

THOUGHT LEADERSHIP

News

IMPROPERLY JOINED DEFENDANTS' CITIZENSHIP REALLY CAN BE IGNORED

Newsbrief

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In *Hang Nguen, et al. v. Amguard Insurance*, 2022 WL 17477545 (E.D. Tex., December 6, 2022), a Federal District Court for the Eastern District of Texas followed the recent, binding precedent of *Advanced Indicator and Manufacturing, Inc. v. Acadia Insurance Co*, 50 F.4th 469 (5th Cir. 2022) regarding improperly joined defendants. Here, Hang and Kheim Nguyen filed a hail and windstorm claim on their homeowner's insurance policy. Amguard denied coverage, and the Nguyens sued Amguard and adjuster/investigator Shawn Mitchell for various claims, including several alleged violations of the Texas Insurance Code, in state court in Denton County, Texas. Amguard accepted any liability for Mitchell's actions as its agent. Amguard then removed the case to federal court. It alleged the parties were diverse, even though Mitchell and the Nguyens were Texas residents, now that it had accepted Mitchell's liability and he was an improperly joined defendant. The Court agreed, citing last month's 5th Circuit decision in *Advanced Indicator*. The 5th Circuit's holding there was directly on point: "the court may disregard the citizenship of that [improperly joined] defendant, dismiss the non-diverse defendant from the case, and exercise subject-matter jurisdiction over the remaining diverse defendant." (*Nguyen* quoting *Advanced Indicator*, brackets in *Nguyen*).

Notably, the Nguyens originally demanded only \$40,776 from the insurance company, below the \$75,000 minimum requirement for federal court diversity jurisdiction. However, when they filed suit, they claimed treble damages, and the Court cited 5th Circuit precedent holding that claims for multiplied damages can fulfill courts' amount-in-controversy requirements.

Thus, the Court denied the Nguyen's motion to remand the case back to state court.