designed and manufactured by SilencerCo, LLC and SilencerCo Weapons Research, LLC split into pieces after he fired his rifle. He alleges that the resulting recoil injured him. Dean Health Plan, Inc. paid medical expenses on his behalf and appeared in the federal action.

PROCEDURAL HISTORY

Brad Baryenbruch filed the action in Sauk County, Wisconsin, and defendants removed it to the Western District of Wisconsin. Dean Health Plan, Inc. was designated as an involuntary plaintiff because it had paid medical expenses. Defendants moved to dismiss counts five through seven, but the parties stipulated that those counts

would be voluntarily dismissed without prejudice and that defendants would withdraw the motion. The court realigned Dean Health Plan as a plaintiff, required supplemental jurisdictional allegations by February 25, 2026, accepted withdrawal of the motion to dismiss, and directed plaintiff to file an amended complaint omitting counts five through seven.

DISPOSITION

other

REMAND INSTRUCTIONS

Defendants must file supplemental materials establishing diversity of citizenship by February 25, 2026. If defendants do not respond, the court will remand the case to state court. Plaintiff must promptly file an amended complaint omitting counts five through seven.

CASES CITED

- *Fid. Nat. Title Ins. Co. of New York v. Intercounty Nat. Title Ins. Co.*, 412 F.3d 745, 750 (7th Cir. 2005)
- *Doermer v. Oxford Fin. Grp., Ltd.*, 884 F.3d 643, 646 (7th Cir. 2018)
- *Myrick v. WellPoint, Inc.*, 764 F.3d 662, 664–65 (7th Cir. 2014)
- *Winforge, Inc. v. Coachmen Industries, Inc.*, 691 F.3d 856, 867 (7th Cir. 2012)
- *Heinen v. Northrop Grumman Corp.*, 671 F.3d 669, 670 (7th Cir. 2012)
- *City of E. St. Louis, Illinois v. Netflix, Inc.*, 83 F.4th 1066, 1070 (7th Cir. 2023)
- *Taylor v. Brown*, 787 F.3d 851, 857–58 (7th Cir. 2015)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN BRAD BARYENBRUCH, Plaintiff, and DEAN HEALTH PLAN, INC. Involuntary Plaintiff, ORDER 26-cv-16-jdp v. SILENCERCO, LLC, SILENCERCO WEAPONS RESEARCH, LLC, and GRANITE STATE INSURANCE COMPANY, Defendants. This is a products liability action about an allegedly defective gun suppressor designed and manufactured by defendants SilencerCo, LLC and SilencerCo Weapons Research, LLC. Plaintiff Brad Baryenbruch alleges that his suppressor split into pieces after he fired his rifle, causing the rifle to recoil and injure him.

Baryenbruch filed this case in state court in Sauk County, Wisconsin, and defendants removed it to this court. Dkt. 1 (notice of removal). This order addresses three issues. First, Baryenbruch has identified Dean Health Plan, Inc. as an “involuntary plaintiff” because it paid medical expenses on his behalf. Wisconsin state court procedures require the joinder of parties who have claims based upon subrogation to the rights of the principal party.

Wis. Stat. § 803.03(2). But in federal court, it is generally the Federal Rules of Civil Procedure that govern, not state procedural rules. See *Fid. Nat. Title Ins. Co. of New York v. Intercounty Nat. Title Ins. Co.*, 412 F.3d 745, 750 (7th Cir. 2005). And “there is nothing in the Federal Rules of Civil Procedure that permits a plaintiff unilaterally to force another party to join his lawsuit as an involuntary plaintiff.” *Doermer v. Oxford Fin.*

Grp., Ltd., 884 F.3d 643, 646 (7th Cir. 2018). Dean Health Plan has appeared, suggesting that it wants to participate and is not an “involuntary plaintiff.” So the court will refer to Dean Health Plan as simply a plaintiff for the remainder of the case unless another party shows cause why Dean Health Plan is misaligned or should not remain a party.

Second, defendants rely on 28 U.S.C. § 1332 as the basis for jurisdiction, but they have not adequately alleged diversity of citizenship. Defendants say that Baryenbruch is a citizen of Wisconsin based on the allegations in the complaint, but the complaint alleges only that Baryenbruch resides in Wisconsin. It is well established in this circuit that residence and citizenship are not the same thing, and a court may not infer citizenship from residence alone.

See, e.g., *Myrick v. WellPoint, Inc.*, 764 F.3d 662, 664–65 (7th Cir. 2014); *Winforge, Inc. v. Coachmen Industries, Inc.*, 691 F.3d 856, 867 (7th Cir. 2012); *Heinen v. Northrop Grumman Corp.*, 671 F.3d 669, 670 (7th Cir. 2012). Baryenbruch’s citizenship is determined not by where he resides, but by where he is domiciled. *Myrick*, 764 F.3d at 664. Defendants have also not adequately alleged their own citizenship.

They say that Granite State Insurance Company has a principal place of business in Illinois, but they do not say where it is incorporated. See 28 U.S.C. § 1332(c)(1). And both SilencerCo and SilencerCo Weapons Research are limited liability companies, so their citizenship is based on the citizenship of their members, “traced through as many levels as necessary until reaching a natural person or a corporation.” *City of E. St. Louis, Illinois v. Netflix, Inc.*, 83 F.4th 1066, 1070 (7th Cir. 2023). To adequately allege the citizenship of an LLC, defendants must identify the LLC’s members, identify the domicile of each individual member, and identify the state of incorporation and principal place of business of each corporate member.

The court will give defendants until February 25, 2026, to file supplemental materials showing that the court may exercise subject matter jurisdiction over this case. If defendants don’t respond, the court will remand the case to state court.

Third, the parties have filed a stipulation that plaintiffs will voluntarily dismiss counts five through seven of the complaint without prejudice and defendants will withdraw their motion to dismiss those claims. Dkt. 16. Defendants’ withdrawal of the motion to dismiss, Dkt. 6, is accepted.

As for the voluntary dismissal, the proper mechanism to voluntarily dismiss only some claims is to file an amended pleading under Federal Rule of Civil Procedure 15(a). *Taylor v. Brown*, 787 F. 3d 851, 857–58 (7th Cir. 2015).

The parties' stipulation serves as written consent to amend under Rule 15(a)(1)(2), so no court order is needed. Plaintiff is directed to promptly file the amended complaint as a separate docket entry. ORDER IT IS ORDERED that: 1. Dean Health Plan, Inc, is realigned as a plaintiff.

The clerk of court is directed to change the party designation on the docket to reflect the realignment. 2. Defendants have until February 25, 2026, to file supplemental materials on diversity of citizenship. 3. Defendants' withdrawal of their motion to dismiss, Dkt. 6, is ACCEPTED per the parties' stipulation. Dkt. 16. Plaintiff should promptly file an amended complaint omitting counts five through seven.

Entered February 11, 2026. BY THE COURT: /s/

JAMES D. PETERSON District Judge