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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

PHILLIP BONNETTE,  
  
                                Plaintiff,  
  
          v.  
  
JEAN L. FORD,  
  
                                Defendant.

Case No. 1:15-cv-00501-LJO-SMS  
  
FINDINGS AND RECOMMENDATIONS  
RECOMMENDING THAT THE COURT  
DISMISS THE COMPLAINT  
FOR LACK OF JURISDICTION  
  
(Doc. 1)

On April 1, 2015, Plaintiff Phillip Bonnette, proceeding *pro se* and *in forma pauperis*, filed a complaint against Defendant Jean L. Ford, his former wife, raising claims of (1) of fraud in the inducement; (2) of fraud in the concealment; (3) of intentional infliction of emotional distress; and (3) to quiet title to real property. These claims arise from Defendant's authorizing a deed of trust on Plaintiff's solely owned property, allegedly in an attempt to secure its ownership. Plaintiff seeks compensatory, special, general, and punitive damages, declaratory relief, and rescission. Because this Court lacks subject matter jurisdiction over Plaintiff's dispute, the undersigned recommends that the Court dismiss this case.

**I.     Screening Requirement**

The court has inherent power to control its docket and the disposition of its cases with economy of time and effort for both the court and the parties. *Landis v. North American Co.*, 299 U.S. 248, 254-55 (1936); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9<sup>th</sup> Cir. 1992). In cases in which

1 the plaintiff is proceeding *in forma pauperis*, the Court must screen the complaint and dismiss it at  
2 any time that the Court concludes that the action is frivolous or malicious, fails to state a claim on  
3 which relief may be granted, or seeks monetary relief from a defendant who is immune from such  
4 relief. 28 U.S.C. § 1915(e)(2). "Notwithstanding any filing fee, or portion thereof, that may have  
5 been paid, the court shall dismiss the case at any time if the court determines that . . . the action or  
6 appeal . . . fails to state a claim upon which relief may be granted." 28 U.S.C. § 1915(e)(2)(B)(ii).

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8 **II. Procedural and Factual Allegations**

9 Plaintiff complains that Defendant concealed a loan secured by Plaintiff's solely owned real  
10 property in Dunlap, California, as part of a fraudulent scheme to steal the property. As a result of  
11 Defendant's fraudulent actions, Plaintiff seeks to quiet title to his property. Plaintiff also contends  
12 that Defendant secured a fraudulent restraining order against him.

13 **III. No Diversity Jurisdiction**

14 A district court may exercise diversity jurisdiction over a civil action in which the amount in  
15 controversy exceeds \$75,000.00, exclusive of interest and costs, and is, among other things, between  
16 citizens of different states. 28 U.S.C. § 1332(a). Since Plaintiff and Defendant are both California  
17 residents, the Court does not have jurisdiction over this case based on diversity.

18  
19 **V. No Federal Question Jurisdiction**

20 Federal question jurisdiction exists when the plaintiff's claim arises under the U.S.  
21 Constitution, treaties, federal statutes, administrative regulations of common law. 28 U.S.C. § 1331.  
22 Claims of fraud, torts such as intentional infliction of emotional distress, and actions to quiet title to  
23 real property are matters of California state law. Plaintiff alleges that this Court has jurisdiction over  
24 his claims based on Defendant's violations of the United States Constitution, 42 U.S.C. § 1983, and  
25 28 U.S.C. § 2201.  
26

27 To state a claim under § 1983, a plaintiff must allege that (1) a defendant acting under color  
28 of state law (2) deprived him of rights secured by the Constitution or federal statutes. *Gibson v.*

1 *United States*, 781 F.2d 1334, 1338 (9<sup>th</sup> Cir. 1986). A defendant acts under color of state law when  
2 he or she has "exercised power 'possessed by virtue of state law and made possible only because the  
3 wrongdoer is clothed with the authority of state law.'" *West v. Atkins*, 487 U.S. 42, 49 (1988).  
4 Generally, private parties, such as the Defendant in this case, are not acting under color of state law.  
5 *See Price v. Hawaii*, 939 F.2d 702, 707-08 (9<sup>th</sup> Cir. 1991). In the absence of allegations of joint  
6 action or conspiracy, that Defendant sought relief in the Monterey County Superior Court (where the  
7 parties' divorce action was venued), utilized the services of a notary public, or filed documents in the  
8 Office of the Fresno County Recorder's Office does not make her a state actor.  
9

10 Nor does the right of federal courts to grant declaratory judgments under 28 U.S.C. § 2201  
11 confer jurisdiction on matters not otherwise subject to federal jurisdiction. This Court has no  
12 jurisdiction over the state claims that are the subject of this action. Although 28 U.S.C. § 1367(a)  
13 provides for supplemental jurisdiction in any civil action in which the district court has original  
14 jurisdiction, the district court must first have such jurisdiction. Since the Court lacks either diversity  
15 or federal question jurisdiction, it lacks jurisdiction over the state claims alleged in this action.  
16

## 17 **VI. No Jurisdiction For Appeal of State Judgment**

18 In a separate document (Doc. 3), Plaintiff submitted state court documents relating to the  
19 disposition of the property in his and Defendant's divorce action. Inclusion of these documents  
20 suggests that Plaintiff may intend this action to function as an appeal of the state court's orders.  
21

22 An appeal of the state court's judgment in the divorce case must be brought in the California  
23 Court of Appeals, and thereafter, in the California Supreme Court. Ultimately, federal appellate  
24 jurisdiction of state court judgments rests in the United States Supreme Court, not in the federal  
25 district court. 28 U.S.C. § 1257. A federal district court lacks subject matter jurisdiction to hear an  
26 appeal of a state court judgment (the Rooker-Feldman Doctrine). *See District of Columbia Court of*  
27 *Appeals v. Feldman*, 460 U.S. 462 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923). *See*  
28 *also Bianchi v. Rylaarsdam*, 334 F.3d 895, 896 (9<sup>th</sup> Cir. 2003). A federal complaint must be

1 dismissed for lack of subject matter jurisdiction if the claims raised in the complaint are inextricably  
2 intertwined with the state court's decisions so that adjudication of the federal claims would undercut  
3 the state ruling or require the district court to interpret the application of state laws or procedural  
4 rules. *Bianchi*, 334 F.3d at 898. Put another way, a claim is inextricably intertwined with a state  
5 court judgment if the federal claim succeeds only to the extent that the state court wrongly decided  
6 the issues before it or if the relief requested in the federal action would effectively reverse the state  
7 court's decision or void its ruling. *Fontana Empire Center, LLC v. City of Fontana*, 307 F.3d 987,  
8 992 (9<sup>th</sup> Cir. 2002). The Rooker-Feldman Doctrine applies to federal "cases brought by state-court  
9 losers complaining of injuries caused by state-court judgments rendered before the district court  
10 proceedings and inviting district court review and rejection of those judgments." *Exxon Mobil Corp.*  
11 *v. Saudi Basic Industries Corp.*, 544 U.S. 280, 284 (2005).

12  
13 To the extent that the California Superior Court previously addressed ownership of the  
14 property that is the subject in this action, as the submitted state court documents indicate, this Court  
15 lacks jurisdiction to conduct such a review. Accordingly, if Plaintiff intended to allege cognizable  
16 federal claims relating to the state court's adjudication of the parties' property rights coincident with  
17 their divorce, this Court lacks jurisdiction, and Plaintiff's complaint must be dismissed.

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19 **VII. Conclusion and Recommendation**

20 The Court lacks subject matter jurisdiction over Plaintiff's dispute with Defendant.  
21 Accordingly, the undersigned recommends that the Court dismiss this case for lack of jurisdiction.

22 These findings and recommendations are submitted to the Honorable Lawrence J. O'Neill,  
23 United States District Court Judge, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Rule  
24 72-304 of the Local Rules of Practice for the United States District Court, Eastern District of  
25 California. Within fifteen (15) days after being served with a copy, Plaintiff may file written  
26 objections with the court. Such a document should be captioned "Objections to Magistrate Judge's  
27 Findings and Recommendations." The Court will then review the Magistrate Judge's ruling  
28

1 pursuant to 28 U.S.C. § 636(b)(1)(C). Plaintiff is advised that failure to file objections within the  
2 specified time may waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d  
3 1153 (9<sup>th</sup> Cir. 1991).

4  
5 IT IS SO ORDERED.

6 Dated: April 6, 2015

/s/ Sandra M. Snyder  
7 UNITED STATES MAGISTRATE JUDGE