UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

U.S. Bank Trust National Association v. 2105 NW 1 LLC, et al.

U.S. Bank Trust (S.D. Fla. 2026) · No. 26-CV-21499-ELFENBEIN · Decided March 18, 2026

SUMMARY

The United States District Court for the Southern District of Florida remands a removed mortgage foreclosure action to Florida state court. The court concludes that the removing defendant failed to establish federal-question jurisdiction under the Fair Debt Collection Practices Act or diversity jurisdiction under 28 U.S.C. § 1332. The court closes the federal case, terminates all deadlines and hearings, and denies pending motions as moot.

CASE DETAILS

COURT	United States District Court for the Southern District of Florida
WRITING FOR THE COURT	Marty Fulgueira Elfenbein
JURISDICTION	United States District Court for the Southern District of Florida
DECIDED	March 18, 2026
DOCKET	26-CV-21499-ELFENBEIN
DISPOSITION	remanded
PROCEDURAL POSTURE	Defendant Jorge Alvarino removed a Florida mortgage foreclosure action to federal court. After sua sponte questioning subject-matter jurisdiction and ordering Alvarino to show cause, the court remanded the action to state court.
STANDARD OF REVIEW	The court independently reviewed subject-matter jurisdiction sua sponte and applied the requirement that the removing party establish federal jurisdiction by a preponderance of the evidence.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Jorge Alvarino v. U.S. Bank Trust National Association

TOPICS

subject matter jurisdiction · civil procedure · foreclosure · mortgages · real estate

PRACTICE AREAS

federal jurisdiction · removal and remand · mortgage foreclosure

QUESTIONS PRESENTED

1. Whether the federal court had federal-question jurisdiction over the removed mortgage foreclosure complaint under 28 U.S.C. § 1331.
2. Whether the federal court had diversity jurisdiction under 28 U.S.C. § 1332.
3. Whether the action should be remanded when the removing defendant failed to establish subject-matter jurisdiction.

HOLDINGS

1. The court lacked federal-question jurisdiction because the complaint asserted claims exclusively under Florida law and did not allege a claim arising under the Fair Debt Collection Practices Act or another provision of federal law.
2. The court could not establish diversity jurisdiction because the removing defendant failed to show complete diversity of citizenship among all parties.
3. Because federal subject-matter jurisdiction was not established, the action was required to be remanded to the state court from which it was removed.

KEY QUOTATIONS

> *"Because "[f]ederal courts are courts of limited jurisdiction," they "possess only that power authorized by Constitution and statute, which is not to be expanded by judicial decree.""*

> *"And no complete diversity means no diversity jurisdiction."*

FACTUAL BACKGROUND

U.S. Bank Trust filed an essentially mortgage foreclosure action relying exclusively on Florida law. Defendant Jorge Alvarino removed the action, asserting federal-question jurisdiction under the Fair Debt Collection Practices Act and identifying some, but not all, citizenship information for the parties. The complaint did not reference the FDCPA or another federal cause of action, and Alvarino did not respond to the court's order requiring clarification of federal-question and diversity jurisdiction.

PROCEDURAL HISTORY

U.S. Bank Trust filed a mortgage foreclosure complaint in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. Alvarino removed the action under 28 U.S.C. §§ 1441 and 1446, asserting federal-question jurisdiction under the Fair Debt Collection Practices Act. The federal court issued a show-cause order requiring Alvarino to establish federal-question or diversity jurisdiction, but he did not respond. The court concluded that subject-matter jurisdiction had not been established, remanded the case, closed the federal case, terminated deadlines and hearings, and denied pending motions as moot.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The action is remanded to the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. The Clerk is directed to close the federal case; all deadlines and hearings are terminated, and pending motions are denied as moot.

CASES CITED

- Fun Depot, Inc. v. Carefree Park Corp., No. 05-CV-80969, 2006 WL 8433659, at *10 n.11 (S.D. Fla. Feb. 16, 2006)
- Johnson v. Wyeth, 313 F. Supp. 2d 1272, 1272-73 (N.D. Ala. 2004)
- In re U.S. Healthcare, 159 F.3d 142, 145 (3d Cir. 1998)
- Capital Bancshares, Inc. v. North Am. Guar. Ins. Co., 433 F.2d 279, 283 (5th Cir. 1970)
- Tannenbaum v. United States, 148 F.3d 1262, 1263 (11th Cir.)
- Bank of New York Mellon v. Bazile, No. 24-CV-60328, 2024 WL 5433074, at *1 (S.D. Fla. May 30, 2024)
- Woldeab v. DeKalb Cty. Bd. of Educ., 885 F.3d 1289, 1292 (11th Cir.)
- Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994)
- Univ. of S. Ala. v. Am. Tobacco Co., 168 F.3d 405, 410 (11th Cir.)
- Ruhrgas AG v. Marathon Oil Co., 526 U.S. 574, 583 (1999)
- Travaglio v. Am. Express Co., 735 F.3d 1266, 1268 (11th Cir.)
- Orchid Quay, LLC v. Suncor Bristol Bay, LLC, 178 F. Supp. 3d 1300, 1303 (S.D. Fla.)
- Triggs v. John Crump Toyota, Inc., 154 F.3d 1284, 1287 (11th Cir.)
- Rolling Greens MHP, L.P. v. Comcast SCH Holdings LLC, 374 F.3d 1020, 1021-22 (11th Cir.)
- Underwriters at Lloyd’s, London v. Osting-Schwinn, 613 F.3d 1079, 1085 (11th Cir.)
- Pacheco de Perez v. AT&T Co., 139 F.3d 1368, 1373 (11th Cir.)
- Sonoc Co., LLC v. Manucy, No. 08-CV-409-J-25TEM, 2008 WL 11336348, at *2 (M.D. Fla. June 30, 2008)

OPINION

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA CASE NO. 26-CV-21499-ELFENBEIN U.S. BANK TRUST NATIONAL ASSOCIATION, Plaintiff, v. 2105 NW 1 LLC, et al., Defendants. ____/ ORDER REMANDING TO STATE COURT1 THIS CAUSE is before the Court on a sua sponte review of the record.

On May 8, 2025, U.S. Bank Trust National Association (“U.S. Bank Trust”) filed a Complaint in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County against Defendants Jorge Alvarino, (“Alvarino”); 2105 NW 1, LLC (“2105”); Jorge Alvarino P.A., (“Alvarino P.A.”); and “Unknown Tenant #1” and “Unknown Tenant #2.” See ECF No. [1] at 7.

On March 6, 2026, Defendant Alvarino removed that lawsuit to this Court by filing a Notice of Removal "pursuant to 28 U.S.C. §§ 1441 and 1446" (the "Removal Notice"). See ECF No. [1] at 1. Pursuant to Administrative 1 It is generally accepted that a magistrate judge can remand an action because remand involves non- dispositive relief under 28 U.S.C. § 636(b)(1)(A).

See Fun Depot, Inc. v. Carefree Park Corp., No. 05- CV-80969, 2006 WL 8433659, at *10 n.11 (S.D. Fla. Feb. 16, 2006); Johnson v. Wyeth, 313 F. Supp. 2d 1272, 1272–73 (N.D. Ala. 2004) (collecting cases and concluding the same). But cf. In re U.S. Healthcare, 159 F.3d 142, 145 (3d Cir. 1998) (holding that an order granting a motion for remand is dispositive). "On the other hand, the parties should note that although this Order is not immediately reviewable, it could form the basis of an appeal at the conclusion of the case and if tied to an appealable final judgment." Fun Depot, Inc., 2006 WL 8433659, at *10 n.11; see also Capital Bancshares, Inc. v. North Am.

Guar. Ins. Co., 433 F.2d 279, 283 (5th Cir. 1970). If Defendant Alvarino desires appellate review before final judgment, he must first file objections to this Order and seek de novo review. See Fun Depot, Inc., 2006 WL 8433659, at *10 n.11 (citing S.D. Fla. Mag. R. 4(b)). At that point, a District Judge will be assigned and can treat this Order as a Report and Recommendation.

Id. Order 2025-11, which applies to cases that include as a party "a non-prisoner pro se" litigant, this case was assigned to me as the presiding judge for all purposes, including entering dispositive orders, presiding over any trial, and entering a final judgment.

After reviewing the underlying state-court Complaint, on March 9, 2026, the Court determined that it may lack subject-matter jurisdiction over this lawsuit, but because Defendant Alvarino is proceeding pro se, the Court gave him a chance to clarify the jurisdictional basis for removal and establish, if possible, that the Court has subject-matter jurisdiction over the Complaint (the "Show Cause Order").

See ECF No. [5]; Tannenbaum v. United States, 148 F.3d 1262, 1263 (11th Cir. 1998); Bank of New York Mellon v. Bazile, No. 24-CV-60328, 2024 WL 5433074, at *1 (S.D. Fla. May 30, 2024); cf. Woldeab v. DeKalb Cty. Bd. of Educ., 885 F.3d 1289, 1292 (11th Cir. 2018). More specifically, the Court ordered Defendant Alvarino to highlight "any basis for subject-matter jurisdiction" by indicating "the citizenship of each party to the case, including the citizenship of each individual member of any corporate Defendant," the "amount in controversy," and "where in the Complaint Plaintiff alleged facts showing its claims arise under the" Fair Debt Collection Practices Act "or some other provision of federal law." See ECF No. [5] at 4–5.

The Court also warned Defendant Alvarino that failure to properly allege subject-matter jurisdiction by March 17, 2026 may result in remand to state court without further warning. See ECF No. [5] at 4–5. Defendant Alvarino failed to respond to the Show Cause Order.

Because “[f]ederal courts are courts of limited jurisdiction,” they “possess only that power authorized by Constitution and statute, which is not to be expanded by judicial decree.” See Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994) (citations omitted). Courts “should inquire into whether” they have “subject matter jurisdiction at the earliest possible stage in the proceedings,” and they must do so “sua sponte whenever it may be lacking.” See Univ. of S. Ala. v. Am.

Tobacco Co., 168 F.3d 405, 410 (11th Cir. 1999); Ruhrgas AG v. Marathon Oil Co., 526 U.S. 574, 583 (1999) (“[S]ubject-matter delineations must be policed by the courts on their own initiative even at the highest level.”). “[R]emoval jurisdiction is no exception to a federal court’s obligation to inquire into its own jurisdiction.” Univ. of S. Ala., 168 F.3d at 410. “Therefore, when an action is removed from state court, the district court first must determine whether it has original jurisdiction over the plaintiff’s claims.” Id. “If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.” Fed.

R. Civ. P. 12(h)(3). Congress has authorized defendants to remove civil actions from state court to federal court in several situations. See, e.g., 28 U.S.C. §§ 1441–55. In general, “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.” See id. § 1441(a).

Relevant here, district courts have original jurisdiction if the case contains a federal question, see 28 U.S.C. § 1331, or the parties are completely diverse and meet the amount-in-controversy requirement, see 28 U.S.C. § 1332(a); Travaglio v. Am. Exp. Co., 735 F.3d 1266, 1268 (11th Cir. 2013); Orchid Quay, LLC v. Suncor Bristol Bay, LLC, 178 F. Supp. 3d 1300, 1303 (S.D.

Fla. 2016). “Diversity jurisdiction requires complete diversity; every plaintiff must be diverse from every defendant.” Triggs v. John Crump Toyota, Inc., 154 F.3d 1284, 1287 (11th Cir. 1998). “[F]or purposes of diversity of citizenship, a limited partnership is a citizen of each state in which any of its partners, limited or general, are citizens.” Rolling Greens MHP, L.P. v. Comcast SCH Holdings LLC, 374 F.3d 1020, 1021 (11th Cir.

2004). The same is true for a limited liability company. See id. at 1022. And the “party commencing suit in federal court... has the burden of establishing, by a preponderance of the evidence, facts supporting the existence of federal jurisdiction.” Underwriters at Lloyd’s, London v. Osting-Schwinn, 613 F.3d 1079, 1085 (11th Cir. 2010).

Here, Defendant Alvarino asserts in the Removal Notice that this Court has subject-matter jurisdiction under § 1331 because the lawsuit raises a federal question under the FDCPA. See ECF No. [1] at 2. But nowhere in the Complaint’s substantive allegations does Plaintiff reference 15 U.S.C. § 1692a or any provision of the FDCPA. See ECF No. [1] at 7–12. Instead, Plaintiff relies exclusively on Florida law when alleging the Complaint's grounds for relief in what is essentially a mortgage foreclosure action.

See id. And Defendant Alvarino did not provide any additional information in response to the Show Cause Order to indicate otherwise. Because Defendant Alvarino, through his Removal Notice, is the party commencing suit in federal court, he has the burden of establishing, by a preponderance of the evidence, facts supporting the existence of federal jurisdiction.

See Osting-Schwinn, 613 F.3d at 1085. He has not done so as to federal question jurisdiction under § 1331. Similarly, although Defendant Alvarino does not allege that the Court has subject-matter jurisdiction under § 1332 based on diversity, see ECF No. [1] at 1–3, he has not otherwise attempted to establish diversity jurisdiction in response to the Show Cause Order.

Defendant Alvarino alleges in the Removal Notice, see ECF No. [1] at 2, that Plaintiff's address is in Texas and that both Defendants 2105 and Alvarino are domiciled in and therefore citizens of Florida. See ECF No [1] at 2.2 Neither the Removal Notice nor the Complaint explicitly provide information about Plaintiff's domicile. See ECF No. [1] at 7 (indicating only that Plaintiff "is a corporation duly authorized to conduct business in the State of Florida.").

The Court is, therefore, 2 The Court notes again that Defendant Alvarino P.A.'s jurisdictional information is absent from the Remove Notice. See ECF No. [1]. unable to determine whether Plaintiff and all Defendants have diverse citizenship. See Triggs, 154 F.3d at 1287. And, as already explained, Defendant Alvarino did not provide any additional information in response to the Show Cause Order.

Without additional information about Plaintiff's citizenship, the Court cannot determine whether every plaintiff is diverse from every defendant. See Rolling Greens, 374 F.3d at 1021– 22; Triggs, 154 F.3d at 1287. As a result, the Court cannot ensure that complete diversity exists, see Triggs, 154 F.3d at 1287, as it is required to do, see Univ. of S. Ala., 168 F.3d at 410; Ruhrgas AG, 526 U.S. at 583.

And no complete diversity means no diversity jurisdiction. See Triggs, 154 F.3d at 1287. Defendant Alvarino had the burden of establishing by a preponderance of the evidence that federal jurisdiction exists, see Osting-Schwinn, 613 F.3d at 1085, and he has not done so as to diversity jurisdiction under § 1332, see Rolling Greens, 374 F.3d at 1021–22; Triggs, 154 F.3d at 1287.

The Court made clear in the Show Cause Order that if Defendant Alvarino failed to properly allege subject-matter jurisdiction in his response, the Court might remand this case to the state court without further warning. See, e.g., Pacheco de Perez v. AT&T Co., 139 F.3d 1368, 1373 (11th Cir. 1998) (noting courts "construe removal jurisdiction narrowly and resolve any doubts regarding the existence of federal jurisdiction in favor of the non-removing party"); Sonoc Co., LLC v. Manucy, No. 08-CV-409-J-25TEM, 2008 WL 11336348, at *2 (M.D.

Fla. June 30, 2008) ("The Court recognizes that Defendants are proceeding pro se in this action. However, the requirements of removal are strictly construed."); Travaglio, 735 F.3d at 1268 ("[I]f a Complaint's factual allegations do not assure the court it has subject matter jurisdiction, then the court is without power to do anything in the case."). And Defendant Alvarino did not respond to the Show Cause Order at all, let alone with information sufficient to establish federal subject-matter jurisdiction.

CASE NO. 26-CV-21499-ELFENBEIN Accordingly, the Court must conclude that it lacks subject-matter jurisdiction over Plaintiff's claims. See Kokkonen, 511 U.S. at 377; Ruhrgas AG, 526 U.S. at 583; Univ. of S. Ala., 168 F.3d at 410; Pacheco, 139 F.3d at 1373.

For the foregoing reasons, this action is REMANDED to the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. See Pacheco, 139 F.3d at 1373; cf Fed. R. Civ. P. 12(h)(3). The Clerk of Court is directed to CLOSE this case. All deadlines and hearings are TERMINATED, and any pending motions are DENIED as MOOT. DONE and ORDERED in Chambers in Miami, Florida on March 18, 2026.

MARTY FULG:UEIRA ELFENBEIN UNITED STATES MAGISTRATE JUDGE cc: All Counsel of Record Jorge Alvarino 7751 NW 174th Ter. Hialeah, FL 33015 PRO SE