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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TAMRA L. DORSEY a/k/a TAMRA L.
MECUM DORSEY

Plaintiff,

v.

GARY RICCI, et al.,

Defendants.

No. 2:18-cv-1256-JAM-KJN PS

ORDER AND
FINDINGS AND RECOMMENDATIONS

Plaintiff Tamra L. Dorsey, proceeding without counsel, commenced this action and requested leave to proceed *in forma pauperis*. (ECF Nos. 1, 2.)

A federal court has an independent duty to assess whether federal subject matter jurisdiction exists, whether or not the parties raise the issue. See United Investors Life Ins. Co. v. Waddell & Reed Inc., 360 F.3d 960, 967 (9th Cir. 2004) (stating that “the district court had a duty to establish subject matter jurisdiction over the removed action *sua sponte*, whether the parties raised the issue or not”); accord Rains v. Criterion Sys., Inc., 80 F.3d 339, 342 (9th Cir. 1996). The court must *sua sponte* dismiss the case if, at any time, it determines that it lacks subject matter jurisdiction. Fed. R. Civ. P. 12(h)(3). A federal district court generally has original jurisdiction over a civil action when: (1) a federal question is presented in an action “arising

1 under the Constitution, laws, or treaties of the United States” or (2) there is complete diversity of
2 citizenship and the amount in controversy exceeds \$75,000. See 28 U.S.C. §§ 1331, 1332(a).

3 Liberally construed, plaintiff’s complaint alleges that she obtained cash bail from
4 Sacramento Bail Bonds around December 9, 2016, and that the related criminal charges were
5 ultimately dropped. Plaintiff acknowledges that she still owes money to Sacramento Bail Bonds,
6 but claims that she never put her home up for collateral. Nevertheless, according to plaintiff,
7 Sacramento Bail Bonds and Placer Foreclosure Inc. have been attempting to foreclose on
8 plaintiff’s home by purportedly offering false and fraudulent documents, seals, and records.
9 Plaintiff names as defendants Pete Lindgren, a notary and bail bond agent at Sacramento Bail
10 Bonds; Gary Ricci, the owner of Sacramento Bail Bonds; and Shannon Winford, an agent of
11 Placer Foreclosure Inc., who appears to be the trustee sale officer under a deed of trust
12 purportedly related to plaintiff’s bail loan. (See generally ECF No. 1.)

13 The court lacks federal question jurisdiction over this action. Although plaintiff’s
14 complaint references violations of certain federal criminal statutes, plaintiff, as a private citizen,
15 does not have standing to prosecute violations of federal criminal statutes. Furthermore, to the
16 extent that plaintiff attempts to state a claim for violation of her constitutional rights under 42
17 U.S.C. § 1983, such as alleged deprivation of property without due process, such a claim is not
18 cognizable here, because defendants are not state actors. See Franklin v. Fox, 312 F.3d 423, 444
19 (9th Cir. 2002). Finally, to the extent that plaintiff attempts to state a claim for wrongful
20 foreclosure, that is a state law claim that should be pursued in state court.

21 The court also plainly lacks federal diversity of citizenship jurisdiction, because plaintiff
22 and all defendants are citizens of California.

23 Therefore, the court lacks subject matter jurisdiction over the action and recommends that
24 the case be dismissed. However, such dismissal should be without prejudice, allowing plaintiff to
25 pursue any potential claims in state court.

26 Accordingly, IT IS HEREBY RECOMMENDED that:

- 27 1. The action be dismissed without prejudice for lack of subject matter jurisdiction.
- 28 2. Plaintiff’s motion to proceed *in forma pauperis* in this court (ECF No. 2) be denied

1 without prejudice as moot.

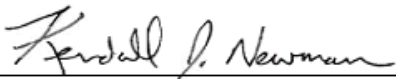
2 3. The Clerk of Court be directed to close this case.

3 In light of those recommendations, IT IS ALSO ORDERED that all pleading, discovery,
4 and motion practice in this action are STAYED pending resolution of the findings and
5 recommendations. With the exception of objections to the findings and recommendations, and
6 non-frivolous motions for emergency relief, the court will not entertain or respond to any motions
7 or filings until the findings and recommendations are resolved.

8 These findings and recommendations are submitted to the United States District Judge
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14)
10 days after being served with these findings and recommendations, any party may file written
11 objections with the court and serve a copy on all parties. Such a document should be captioned
12 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections
13 shall be served on all parties and filed with the court within fourteen (14) days after service of the
14 objections. The parties are advised that failure to file objections within the specified time may
15 waive the right to appeal the District Court’s order. Turner v. Duncan, 158 F.3d 449, 455 (9th
16 Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

17 IT IS SO ORDERED AND RECOMMENDED.

18 Dated: June 7, 2018

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21 KENDALL J. NEWMAN
22 UNITED STATES MAGISTRATE JUDGE
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