

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

KIMBERLY J. BROOKS

PLAINTIFF

v.

No. 2:21-CV-02049

NATIONAL CASUALTY COMPANY

DEFENDANT

OPINION AND ORDER

Before the Court is Plaintiff Kimberly J. Brooks's motion (Doc. 13) to remand. Defendant National Casualty Company filed a response (Doc. 18) in support of Plaintiff's motion to remand. The motion will be granted.

Plaintiff initiated this action against Girl Scouts – Diamonds of Arkansas, Oklahoma, and Texas ("Girl Scouts") on March 23, 2020, in the Circuit Court of Sebastian County, Arkansas. Plaintiff later amended her complaint to add National Casualty Company, the Girl Scouts' insurer, as a defendant because the Girl Scouts asserted charitable immunity. Once National Casualty Company was added as a defendant, all other defendants were dismissed. National Casualty Company then filed a notice of removal on March 4, 2021, alleging the Court had original jurisdiction pursuant to 28 U.S.C. § 1332. Plaintiff's motion to remand argues there is not complete diversity. National Casualty Company does not oppose Plaintiff's motion to remand.

28 U.S.C. § 1332(c) provides

(1) 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, except that in any direct action against the insurer of a policy or contract of liability insurance, whether incorporated or unincorporated, to which the insured is not joined as a party-defendant, such insurer shall be deemed a citizen of

(A) every State and foreign state of which the insured is a citizen

Because National Casualty Company is an insurer and the Girls Scouts are not joined as a party-defendant, National Casualty Company is deemed to be a citizen of every state of which the Girl Scouts is a citizen. The Girl Scouts is incorporated in and has its principal place of business in Arkansas, therefore National Casualty Company is deemed to be a citizen of Arkansas. Because Plaintiff is also a citizen of Arkansas, complete diversity does not exist and the Court does not have subject matter jurisdiction and the case must be remanded.

IT IS THEREFORE ORDERED that Plaintiff's motion (Doc. 13) to remand is GRANTED, and this case is REMANDED to the Circuit Court of Sebastian County, Arkansas.

IT IS SO ORDERED this 27th day of April, 2021.

/s/ P. K. Holmes, III

P.K. HOLMES, III
U.S. DISTRICT JUDGE