

Hon. Robert J. Bryan

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON AT TACOMA

ALLSTATE INDEMNITY COMPANY,

Plaintiff,

v.

JOSHUA CORNELSON, *et al.*,

Defendants.

NO. 3:21-CV-05831-RJB

**MOTION TO DISMISS FOR LACK  
OF SUBJECT-MATTER  
JURISDICTION**

**NOTE ON MOTION CALENDAR:  
February 11, 2022**

**I. INTRODUCTION**

Defendants Joshua and Jane Doe Cornelson (collectively, the “Cornelson Defendants”) respectfully seek an order dismissing this case pursuant to Federal Rule of Civil Procedure 12(b)(1) for lack of subject-matter jurisdiction.

**II. FACTS**

On September 1, 2021, Joaquin Ortega Carrillo, a defendant in this action, filed a complaint against the Cornelson Defendants in Clallam County Superior Court (the “Superior Court Action”).

Dkt. #1-1. In the Superior Court Action, Defendant Carrillo alleges that Defendant Joshua Cornelson battered him on or about September 14, 2018.<sup>1</sup> *Id.*

Plaintiff filed its Complaint on November 11, 2021, initiating this action (the “Declaratory Judgment Action”). Dkt. #1. In the Declaratory Judgment Action, Plaintiff seeks a declaration that “the contracts of insurance issued by Allstate does not obligate Allstate to provide coverage or a defense to Joshua Cornelson and ‘Jane Doe’ Cornelson, husband and wife, in regard to the claims asserted against them.” *Id.* at 9–10.

### III. ARGUMENT

Federal district courts are “courts of limited jurisdiction,” possessing “only that power authorized by Constitution and statute.” *Exxon Mobil Corp. v. Allopattah Servs., Inc.*, 545 U.S. 546, 552 (2005). If a federal court determines that it lacks subject-matter jurisdiction at any time during a dispute, the court must dismiss the action. *See* Fed. R. Civ. P. 12(h)(3). The party invoking jurisdiction must allege facts that establish the court’s subject-matter jurisdiction. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992). Diversity jurisdiction exists when a lawsuit arises between citizens of different states and the amount in controversy exceeds \$75,000. *See* 28 U.S.C. § 1332.

“In actions seeking declaratory or injunctive relief, it is well established that the amount in controversy is measured by the value of the object of the litigation.” *Cohn v. Petsmart, Inc.*, 281 F.3d 837, 840 (9th Cir. 2002). In a declaratory judgment action where “the applicability of . . . liability coverage to a particular occurrence is at issue, the amount in controversy is the value of the underlying . . . tort action.” *Budget Rent-A-Car, Inc. v. Higashiguchi*, 109 F.3d 1471, 1473 (9th Cir. 1997); *see also* *Hunt v. Wash. State Apple Adver. Comm’n*, 432 U.S. 333, 347 (1977).

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<sup>1</sup> None of the allegations in the Superior Court Action pertain to Defendant Jane Doe Cornelson. *See id.*

Here, Plaintiff alleges that the Court has diversity jurisdiction. Dkt. #1 at 1-2. Regarding the amount-in-controversy requirement, Plaintiff states only that “the requisite amount in controversy exceeds \$75,000 pursuant to Title 28, U.S.C. §1332.” *Id.* But such an allegation is insufficient to establish the Court’s subject-matter jurisdiction. *See Developers Surety and Indemnity Company v. Cornell’s Quality Construction Inc.*, No. 16-CV-1747, 2016 WL 9415206 (W.D. Wash. Nov. 30, 2016) (in declaratory judgment action, bare allegation that the amount-in-controversy exceeds \$75,000 insufficient to establish subject-matter jurisdiction because court must look to the value of the underlying tort lawsuit). Though Plaintiff attached the underlying tort lawsuit—the Superior Court Action—to its Complaint, Dkt. #1-1, the Superior Court Action pleading contains no allegations regarding the amount of damages claimed. *See generally id.*

Because Plaintiff’s threadbare assertion in its Complaint that the amount-in-controversy requirement is met is insufficient to establish subject-matter jurisdiction, the Court must dismiss this action pursuant to Federal Rule of Civil Procedure 12(b)(1) and (h)(3).

## VI. CONCLUSION

The Cornelson Defendants respectfully seek an order dismissing this case for lack of subject-matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1) and (h)(3).

Respectfully submitted this 18th day of January 2022.

GALANDA BROADMAN, PLLC

s/Gabriel S. Galanda

Gabriel S. Galanda, WSBA #30331

s/Matthew J. Slovin

Matthew J. Slovin, WSBA #58452

Attorneys for Plaintiffs

P.O. Box 15146 Seattle, WA 98115

(206) 557-7509 Fax: (206) 299-7690

Email: gabe@galandabroadman.com

Email: matt@galandabroadman.com

**CERTIFICATE OF SERVICE**

I, Wendy Foster, declare as follows:

1. I am now and at all times herein mentioned a legal and permanent resident of the United States and the State of Washington, over the age of eighteen years, not a party to the above-entitled action, and competent to testify as a witness.

2. I am employed with the law firm of Galanda Broadman PLLC, 8606 35<sup>th</sup> Avenue NE, Suite L1, Seattle, WA 98115.

3. Today I served the foregoing document via the court's CM/ECF system to all counsel of record.

The foregoing statement is made under penalty of perjury and under the laws of the State of Washington and is true and correct.

Signed at Seattle, Washington, this 18<sup>th</sup> day of January 2022.

s/Wendy Foster

Wendy Foster