

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MISSOURI, EASTERN DIVISION

Mosley v. First Student, Inc. and Clarence Scales, deceased

Case No. 4:25-CV-1440-CMS (E.D. Mo. Dec. 3, 2025) · No. 4:25-CV-1440-CMS · Decided December 3, 2025

SUMMARY

The court denied Plaintiff Frankie Mosley’s motion to remand an automobile-injury action after concluding that snap removal was permissible, the pending motion to appoint a defendant ad litem did not relate back, and formal service on the removing defendant was not required. The court also denied without prejudice the motion to appoint a defendant ad litem because Plaintiff had not provided proof that the deceased defendant was covered by liability insurance. The case remains in federal court under diversity jurisdiction.

CASE DETAILS

COURT	United States District Court for the Eastern District of Missouri, Eastern Division
WRITING FOR THE COURT	Cristian M. Stevens
JURISDICTION	United States District Court for the Eastern District of Missouri, Eastern Division
DECIDED	December 3, 2025
DOCKET	4:25-CV-1440-CMS
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to remand a removed diversity action to Missouri state court and moved for appointment of a defendant ad litem for a deceased defendant. The district court denied remand and denied the appointment motion without prejudice.
STANDARD OF REVIEW	The court independently reviewed whether subject-matter jurisdiction existed and whether removal was proper; doubts concerning federal jurisdiction are generally resolved in favor of remand.
PRECEDENTIAL VALUE	unpublished district court memorandum and order
PARTIES	Frankie Mosley v. First Student, Inc., Clarence Scales, deceased

TOPICS

subject matter jurisdiction

civil procedure

service of process

personal injury

insurance coverage

PRACTICE AREAS

civil procedure

personal injury

insurance

QUESTIONS PRESENTED

1. Whether diversity jurisdiction existed under 28 U.S.C. § 1332(a)(1).
2. Whether the forum-defendant rule in 28 U.S.C. § 1441(b)(2) barred removal before a forum-state defendant had been properly joined and served.
3. Whether the pending motion to appoint a defendant ad litem related back to its filing date so that Scales was considered joined and served when First Student removed the action.
4. Whether First Student was required to be formally served before removing the action.
5. Whether Mosley was entitled to appointment of a defendant ad litem without providing proof that Scales was insured against liability.

HOLDINGS

1. The court had subject-matter jurisdiction because the amount in controversy exceeded \$75,000 and complete diversity existed or would exist regardless of whether Scales was treated as a real party in interest.
2. Section 1441(b)(2) did not bar First Student's removal before a forum-state defendant had been properly joined and served.
3. The motion to appoint a defendant ad litem did not relate back to the date it was filed; Scales therefore was not properly joined and served when First Student removed the case.
4. First Student was not required to have been formally served before removing the action.
5. The motion for appointment of a defendant ad litem was denied without prejudice because Mosley had not provided proof that Scales was insured against liability.

KEY QUOTATIONS

“The Eighth Circuit has not weighed in on the question of whether Section 1441(b)(2) permits snap removal but has held that the forum-defendant rule is not jurisdictional.”

“Because Plaintiff’s Motion for Appointment of Defendant Ad Litem, (Doc. 7), does not relate back to the time of filing, Defendant Scales was not properly joined and served at the time of removal.”

“The Court finds no defect with Defendant First Student’s removal of this action to federal court.”

FACTUAL BACKGROUND

Mosley alleged that he was injured in an automobile accident on April 20, 2021, and sought more than \$75,000 in damages. He sued First Student and Scales, who had died on May 10, 2023. Mosley sought appointment of a

defendant ad litem for Scales but did not provide proof that Scales was insured under the liability policy identified by First Student.

PROCEDURAL HISTORY

Mosley filed a personal-injury action in Missouri state court on September 8, 2025, naming First Student, Inc. and Clarence Scales, who had died in 2023. First Student removed the action to federal court on September 23, 2025, based on diversity jurisdiction. Mosley moved to remand, arguing that the forum-defendant rule barred removal because an in-state deceased defendant was named, a defendant-ad-litem motion was pending, and First Student had not been formally served. The court denied remand and denied the motion for appointment of a defendant ad litem without prejudice because Mosley had not shown that Scales was covered by liability insurance.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. The motion for appointment of a defendant ad litem was denied without prejudice, leaving Mosley free to refile if he can provide proof that liability insurance coverage insured Scales.

CASES CITED

- Minnesota by Ellison v. Am. Petroleum Inst., 63 F.4th 703, 708 (8th Cir. 2023)
- Gunn v. Minton, 568 U.S. 251, 256 (2013)
- Hertz Corp. v. Friend, 559 U.S. 77, 94 (2010)
- Johnson v. Midwest Div. - RBH, LLC, 88 F.4th 731, 735 (8th Cir. 2023)
- Wassef v. Tibben, 68 F.4th 1083, 1087 (8th Cir. 2023)
- Colorado River Water Conservation Dist. v. United States, 424 U.S. 800, 817 (1976)
- LN Mgmt., LLC v. JPMorgan Chase Bank, N.A., 957 F.3d 943, 955 (9th Cir. 2020)
- Hendrix v. Curtis, No. 4:09CV1079 HEA, 2009 WL 4801482, at *1 (E.D. Mo. Dec. 9, 2009)
- M & B Oil, Inc. v. Federated Mut. Ins. Co., 66 F.4th 1106, 1109–1110 (8th Cir. 2023)
- Gibbons v. Bristol-Myers Squibb Co., 919 F.3d 699, 705 (2d Cir. 2019)
- Texas Brine Co., L.L.C. v. Am. Arb. Ass'n, Inc., 955 F.3d 482, 485–487 (5th Cir. 2020)
- Tillman v. BNSF Ry. Co., No. 1:20 CV 00178 SNLJ, 2021 WL 842600, at *4 (E.D. Mo. Mar. 5, 2021)
- Doe v. Kirkwood R-7 Sch. Dist., No. 4:21-CV-01130-AGF, 2022 WL 278745, at *2 (E.D. Mo. Jan. 31, 2022)
- Taylor v. Cottrell, Inc., No. 4:09CV536HEA, 2009 WL 1657427, at *2 (E.D. Mo. June 10, 2009)
- Caranchini v. Peck, No. 4:19-CV-00030-DGK, 2019 WL 1325927, at *2 (W.D. Mo. Mar. 25, 2019)
- Am. Home Assur. Co. v. Pope, 487 F.3d 590, 605 (8th Cir. 2007)

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