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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

VICTOR LYONS, *individually and on behalf of all 57.4 million other Social Security Pensioners,*

Plaintiff,

v.

BANK OF AMERICA,

Defendant.

Case No. 2:16-CV-02760-KJD-NJK

ORDER

Before the Court for consideration is the Report and Recommendation (#4) of Magistrate Judge Nancy J. Koppe entered December 20, 2016, recommending that Plaintiff's action be dismissed for lack of subject matter jurisdiction. Plaintiff filed a response to the objections on December 30, 2016.

The Court has conducted a *de novo* review of the record in this case in accordance with 28 U.S.C. § 636(b)(1) and LR IB 3-2. Plaintiff incorrectly asserts that he can act *pro se* on behalf of a class in a class action. A party filing an action has the burden of proving that jurisdiction exists. Plaintiff failed to meet his burden. The Court determines that the Report and Recommendation (#4) of the United States Magistrate Judge entered December 20, 2016, should be **ADOPTED** and **AFFIRMED**.

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IT IS THEREFORE ORDERED that the Magistrate Judge's Report and Recommendation (#4) entered December 20, 2016, are **ADOPTED** and **AFFIRMED**;

IT IS FURTHER ORDERED that Plaintiff's action is **DISMISSED without prejudice**.

DATED this 22nd day of February 2017.



Kent J. Dawson
United States District Judge