

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

October 6, 2026

Christopher M. Wolpert
Clerk of Court

JAMES H. MASSEY,

Plaintiff - Appellant,

v.

RITHM CAPITAL CORPORATION;
NEWREZ LLC, a wholly owned
subsidiary of Rithm Capital Corporation,
d/b/a Shellpoint Mortgage Servicing, f/k/a
Specialized Loan Servicing LLC,

Defendants - Appellees.

No. 25-1367
(D.C. No. 1:24-CV-03547-CNS-SBP)
(D. Colo.)

ORDER AND JUDGMENT*

Before **HOLMES**, Chief Judge, **MORITZ**, and **FEDERICO**, Circuit Judges.

James Massey, proceeding pro se,¹ appeals the district court's denial of his motion to remand to state court and its dismissal of his civil action against two

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

¹ Although Massey appears pro se, he is nonetheless “a formerly barred Colorado attorney,” R. at 611 n.2. “While we generally construe pro se pleadings liberally, the same courtesy need not be extended to licensed attorneys.” *Mann v. Boatright*, 477 F.3d 1140, 1148 n.4 (10th Cir. 2007) (citation omitted). In

entities: Rithm Capital Corp. (“Rithm”) and Newrez, LLC (“Newrez”). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

BACKGROUND

This is the fifth case Massey has filed regarding a lost payoff check for a home equity line of credit he obtained for real property he owned in Kentucky. The main target of Massey’s litigation has been Specialized Loan Servicing (“SLS”), the servicer of the line of credit and the intended recipient of the lost check. Massey has pursued cases since 2020 in state and federal court in Kentucky and Colorado. He has also faced foreclosure proceedings following his refusal to make additional payments on the line of credit. Multiple courts, including this court, have warned Massey against further attempts to hold any entity associated with the line of credit responsible for the lost check. *See Massey v. Computershare Ltd.*, Nos. 24-1095, 24-1445, 2025 WL 3172016, at *5 (10th Cir. Nov. 13, 2025) (unpublished); *Massey v. Computershare Ltd.*, No. 25-1124, 2025 WL 3171855, at *2 (10th Cir. Nov. 13, 2025) (unpublished).

Massey nonetheless filed this case in state court in Douglas County, Colorado against Rithm and Newrez, each of which had at one point either merged with or acquired SLS. Defendants removed the case to the District of Colorado, based on diversity. *See* 28 U.S.C. § 1332(a). They then moved to dismiss the case based on res judicata or, alternatively, for failure to state a claim based on the expiration of the

any event, our analysis of Massey’s arguments would be identical whether or not we afforded them a liberal construction.

statute of limitations.² Massey moved to remand the case to state court. He argued that (1) the defendants were in default and thus ineligible to remove the case and (2) complete diversity of citizenship did not exist. The district court denied Massey's motion for remand and granted the defendants' motion to dismiss on res judicata grounds. Massey appeals both decisions.

DISCUSSION

"This court has jurisdiction over a denial of a motion to remand to state court when coupled with the appeal of a final judgment." *Huffman v. Saul Holdings Ltd. P'ship*, 194 F.3d 1072, 1076 (10th Cir. 1999) (internal quotation marks omitted). "We . . . review de novo the district court's denial of a motion to remand for lack of removal jurisdiction." *Salzer v. SSM Health Care of Okla. Inc.*, 762 F.3d 1130, 1134 (10th Cir. 2014). Here, the defendants allege subject-matter jurisdiction arising from 28 U.S.C. § 1332(a)(1), which requires that "the matter in controversy exceeds the sum or value of \$75,000 . . . and is between . . . citizens of different States."

Massey doesn't dispute that his complaint, which sought \$25 million in compensatory damages, meets § 1332's amount-in-controversy requirement. *See* R. at 19. And on appeal, Massey no longer presses his argument that the

² When he filed this action, Massey was "enjoined from commencing any *pro se* litigation in the United States District Court for the District of Colorado against" SLS or related to a prior action in that court. *Massey v. Computershare Ltd.*, No. 21-CV-0601-WJM-SBP, 2024 WL 4728744, at *11 (D. Colo. Nov. 8, 2024) (capitalization omitted), *aff'd*, Nos. 24-1095, 24-1445, 2025 WL 3172016 (10th Cir. Nov. 13, 2025). But because Massey filed this action in state court and defendants removed the action, the district court concluded that he "technically" didn't violate the injunction. R. at 614 n.5.

defendants’ motion was procedurally improper due to an alleged default in state court. So he has waived any such argument. *Adler v. Wal-Mart Stores, Inc.*, 144 F.3d 664, 679 (10th Cir. 1998) (“Arguments inadequately briefed in the opening brief are waived . . .”).

But Massey does argue that complete diversity was lacking among the parties. And complete diversity is necessary to support § 1332 jurisdiction. *See ADA Carbon Sols. (Red River), LLC v. Atlas Carbon, LLC*, 146 F.4th 1296, 1303 (10th Cir. 2025) (“Diversity jurisdiction requires complete diversity, meaning that no plaintiff may be a citizen of the same state as any defendant.” (internal quotation marks and citations omitted)).

“[T]he relevant time period for determining the existence of complete diversity is the time of the filing of the complaint.” *Siloam Springs Hotel, L.L.C. v. Century Sur. Co.*, 781 F.3d 1233, 1239 (10th Cir. 2015). And “a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.” § 1332(c)(1). “[P]rincipal place of business’ is best read as referring to the place where a corporation’s officers direct, control, and coordinate the corporation’s activities.” *Hertz Corp. v. Friend*, 559 U.S. 77, 92-93 (2010).

Massey asserts on appeal that he is a citizen of Colorado. He made similar representations to the district court in his motion to remand. *See R.* at 65, ¶ 20 (“Prior to taking up temporary residency in Kentucky, both Plaintiff[] and his wife

were citizens of the State of Colorado.”).³ The district court found Rithm is incorporated in the state of Delaware and its principal place of business is New York. Massey does not dispute either finding. So, diversity of citizenship existed between Massey and Rithm.

Massey therefore rests his diversity-jurisdiction challenge on the citizenship of Newrez. To determine the citizenship of Newrez, an LLC, the court “must identify [its] members and those members’ citizenship, tracing through however many layers necessary to reach either a corporation or a natural person.” *ADA Carbon Sols.*, 146 F.4th at 1304 (internal quotation marks omitted). The record before the district court indicates Newrez is a Delaware LLC wholly owned by another Delaware LLC (Shellpoint Partners), which is wholly owned by two more Delaware LLCs (NRM Acquisition and NRM Acquisition II), both of which are wholly owned by another Delaware LLC (New Residential Mortgage). The final LLC is wholly owned by Rithm. So, Newrez’s citizenship, like Rithm’s, traces to New York and Delaware, not Colorado or Kentucky.

Apparently recognizing that he can’t disprove diversity based on the present record, Massey argues the district court plainly erred by not entering a discovery order permitting him “an opportunity to disprove allegations of diversity of

³ It’s unclear whether Massey is a citizen of Kentucky or Colorado. His complaint lists a Kentucky address, and he held himself out as a Kentucky resident in previous proceedings with SLS. But we need not decide that issue to resolve this appeal because complete diversity existed whether Massey is a resident of either state.

citizenship.” Aplt. Opening Br at 16, ¶ 55. But it was Massey’s burden to request jurisdictional discovery and he failed to do so. *See Breakthrough Mgmt. Grp., Inc. v. Chukchansi Gold Casino & Resort*, 629 F.3d 1173, 1189 n.11 (10th Cir. 2010) (placing “the burden of demonstrating a legal entitlement to jurisdictional discovery—and the related prejudice flowing from the discovery’s denial—on the party seeking the discovery”).

And even if the district court erred in not ordering discovery, any error wasn’t plain. “For an error to be plain, it must be an error that is clear or obvious under current, well-settled law. Typically for an error to be contrary to well-settled law, either the Supreme Court or this court must have addressed the issue.” *United States v. Miller*, 978 F.3d 746, 763 (10th Cir. 2020) (internal quotation marks and citation omitted). Massey points to no authority from the Supreme Court or this court indicating the district court was required to sua sponte order jurisdictional discovery.⁴

Because Massey hasn’t shown plain error, he can’t prevail on his newly raised legal theory. *See Richison v. Ernest Grp., Inc.*, 634 F.3d 1123, 1130 (10th Cir. 2011) (“If a newly raised legal theory is entitled to appellate review at all . . . it may form a basis for *reversal* only if the appellant can satisfy the elements of the plain error standard of review.”)

⁴ Massey cites *Anderson v. United States*, 417 U.S. 211 (1974), but that case had nothing to do with federal diversity jurisdiction.

Massey also asserts that SLS—the entity with which his dispute originated in 2019—was a Colorado corporation and that its acquisition by Newrez and Rithm was fraudulent or otherwise improper. *See* Apl't. Opening Br. at 10, ¶ 25 n.5. But this assertion is immaterial for purposes of determining whether diversity of citizenship existed at the time Massey filed his complaint. Here, Massey sued Newrez and Rithm, not SLS. And neither Newrez nor Rithm is a Colorado or Kentucky citizen. So complete diversity existed under § 1332, and the district court properly denied Massey's motion to remand.

Aside from his challenges to the denial of the motion to remand, Massey doesn't substantially challenge the substance of the district court's dismissal order based on res judicata. So he has waived any such argument, *see Adler*, 144 F.3d at 679, and we affirm the dismissal.

CONCLUSION

We affirm the district court's judgment. We deny as moot Rithm and Newrez's motion to dismiss the appeal as frivolous “before briefing ensues.” Mot. to Dismiss at 1.

Entered for the Court

Nancy L. Moritz
Circuit Judge