

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 * * *

4 ROBERT LAFAYETTE,

5 Plaintiff,

6 v.

7 STATE OF NEVADA et al.,

8 Defendants.
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Case No. 2:16-cv-02935-APG-VCF

**ORDER GRANTING MOTIONS TO
DISMISS**

(ECF Nos. 15, 18, 21, 22)

11 Plaintiff Robert Lafayette brings this case for “trespass” and “trespass on the case”
12 against the defendants, contesting a home foreclosure carried out in 2015. Although the exact
13 grievance is mostly inscrutable, it fits most closely with a claim for wrongful foreclosure, and
14 possibly also a claim for intentional or negligent misrepresentation. The defendants move to
15 dismiss the case for lack of subject matter jurisdiction. Because the complaint presents no
16 federal question and the parties are not completely diverse, I lack jurisdiction over the matter and
17 therefore grant the defendants’ motions to dismiss.

18 United States district courts are courts of limited jurisdiction. *Kokkonen v. Guardian Life*
19 *Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). The Court has original jurisdiction over cases
20 “arising under the Constitution, treaties or laws of the United States,” or when the amount in
21 controversy exceeds the sum of \$75,000 and the citizenship of each plaintiff is different from
22 that of each defendant. 28 U.S.C. § 1331; 28 U.S.C. § 1332(a); *see also Caterpillar Inc. v. Lewis*,
23 519 U.S. 61, 68 (1996) (“complete diversity of citizenship” is required). The party asserting that
24 this Court has jurisdiction bears the burden of establishing it. *See Kokkonen*, 511 U.S. at 377.


25 The complaint appears to assert claims for wrongful foreclosure and misrepresentation
26 (each of the seven causes of action is entitled “trespass on the case,” but the claims do not
27 present seven coherent, distinct causes of action). These claims do not arise under the
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1 Constitution, laws, or treaties of the United States. Section 1331 therefore does not provide
2 subject matter jurisdiction because a federal question is not presented on the face of the
3 plaintiff's complaint. *See Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987).

4 Lafayette describes himself as a "sovereign citizen," but asserts he is "a people of
5 Nevada," which I understand to mean he is a citizen of Nevada for purposes of diversity
6 jurisdiction analysis. One basis on which the defendants move to dismiss the complaint is that
7 complete diversity is destroyed by defendants Clark County and the State of Nevada. *See Nevada*
8 *ex rel. Colorado River Comm'n of Nevada v. Pioneer Cos., Inc.*, 245 F. Supp. 2d 1120, 1129 (D.
9 Nev. 2003) (quoting *Missouri Water Users' Ass'n v. Montana Power Co.*, 139 F.2d 998, 999
10 (9th Cir.1944) ("Absent a federal question, the district courts are not possessed of jurisdiction of
11 suits by or against a state.")). Lafayette offers no response in rebuttal. He therefore has not met
12 his burden of establishing that subject matter jurisdiction exists in this Court. He may pursue his
13 claims in state court but not in federal court as he has presented them in his complaint.

14 IT IS THEREFORE ORDERED that the defendants' motions to dismiss (**ECF Nos. 15,**
15 **18, 21, 22**) are **GRANTED** with leave to amend. If Lafayette can file an amended complaint
16 curing the jurisdictional defects in his original complaint, he must file that amended complaint by
17 May 8, 2017. If he fails to do so, the case will be closed.

18 DATED this 24th day of April, 2017.

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22 ANDREW P. GORDON
23 UNITED STATES DISTRICT JUDGE
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