

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
TEXAS, DALLAS DIVISION

David Klossner, Individually and d/b/a KDA Realty LLC v. Zurich
American Insurance Company and American Zurich Insurance
Company

Klossner · No. 3:25-cv-3251-G-BN · Decided February 12, 2026

SUMMARY

A United States magistrate judge recommends remanding the removed insurance action for lack of subject-matter jurisdiction because the defendants did not adequately allege Plaintiff David Klossner’s citizenship for diversity purposes. The recommendation states that if the defendants provide sufficient allegations or evidence of citizenship within the objection period, the court should retain jurisdiction and deny the motion to remand.

CASE DETAILS

COURT	United States District Court for the Northern District of Texas, Dallas Division
WRITING FOR THE COURT	David L. Horan, United States Magistrate Judge
JURISDICTION	United States District Court for the Northern District of Texas, Dallas Division
DECIDED	February 12, 2026
DOCKET	3:25-cv-3251-G-BN
DISPOSITION	remanded
PROCEDURAL POSTURE	Report and recommendation on a removed state-court action. Plaintiff moved to remand for lack of subject-matter jurisdiction and alleged removal defects.
STANDARD OF REVIEW	The removing party bears the burden of establishing federal subject-matter jurisdiction. At the pleading stage, the party invoking diversity jurisdiction must allege each party's citizenship; evidentiary proof is required at the summary-judgment stage, and citizenship must be proved at trial.
PRECEDENTIAL VALUE	nonprecedential magistrate judge report and recommendation

TOPICS

subject matter jurisdiction

civil procedure

insurance

breach of contract

PRACTICE AREAS

civil procedure

insurance

contracts

QUESTIONS PRESENTED

1. Whether Defendants adequately established complete diversity for purposes of subject-matter jurisdiction under 28 U.S.C. § 1332.
2. Whether the notice of removal was procedurally defective because it did not include additional documents allegedly material to removal.
3. Whether KDA Realty LLC's citizenship affected diversity jurisdiction when Klossner was the LLC's sole member.
4. Whether the joint removal by ZAIC and AZIC was procedurally proper despite Defendants' contention that AZIC was improperly included.

HOLDINGS

1. A statement that a natural person is a citizen and resident of a state, supported only by the person's current residence or address, does not plausibly allege domicile when the removing party does not address additional domicile factors or provide supporting evidence. Because Defendants failed to properly allege Klossner's citizenship, complete diversity was not adequately established.
2. At the pleading stage, a party invoking diversity jurisdiction generally must allege the citizenship of each party, rather than provide evidentiary proof of citizenship; however, the allegations must be sufficient to plausibly establish domicile and complete diversity.
3. Defendants sufficiently alleged that the amount in controversy exceeded \$75,000 because the petition sought approximately \$2.3 million in damages, statutory interest, and exemplary damages.
4. Failure to include required state-court documents with a notice of removal is ordinarily a nonjurisdictional procedural defect that may be remedied by supplementing the record rather than remanding the case.
5. The joint removal was procedurally proper because both ZAIC and AZIC were named as defendants and both appeared and jointly filed the notice of removal.

KEY QUOTATIONS

“So, where the party invoking subject-matter jurisdiction under Section 1332 (1) merely concludes that a party is domiciled where he or she is alleged to currently reside and (2) fails to meaningfully address any Coury factor as to any party, a court cannot find that a party's domicile has been plausibly alleged and that complete diversity supports subject-matter jurisdiction under Section 1332.” (Section I)

“At the pleading stage, the party invoking the federal court's jurisdiction must allege the citizenship of each party.” (Section II)

FACTUAL BACKGROUND

Klossner's state-court petition sought approximately \$2.3 million for alleged property damage, plus statutory interest and exemplary damages, arising from an insurance dispute. Defendants alleged that Klossner was a citizen and resident of Ohio, that ZAIC was incorporated in New York with its principal place of business in Illinois, and that AZIC was incorporated and had its principal place of business in Illinois. The removal papers relied on Klossner's Ohio residence and did not allege facts or provide evidence showing his domicile.

PROCEDURAL HISTORY

David Klossner, individually and doing business as KDA Realty LLC, sued Zurich American Insurance Company and American Zurich Insurance Company in Texas state court. Defendants removed the action under the diversity-jurisdiction statute. Klossner moved to remand. The magistrate judge recommended remand because Defendants had not adequately alleged Klossner's domicile and therefore had not established complete diversity, while recommending that the district court retain jurisdiction and deny remand if Defendants supplied sufficient additional allegations or evidence within the objection period.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The magistrate judge recommended remand for lack of subject-matter jurisdiction unless, within the 14-day objection period, Defendants filed a written response or submitted evidence sufficiently explaining or establishing Klossner's citizenship. If Defendants cured the citizenship deficiency, the district court should retain jurisdiction and deny the motion to remand.

CASES CITED

- St. Paul Reinsurance Co. v. Greenberg, 134 F.3d 1250, 1253 (5th Cir. 1998)
- Vantage Drilling Co. v. Hsin-Chi Su, 741 F.3d 535, 537 (5th Cir. 2014)
- Harvey v. Grey Wolf Drilling Co., 542 F.3d 1077, 1079 (5th Cir. 2008)
- Menchaca v. Chrysler Credit Corp., 612 F.2d 507, 511 (5th Cir. 1980)
- Getty Oil Corp. v. Ins. Co. of N. Am., 841 F.2d 1254, 1259 (5th Cir. 1988)
- Hertz Corp. v. Friend, 559 U.S. 77, 92-93 (2010)
- Terry Black's Barbecue, LLC v. State Auto. Mut. Ins. Co., No. 1:20-cv-665-RP, 2020 WL 6537230, at *2 (W.D. Tex. Nov. 5, 2020)
- Ind. Affordable Storage, Inc. v. Ohio Cas. Ins. Co., No. 5:24-cv-50, at *5 (N.D. Tex. Aug. 29, 2025)
- SXSW v. Fed. Ins. Co., 83 F.4th 405, 407-08 (5th Cir. 2023)
- Coury v. Prot, 85 F.3d 244, 251 (5th Cir. 1996)

- Megalomedia Inc. v. Philadelphia Indem. Ins. Co., 115 F.4th 657, 659 (5th Cir. 2024)
- J.A. Masters Invs. v. Beltramini, 117 F.4th 321, 323 (5th Cir. 2024)
- MidCap Media Fin., L.L.C. v. Pathway Data, Inc., 929 F.3d 310, 315 n.* (5th Cir. 2019)
- Home Depot U.S.A., Inc. v. Jackson, 588 U.S. 435, 437, 446 (2019)
- Cooper v. Barrett Burke Wilson Castle Daffin & Frappier, L.L.P., No. 3:07-cv-0427-G, 2007 WL 9717419, at *2 (N.D. Tex. July 23, 2007)
- Covington v. Indemnity Ins. Co., 251 F.2d 930, 933 (5th Cir. 1958), cert. denied, 357 U.S. 921 (1958)
- Energy Mgmt. Servs., LLC v. City of Alexandria, 739 F.3d 255, 258-59 (5th Cir. 2014)
- Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1417 (5th Cir. 1996)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/united-states-district-court-for-the-northern-district-of-te/2026/david-klossner-individually-and-d-b-a-kda-realty-llc-v-mp3xypxk>