

JAN 25 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NEIL M. JOHNSON,

Plaintiff - Appellant,

v.

TRUCKEE RIVER HIGHLANDS HOA,  
LLC; et al.,

Defendants - Appellees.

No. 10-17737

D.C. No. 3:09-cv-00587-RCJ-LRL

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Robert Clive Jones, Chief Judge, Presiding

Submitted January 17, 2012\*\*

Before: LEAVY, TALLMAN, and CALLAHAN, Circuit Judges.

Neil M. Johnson appeals pro se from the district court's judgment dismissing his action challenging various homeowner's association fees on his now-foreclosed home. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

dismissal for lack of subject matter jurisdiction, *Kuntz v. Lamar Corp.*, 385 F.3d 1177, 1181 n.6 (9th Cir. 2004), and for an abuse of discretion the denial of leave to amend, *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000) (en banc). We affirm.

The district court properly dismissed Johnson's action for lack of subject matter jurisdiction. First, the court lacked diversity jurisdiction because Johnson and several of the defendants are citizens of Nevada. *See Kuntz*, 385 F.3d at 1181 (requiring complete diversity of citizenship). Second, the court lacked federal question jurisdiction because Johnson's state law claims neither included a federal right or immunity as an essential element nor raised a substantial federal issue. *See Provincial Gov't of Marinduque v. Placer Dome, Inc.*, 582 F.3d 1083, 1086-87 (9th Cir. 2009) (requirements of federal question jurisdiction).

The district court did not abuse its discretion in denying Johnson's request for leave to amend to allege due process, equal protection, or Fair Debt Collection Practices Act claims because amendment would be futile. *See Theme Promotions, Inc. v. News Am. Mktg. FSI*, 546 F.3d 991, 1010 (9th Cir. 2008).

Johnson's remaining contentions, including regarding the expungement of the lis pendens that Johnson recorded against a non-party, are unpersuasive.

Johnson's pending motions, including to consolidate this appeal, are denied.

**AFFIRMED.**