

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
KENTUCKY, BOWLING GREEN DIVISION

Kevin L. Swincher and Dawn Swincher v. Fay Servicing, LLC et al.

Swincher · No. 1:25-CV-00015-GNS-HBB · Decided April 8, 2026

SUMMARY

The United States District Court for the Western District of Kentucky denied Plaintiffs’ renewed motion to remand and granted their motion for leave to amend. The court held that federal-question jurisdiction remained because the proposed amended complaint sought relief under RESPA and that diversity jurisdiction also existed; the amended complaint was filed as of record.

CASE DETAILS

COURT	United States District Court for the Western District of Kentucky, Bowling Green Division
WRITING FOR THE COURT	Greg N. Stivers
JURISDICTION	United States District Court for the Western District of Kentucky, Bowling Green Division
DECIDED	April 8, 2026
DOCKET	1:25-CV-00015-GNS-HBB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs filed a renewed motion to remand after the Court previously denied their initial motion to remand, and separately moved for leave to amend their complaint. The district court adjudicated both motions.
STANDARD OF REVIEW	The court applied the statutory requirements for removal and subject-matter jurisdiction, strictly construing removal jurisdiction and resolving doubts in favor of remand. It applied the liberal amendment standard under Federal Rule of Civil Procedure 15(a)(2).
PRECEDENTIAL VALUE	Unknown
PARTIES	Kevin L. Swincher, Dawn Swincher v. Fay Servicing, LLC, Caliber Home Loans, Inc.

TOPICS

- subject matter jurisdiction
- motion to amend
- civil procedure
- mortgages
- consumer protection

PRACTICE AREAS

civil procedure

mortgage servicing

consumer protection

QUESTIONS PRESENTED

1. Whether the proposed amended complaint eliminated the federal question supporting federal jurisdiction so that the case had to be remanded.
2. Whether diversity jurisdiction independently supported federal subject-matter jurisdiction.
3. Whether Plaintiffs should be granted leave to amend under Federal Rule of Civil Procedure 15(a)(2).

HOLDINGS

1. Remand was not required because the proposed amended complaint continued to seek declaratory relief under federal law, including federal mortgage-servicing regulations under RESPA.
2. Diversity jurisdiction existed because Plaintiffs alleged that they were Kentucky citizens, Defendants were nonresidents, and the amount in controversy exceeded \$75,000.
3. Leave to amend was granted because Plaintiffs did not appear to act in bad faith or for purposes of delay, the amendment added no new claims, and Defendants would not suffer prejudice.

KEY QUOTATIONS

“When a plaintiff amends her complaint following her suit’s removal, a federal court’s jurisdiction depends on what the new complaint says. If (as here) the plaintiff eliminates the federal-law claims that enabled removal, leaving only state-law claims behind, the court’s power to decide the dispute dissolves. With the loss of federal-question jurisdiction, the court loses as well its supplemental jurisdiction over the state claims.”

FACTUAL BACKGROUND

Kevin and Dawn Swincher alleged that Fay Servicing, LLC and Caliber Home Loans, Inc. unlawfully and negligently serviced their mortgage loan. The Swinchers filed suit in Kentucky state court, and Fay removed the case to federal court. In their proposed amended complaint, the Swinchers continued to seek declaratory relief based on federal mortgage-servicing regulations and sought more than \$1.7 million in damages while alleging Kentucky citizenship for themselves and nonresident citizenship for the defendants.

PROCEDURAL HISTORY

Plaintiffs originally filed suit in Kentucky state court alleging unlawful and negligent mortgage-loan servicing. Fay removed the action to federal court, and the district court previously denied Plaintiffs' motion to remand after finding federal-question jurisdiction. Plaintiffs then sought renewed remand based on an amended complaint and moved for leave to amend. The court denied remand, granted leave to amend, and ordered that the amended complaint be filed of record.

DISPOSITION

other

CASES CITED

- *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 513 (2006)
- *Long v. Bando Mfg. of Am., Inc.*, 201 F.3d 754, 757 (6th Cir. 2000)
- *Her Majesty the Queen in Right of the Province of Ont. v. City of Detroit*, 874 F.2d 332, 339 (6th Cir. 1989)
- *Smith v. Nationwide Prop. & Cas. Ins. Co.*, 505 F.3d 401, 404 (6th Cir. 2007)
- *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992)
- *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 104, 108-09 (1941)
- *Royal Canin U.S.A., Inc. v. Wullschleger*, 604 U.S. 22, 30 (2025)
- *Colvin v. Caruso*, 605 F.3d 282, 294 (6th Cir. 2010)
- *Crawford v. Roane*, 53 F.3d 750, 753 (6th Cir. 1995)
- *Rose v. Caldwell Tanks/Caldwell 2.0*, No. 3:25-CV-648-RGJ, 2025 WL 3565341, at *4 (W.D. Ky. Dec. 12, 2025)
- *Mersen USA - Midland-MI Inc. v. Graphite Machining Servs. & Innovations, LLC*, No. 12-10961, 2012 WL 3060922, at *2 (E.D. Mich. July 26, 2012)
- *McLean v. Alere Inc.*, No. 3:12-CV-566-DJH, 2015 WL 1638341, at *3 (W.D. Ky. Apr. 13, 2015)
- *Beydoun v. Sessions*, 871 F.3d 459, 469 (6th Cir. 2017)

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