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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

GABRIEL M. BRISTOL,  
  
Plaintiff(s),  
  
v.  
  
ELIZABETH JOAN HUGHES,  
  
Defendant(s).

Case No. 2:16-CV-705 JCM (CWH)

ORDER

Presently before the court is counterclaimant Elizabeth Joan Hughes’ motion for summary judgment. (ECF No. 40). Counterdefendant Gabriel Bristol has not filed a response, and the deadline for doing so has since passed.

By way of procedural history, Bristol filed the civil complaint that initiated this case. (ECF No. 1). Defendant filed a motion to dismiss, which this court denied. (ECF No. 17). Thereafter, Hughes filed an answer and counterclaims. (ECF No. 18). After lengthy discovery disputes, the court ordered dismissal of plaintiff’s complaint with prejudice for failure to abide by numerous court orders. (ECF Nos. 34, 39). The complaint was stricken from the record. Therefore, the only operative allegations in this action come from Hughes’ counterclaims.

A federal court must possess jurisdiction over an action to hear the dispute. Weeping Hollow Avenue Trust v. Spencer, 831 F.3d 1110, 1112. If a court determines at any time that it lacks subject matter over an action, it must dismiss or remand the case as appropriate. See id. at 1114 (reversing and remanding with instructions to remand the case to state court, as the district court lacked subject matter jurisdiction over the claims); Tosco Corp. v. Communities for a Better Env’t, 236 F.3d 495, 499 (9th Cir. 2001) (“A plaintiff suing in federal court must show in his pleading, affirmatively and distinctly, the existence of whatever is essential to federal jurisdiction,

James C. Mahan  
U.S. District Judge

1 and, if he does not do so, the court, on having the defect called to its attention or on discovering  
2 the same, must dismiss the case.”).

3 Federal Rule of Civil Procedure 12(b)(1) permits a party to assert the defense of lack of  
4 subject matter jurisdiction by motion. *Id.* Further, a court may raise the question of subject matter  
5 jurisdiction sua sponte at any time during an action. *United States v. Moreno-Morillo*, 334 F.3d  
6 819, 830 (9th Cir. 2003). Regardless of who raises the issue, “when a federal court concludes that  
7 it lacks subject-matter jurisdiction, the court must dismiss the complaint in its entirety.” *Arbaugh*  
8 *v. Y&H Corp.*, 546 U.S. 500, 514, 126 S. Ct. 1235, 163 L. Ed. 2d 1097 (2006).

9 A court sitting in diversity may exercise “jurisdiction in cases between ‘citizens of different  
10 States.’” 28 U.S.C. § 1332(a)(1). Diversity, in this context, requires “complete diversity.”  
11 *Strawbridge v. Curtiss*, 7 U.S. 267 (1806). Essentially, each plaintiff must be a citizen of a  
12 different state than each defendant. *Weeping Hollow*, 831 F.3d at 1112.

13 Here, all of Hughes’ claims arise under state law. See (ECF No. 18). Therefore, the only  
14 statute that would afford jurisdiction over this action is 28 U.S.C. § 1332, which details the  
15 requirements for diversity jurisdiction. Hughes alleges that both she and Bristol are residents of  
16 the state of Nevada.<sup>1</sup> See (ECF No. 18). Therefore, the court does not have subject matter  
17 jurisdiction over this action. See 28 U.S.C. § 1332. The court will dismiss this case for want of  
18 jurisdiction. See *Arbaugh*, 546 U.S. at 514.

19 Accordingly,

20 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that counterclaimant’s  
21 motion for summary judgment (ECF No. 40) be, and the same hereby is, DENIED.

22 IT IS FURTHER ORDERED that this case be, and the same hereby is, DISMISSED for  
23 want of jurisdiction.

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27 <sup>1</sup> Further, Hughes’ motion to dismiss was based inter alia on the theory that Bristol was a  
28 Nevada resident and diversity jurisdiction did not exist over the action. (ECF No. 9). As the court  
has stricken plaintiff’s complaint from the record, the operative allegations in this complaint assert  
that both parties are Nevada residents.

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The clerk shall enter judgment accordingly and close the case.

DATED June 25, 2018.

  
UNITED STATES DISTRICT JUDGE