

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ERIC J. D'ERCOLE,

8:15CV314

Plaintiff,

v.

**MEMORANDUM
AND ORDER**

CHRIS SPEERS, and LISA
ANDERSON,

Defendants.

This matter is before the court on a preliminary review of Plaintiff Eric D'Ercole's Complaint (Filing No. [1](#)). D'Ercole sues Defendants Chris Speers and Lisa Anderson based on a theory of "defamation of character . . . [and] severe emotional distress for loss of pet." (Filing No. [1 at CM/ECF p. 5](#).) D'Ercole alleged Speers and Anderson made false statements to animal control about D'Ercole, suggesting D'Ercole had harmed his pet cat. As a result, D'Ercole's cat was "impounded" and he suffered "severe emotional distress" and "defamation of character." (Filing No. [1 at CM/ECF p. 3](#).)

Federal courts are courts of limited jurisdiction. [Kokkonen v. Guardian Life Ins. Co. of Am.](#), 511 U.S. 375, 377 (1994). The subject-matter jurisdiction of the federal district courts is generally set forth in [28 U.S.C. §§ 1331](#) and [1332](#). Under these statutes, federal jurisdiction is available only when a "federal question" is presented (*i.e.*, in a civil action arising under the Constitution, laws, or treaties of the United States) or when the parties are of diverse citizenship and the amount in controversy exceeds \$75,000.

In this case, D'Ercole and the defendants are citizens of Nebraska. Therefore, the citizens are not diverse. In addition, there is no discernible "federal question" based on the facts alleged in the Complaint. Accordingly, this court will dismiss this

case because it has determined that it lacks subject-matter jurisdiction over it. *See* [Fed. R. Civ. P. 12\(h\)\(3\)](#) (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”).

IT IS THEREFORE ORDERED that: The court lacks subject-matter jurisdiction over this action and the case is dismissed without prejudice. The court will enter judgment by a separate document.

DATED this 15th day of January, 2016.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge

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