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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PHILIP J. MILLER,

No. C-07-5613 EMC

Plaintiff,

v.

ORDER TO SHOW CAUSEGLORIA DAVIS, *et al.*,

Defendants.

On November 5, 2007, Gloria and William Davis initiated this lawsuit in federal court by filing a document titled "Petition for a New Case Number." *See* Docket No. 1. (Although the Davises initiated the lawsuit, they identified themselves as the defendants in the caption and Philip J. Miller as the plaintiff.) In their petition, the Davises take issue with a determination by a state court judge regarding the parties' dispute over an easement over and removal of a tree from the Davises' property.

Having reviewed the petition, as well as a letter from Mr. Miller's former counsel in which he claims that Mr. Miller was not properly served with the petition, the Court has concerns as to whether it has jurisdiction over the instant case. In particular, the Court is concerned that (1) Mr. Miller may not have been properly served in accordance with Federal Rule of Civil Procedure 4; (2) there appear to be only state law claims at issue (not federal) and, under 28 U.S.C. § 1332, a federal court has jurisdiction over such claims only when each of the plaintiffs is a citizen of a different state from each of the defendants (*i.e.*, when there is "complete diversity" and the amount in controversy exceeds \$75,000); and (3) the *Rooker- Feldman* doctrine prohibits a federal district

1 court from exercising jurisdiction over a suit that is a “de facto appeal from a state court judgment.”
2 *Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1139 (9th Cir. 2004).

3 For the foregoing reasons, the Court hereby orders the Davises to show cause why this case
4 should not be dismissed based on a lack of federal jurisdiction for the reasons identified above as
5 well as a lack of personal jurisdiction over Mr. Miller. The Davises’ response to this order to show
6 cause shall be filed with the Court by February 25, 2008.

7 The Court further vacates the case management conference in this case, set for February 13,
8 2008, and resets the conference for hearing on April 23, 2008, at 1:30 p.m.

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10 IT IS SO ORDERED.

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12 Dated: February 7, 2008

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14 _____
15 EDWARD M. CHEN
16 United States Magistrate Judge
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PHILIP J. MILLER,

No. C-07-5613 EMC

Plaintiff,

v.

CERTIFICATE OF SERVICE

GLORIA DAVIS, *et al.*,

Defendants.

_____ /

I, the undersigned, hereby certify that I am an employee in the U.S. District Court, Northern District of California. On the below date, I served a true and correct copy of the attached, by placing said copy/copies in a postage-paid envelope addressed to the person(s) listed below, by depositing said envelope in the U.S. Mail; or by placing said copy/copies into an inter-office delivery receptacle located in the Office of the Clerk.

WILLIAM DAVIS
GLORIA DAVIS
1508 Spring Street
St. Helena, CA 94574

*ALL OTHER COUNSEL SERVED VIA
ELECTRONIC FILING ("E-FILING")*

Dated: February 7, 2008

RICHARD W. WIEKING, CLERK

By: _____ /s/
Leni Doyle
Deputy Clerk