

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

Denise M. Fox, et al. v. Douglas J. Fox

No. 3:26 CV 750, United States District Court for the Northern District of Ohio, Western Division (April 10, 2026)

SUMMARY

The United States District Court for the Northern District of Ohio dismisses the action without prejudice for lack of subject-matter jurisdiction. The court concludes that the complaint fails to establish complete diversity because plaintiff Kayla R. Gibbs and defendant Douglas J. Fox share Michigan as a state of residence, and dismisses under Federal Rule of Civil Procedure 12(h)(3).

CASE DETAILS

COURT	United States District Court for the Northern District of Ohio, Western Division
WRITING FOR THE COURT	James R. Knepp II
JURISDICTION	United States District Court for the Northern District of Ohio, Western Division
DECIDED	April 10, 2026
DOCKET	3:26 CV 750
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiffs filed a complaint invoking diversity jurisdiction. The district court sua sponte dismissed the action without prejudice under Federal Rule of Civil Procedure 12(h)(3) for lack of subject matter jurisdiction.
STANDARD OF REVIEW	The court independently examined its subject matter jurisdiction and raised the jurisdictional defect sua sponte.
PRECEDENTIAL VALUE	Nonprecedential district court order
PARTIES	Denise M. Fox, Joshua D. Fox, Alesha N. Betz, Kayla R. Gibbs v. Douglas J. Fox

TOPICS

- subject matter jurisdiction
- civil procedure
- trusts

PRACTICE AREAS

Civil procedure

Federal jurisdiction

Trusts

QUESTIONS PRESENTED

1. Whether the complaint adequately established complete diversity of citizenship for purposes of federal diversity jurisdiction.
2. Whether the court was required to dismiss the action when the complaint facially demonstrated that a plaintiff and defendant shared Michigan residence.

HOLDINGS

1. The complaint failed to establish complete diversity because it indicated that plaintiff Kayla R. Gibbs and defendant Douglas J. Fox resided in the same state, and the action therefore had to be dismissed for lack of subject matter jurisdiction.
2. Federal courts have a duty to consider their subject matter jurisdiction in every case and may raise the issue sua sponte.

KEY QUOTATIONS

“At all times, “federal courts have a duty to consider their subject matter jurisdiction in regard to every case and may raise the issue sua sponte.””

“Thus, because Plaintiff’s Complaint facially demonstrates an absence of complete diversity between the Parties, the Court must dismiss this action.”

“Because the Court lacks jurisdiction to determine the merits of Plaintiff’s suit, such dismissal is without prejudice.”

FACTUAL BACKGROUND

Plaintiffs sued Douglas J. Fox, individually and as trustee of the Ernestine D. Fox Trust, invoking diversity jurisdiction. The complaint identified the parties' addresses, which indicated that plaintiff Kayla R. Gibbs and defendant Fox resided in Michigan. The complaint did not provide additional jurisdictional allegations establishing complete diversity or the parties' citizenship.

PROCEDURAL HISTORY

Plaintiffs alleged diversity jurisdiction but provided only party addresses rather than sufficient citizenship or domicile allegations. The court determined that the complaint facially showed that plaintiff Kayla R. Gibbs and defendant Douglas J. Fox shared Michigan residence, demonstrating an absence of complete diversity, and dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- Caterpillar Inc. v. Lewis, 519 U.S. 61, 68 (1996)
- Answers in Genesis of Ky., Inc. v. Creation Ministries International, Inc., 556 F.3d 459, 465 (6th Cir. 2009)
- Thornton v. Sw. Detroit Hosp., 895 F.2d 1131, 1133 (6th Cir. 1990)
- Bateman v. E.I. DuPont De Nemours & Co., 7 F. Supp. 2d 910, 911 (E.D. Mich. 1998)

OPINION

Fox

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF OHIO

WESTERN DIVISION

DENISE M. FOX, et al., CASE NO. 3:26 CV 750 Plaintiffs,

v. JUDGE JAMES R. KNEPP II

DOUGLAS J. FOX,

Defendant. ORDER OF DISMISSAL Plaintiffs Denise M. Fox, Joshua D. Fox, Alesha N. Betz, and Kayla R. Gibbs filed a Complaint in this action invoking this Court's subject matter jurisdiction "based upon diversity of citizenship." (Doc. 1, at 2). When a plaintiff invokes this Court's diversity jurisdiction, complete diversity of parties is required, meaning the citizenship of each plaintiff must be different from the citizenship of each defendant. See *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 68 (1996). At all times, "federal courts have a duty to consider their subject matter jurisdiction in regard to every case and may raise the issue sua sponte." *Answers in Genesis of Ky., Inc., v. Creation Ministries Int'l., Inc.*, 556 F.3d 459, 465 (6th Cir. 2009) (citing *Thornton v. Sw. Detroit Hosp.*, 895 F.2d 1131, 1133 (6th Cir. 1990)). Here, Plaintiffs' Complaint does not provide jurisdictional allegations beyond the addresses of each party. See Doc. 1, at 1–2. These addresses indicate Plaintiff Kayla R. Gibbs and the Defendant, in both his individual capacity and his capacity as trustee of the Ernestine D. Fox Trust, reside in the state of Michigan. *Id.* A defendant and a plaintiff sharing the same state of residence destroys complete diversity, as a party's residence is a necessary but not sufficient condition for establishing that party's domicile—the final determinant of the party's state of citizenship. See *Bateman v. E.I. DuPont De Nemours & Co.*, 7 F. Supp. 2d 910, 911 (E.D. Mich. 1998) ("A citizen can change his/her domicile instantly by taking up residence . . . with the intent to remain."). Thus, because Plaintiff's Complaint facially demonstrates an absence of complete diversity between the Parties, the Court must dismiss this action. Fed. R. Civ. P. 12(h)(3). Because the Court lacks jurisdiction to determine the merits of Plaintiff's suit, such dismissal is without prejudice. IT IS SO ORDERED. s/ James R. Knepp II
UNITED STATES DISTRICT JUDGE

Dated: April 10, 2026

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