

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

PARACLETE INVESTMENTS, LLC,

*Plaintiff,*

v.

GARY A. BARNEY, TRUSTEE OF RIVERBEND  
RANCH TRUST I, *et al.*,

*Defendants.*

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CIVIL ACTION H-18-2024

**ORDER**

Pending before the court is a memorandum and recommendation (“M&R”) filed by Magistrate Judge Nancy Johnson. Dkt. 4. Judge Johnson recommends dismissing the case for lack of subject matter jurisdiction. *Id.* at 4. Plaintiff Paraclete Investments, LLC (“Paraclete”) amended its complaint and timely objected.<sup>1</sup> Dkts. 6, 7. Having considered the M&R, amended complaint, objection, and applicable law, Paraclete’s objection is SUSTAINED and the M&R is REJECTED AS MOOT.

In Paraclete’s original complaint, it alleges that it shares its citizenship with multiple defendants and does not allege a basis for federal question jurisdiction. *See* Dkt. 1. Thus, Judge Johnson recommends dismissing the case. Dkt. 4 at 4. The court agrees that Paraclete’s original complaint does not provide a basis for the court to exercise subject matter jurisdiction. However, Paraclete has since amended its complaint and no longer alleges claims against the nondiverse


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<sup>1</sup>For dispositive matters, the court “determine[s] de novo any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3). “The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.” *Id.*

defendants. Dkt. 6. Paraclete no longer shares its citizenship with any defendant. *See id.* Thus, Paraclete cured the jurisdictional defects and the M&R is moot. *See* 28 U.S.C. § 1332(a); *see also Grupo Dataflux v. Atlas Glob. Grp., L.P.*, 541 U.S. 567, 572, 124 S. Ct. 1920 (2004) (“*Caterpillar* broke no new ground, because the jurisdictional defect it addressed had been cured by the dismissal of the party that had destroyed diversity. That method of curing a jurisdictional defect had long been an exception to the time-of-filing rule.”).

Accordingly, Paraclete’s objection (Dkt. 7) is SUSTAINED and the M&R (Dkt. 4) is REJECTED AS MOOT.

Signed at Houston, Texas on July 13, 2018.



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Gray H. Miller  
United States District Judge