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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

OSTEN E. SAUGSTAD,	)	Case No. 2:09-CV-3516-JAM-EFB
	)	
Plaintiff,	)	<u>ORDER DENYING DEFENDANT'S</u>
	)	<u>MOTION TO DISMISS, AND</u>
v.	)	<u>DISMISSING CASE FOR LACK OF</u>
	)	<u>JURISDICTION</u>
AMERICAN HOME MORTGAGE	)	
SERVICING, INC.; UROC LENDING,	)	
INC.; OPTION ONE MORTGAGE	)	
CORPORATION; DANIEL BROWN	)	
MORTGAGE DBA UROC LENDING, INC.;	)	
DANIEL CHARLES BROWN; SONJA	)	
WINDIFRED GORMAN; and DOES 1-20,	)	
inclusive,	)	
	)	
Defendants.	)	

This matter is before the Court on Defendant Sonja Windifred Gorman's ("Defendant") Motion to Dismiss (Doc. #46) Plaintiff Osten E. Saugstad's First Amended Complaint ("FAC") (Doc. #11). Defendant seeks dismissal of this matter for lack of jurisdiction under Federal Rule of Civil Procedure 12(b)(1), or in the alternative, for failure to state a claim pursuant to Rule 12(b)(6). Plaintiff did not file an opposition or statement of non-opposition in response to the motion. This motion was set for

1 hearing on March 23, 2011, but ordered submitted on the briefs.<sup>1</sup>

2 Because Defendant filed an Answer to the FAC on March 12, 2010  
3 (Doc. #20), the Court must deny the Motion to Dismiss. Even though  
4 the motion was unopposed, nevertheless the Court cannot as a matter  
5 of law grant the motion (see Federal Rule of Civil Procedure  
6 12(b)).

7 However, because only state law claims remain against  
8 Defendant (who is the only remaining defendant in this case), and  
9 application of federal law is not a substantial or necessary  
10 element of the claims, the Court is exercising its discretion to  
11 *sua sponte* dismiss the case for lack of jurisdiction. See Meza v.  
12 Matrix Servicing, 2010 WL 366623, \*3 (E.D. Cal. Jan. 26, 2010).  
13 Accordingly, the case is dismissed for lack of jurisdiction.

14  
15 ORDER

16 For the reasons set forth above, the Motion to Dismiss is  
17 DENIED. However, the Court is dismissing this case for lack of  
18 jurisdiction. Accordingly, this case is dismissed without  
19 prejudice.

20 IT IS SO ORDERED.

21 Dated: March 25, 2011

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23 \_\_\_\_\_  
24 JOHN A. MENDEZ,  
25 UNITED STATES DISTRICT JUDGE

26  
27  
28 <sup>1</sup> This motion was determined to be suitable for decision without  
oral argument. E.D. Cal. L.R. 230(g).