

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Frank Smith, et al. v. Thomas Beck Robey, et al.

Smith v. Robey · No. CV-25-08234-PCT-DWL · Decided March 24, 2026

SUMMARY

The United States District Court for the District of Arizona concludes that the complaint inadequately alleges the parties’ citizenship for purposes of diversity jurisdiction because it alleges residence rather than citizenship and relies on the parties’ domicile when the underlying events occurred. The court orders plaintiffs to file an amended complaint establishing the relevant jurisdictional facts by April 7, 2026, or the case will be dismissed without prejudice for lack of subject-matter jurisdiction.

OPINION

Robey

PER CURIAM.

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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 Frank Smith, et al., No. CV-25-08234-PCT-DWL 10 Plaintiffs, ORDER 11 v. 12 Thomas Beck Robey, et al., 13 Defendants. 14 15 The Court has an independent obligation to determine whether it has subject- 16 matter jurisdiction. *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999). 17 Pursuant to Rule 12(h)(3) of the Federal Rules of Civil Procedure, “[i]f the court 18 determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the 19 action.” 20 Diversity jurisdiction exists when there is complete diversity of citizenship 21 between the plaintiff and the defendants and the amount in controversy exceeds \$75,000, 22 exclusive of interests and costs. 28 U.S.C. § 1332. A controversy meets this requirement 23 when “all the persons on one side of it are citizens of different states from all the persons 24 on the other side.” *Strawbridge v. Curtiss*, 7 U.S. 267 (1806). 25 The party seeking to invoke diversity jurisdiction has the burden of proof. 26 *Lew v. Moss*, 797 F.2d 747, 749-50 (9th Cir. 1986). “[W]here the district court has 27 doubts about whether diversity exists, the district court may insist that the jurisdictional 28 facts be established or the case be dismissed, and for that purpose the court may demand 1 that the party alleging jurisdiction justify its allegations by a preponderance of evidence.” 2 *Harris v. Rand*, 682 F.3d 846, 851 (9th Cir. 2012) (cleaned up). “Absent unusual 3 circumstances, a party seeking to invoke diversity jurisdiction should be able 4 to allege affirmatively the actual citizenship of the relevant parties.” *Kanter v. Warner- 5 Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001). 6 The complaint alleges that Plaintiff Frank Smith was a “resident” of Illinois, 7 Plaintiffs Willie T. Lynch and Annette Lynch were “residents” of Georgia, and 8

Defendants Thomas Beck Robey and Jill Robey were “residents” of Connecticut “when 9 the events that give rise to this action arose.” (Doc. 1 ¶¶ 1-3.) These allegations are 10 inadequate. As to individual natural persons, an allegation about an individual’s 11 residence does not establish his or her citizenship for purposes of establishing diversity 12 jurisdiction. “It has long been settled that residence and citizenship [are] wholly different 13 things within the meaning of the Constitution and the laws defining and regulating the 14 jurisdiction of the . . . courts of the United States; and that a mere averment of residence 15 in a particular state is not an averment of citizenship in that state for the purpose of 16 jurisdiction.” *Steigleder v. McQuesten*, 198 U.S. 141, 143 (1905). “To be a citizen of a 17 state, a natural person must first be a citizen of the United States. The natural person’s 18 state citizenship is then determined by her state of domicile, not her state of residence. A 19 person’s domicile is her permanent home, where she resides with the intention to remain 20 or to which she intends to return.” *Kanter*, 265 F.3d at 858-59 (cleaned up). 21 Furthermore, the issue is not where the parties were domiciled at the time of “the 22 events that give rise to this action” but rather where they were domiciled at the time that 23 the complaint was filed. *Grupo Dataflux v. Atlas Glob. Grp., L.P.*, 541 U.S. 567, 571 24 (2004) (“[T]he jurisdiction of the court depends upon the state of things at the time of the 25 action brought. This time-of-filing rule . . . measures all challenges to subject-matter 26 jurisdiction premised upon diversity of citizenship against the state of facts that existed at 27 the time of filing.”) (cleaned up).1 28 1 The citizenship of a dismissed party is no longer relevant. 541 U.S. at 572-73. 1 Thus, Plaintiffs must file an amended complaint that rectifies the identified deficiencies. 3 Accordingly, 4 IT IS ORDERED that by April 7, 2026, Plaintiffs shall file an amended 5 ¶ complaint establishing the relevant jurisdictional facts, as described in this order. 6 IT IS FURTHER ORDERED that if Plaintiffs fail to timely file an amended ¶ complaint, the Clerk of the Court shall dismiss this case, without prejudice, for lack of 8 ¶ subject-matter jurisdiction. 9 Dated this 24th day of March, 2026. . 11 Dominic W. Lanza D United States District Judge 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 _3-