

**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).

OPINION

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