

NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted December 13, 2022*
Decided January 5, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-1725

GREAT DIVIDE INSURANCE
COMPANY,
Plaintiff-Appellee,

v.

JESSIE MCGEE and LINDA MCGEE,
Defendants-Appellants.

Appeal from the United States District
Court for the Northern District of Illinois,
Eastern Division.

No. 1:19-cv-621

Steven Charles Seeger,
Judge.

ORDER

The Great Divide Insurance Company insured Linda Construction against accidents involving its leased trucks. After Linda Construction and its owners, Jessie and Linda McGee, were sued in state court for defaulting on certain leases, Great Divide sought in federal court a declaratory judgment that it need not defend or

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C)

indemnify the McGees in the state lawsuit. The state court dismissed the suit, and a year later the district court entered summary judgment for Great Divide. Because the dismissal of the state lawsuit mooted the parties' dispute over coverage for that lawsuit, we vacate and remand with instructions to dismiss the case.

We recount the facts in the light most favorable to the McGees, the party who lost at summary judgment. See *REXA, Inc. v. Chester*, 42 F.4th 652, 662 (7th Cir. 2022). In 2010 Linda Construction purchased insurance from Great Divide for a truck fleet it was leasing from Seng Leasing Services under lease-to-own contracts. In 2014 Seng Leasing informed Linda Construction that it had defaulted on its lease payments. When Linda Construction did not make the missing payments, Seng Leasing repossessed some of the trucks, but others mysteriously disappeared.

Unable to recover the missing trucks, Seng Leasing sued Linda Construction in Illinois state court for breach of contract, conversion, and replevin. In that state lawsuit, the McGees countered that Linda Construction had made all the payments and owned the trucks, and that the repossession thus amounted to theft.

The record does not reveal what happened next, but three years later Jessie McGee asked Great Divide to reopen an insurance claim for the allegedly stolen trucks. This was the first Great Divide had heard of the alleged theft. Upon investigating, it learned of Seng Leasing's lawsuit.

Great Divide then filed this lawsuit against Linda Construction and the McGees, seeking a declaratory judgment that it neither (1) owes insurance proceeds to Linda Construction for the alleged theft; nor (2) has a duty to defend or indemnify Linda Construction or the McGees in Seng Leasing's lawsuit. The McGees, proceeding pro se, answered the complaint. Linda Construction did not, so the district court entered a default judgment against it. The only issue left was Great Divide's duty to defend and indemnify the McGees in Seng Leasing's lawsuit.

Seng Leasing then stopped prosecuting its state claims. The state court granted Linda Construction's motion to dismiss the case for want of prosecution.

The following year, the district court entered summary judgment for Great Divide, concluding, based on the undisputed facts, that a reasonable jury could not find that Great Divide had a duty of coverage. As the court explained, the McGees did not qualify as insureds for Seng Leasing's lawsuit, and Great Divide's policy did not cover

Seng Leasing's claims that Linda Construction breached the leases and tortiously kept the missing trucks.

After the McGees appealed, we summarily remanded the case for the district court to amend its judgment and declare specifically the rights and duties of all the parties. See FED. R. CIV. P. 60(a); FED. R. APP. P. 12.1.

On remand the district court clarified in an amended judgment that Great Divide had (1) no duty to pay Linda Construction's claim for the alleged theft; and (2) no duty to defend or indemnify Linda Construction or the McGees in Seng Leasing's lawsuit.

The McGees appeal, but we begin with a threshold matter of jurisdiction—whether the dismissal of the state-court suit mooted the parties' dispute over coverage for that suit. The district court speculated that the dispute remained live because the McGees could seek to recoup their defense costs incurred up to the dismissal.

The mootness doctrine bars federal courts from adjudicating questions that cannot affect the rights of the parties before them. See *North Carolina v. Rice*, 404 U.S. 244, 246 (1971). This limitation continues through all stages of federal judicial proceedings, trial and appellate. *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477 (1990). When a question about mootness arises, federal courts must address it—even if, as here, no party raises the issue. See *Ruggles v. Ruggles*, 49 F.4th 1097, 1099 (7th Cir. 2022).

Here, the dismissal of the state-court suit mooted the declaratory-judgment action. In that action, the only issue remaining was the McGees' coverage for the state-court suit. After the dismissal of that suit, there was no live dispute over Great Divide's duty to defend or indemnify the McGees because there was "no longer anything to defend." *Old Republic Ins. Co. v. Chuhak & Tecson, P.C.*, 84 F.3d 998, 1001 (7th Cir. 1996). As the district court observed, the parties might have had a live dispute if the McGees sought to recoup their defense costs, but nothing in the record suggests that the McGees took that step.

We therefore VACATE the amended judgment of the district court and REMAND with instructions to dismiss the case as moot.