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8	UNITED STATES DISTRICT COURT	
9	SOUTHERN DISTRICT OF CALIFORNIA	
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11	ROBERT ROCQUE,	CASE NO. 10CV1973-LAB (JMA)
12	Plaintiff,	ORDER OF DISMISSAL
13	VS.	
14	FIRST MAGNUS FINANCIAL CORPORATON, et al.,	
15	Defendants.	
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18	On September 21, 2010, Plaintiff Rocque filed his complaint seeking to prevent or	
19	reverse a foreclosure on real property in San Diego that he claims to own. Though the	
20	complaint cites to federal law, the theories under which Rocque seeks relief appear to arise	
21	under California state law only. The complaint alleges Rocque is a resident DuPage County,	
22	Illinois, so apparently the property at issue is not his primary residence. A directory search	
23	shows that the property is a condominium in a downtown high-rise. The value is unknown	
24	and the complaint does not allege it.	
25	On October 19, Defendants Award, Inc. and Judy Bohlen moved to dismiss for lack	
26	of subject matter jurisdiction and for failure to state a claim. Defendant Aurora Loan	
27	Services, LLC then moved to dismiss for failure to state a claim. The hearing on these	
28	motions was set for December 6, 2010.	The one remaining Defendant, Cal-Western
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Reconveyance Corporation, filed a statement of non-monetary status, representing that it
 was named solely as a necessary party because it served as trustee for the property deed.

Because the hearing date was set for December 6, under Civil Local Rule 7.1(e)(2),
Rocque's opposition to the motions was due two weeks earlier, on Monday, November 22,
2010.

6 Rocque filed no opposition. He did send two ex parte letters to the Court purporting 7 to remove opposing counsel and require them to submit various types of accountings and 8 credentials to him, but the Court by an order issued November 22 directed him to cease 9 attempting to make ex parte contact with the Court. That order also pointed out, however, 10 that the letters raised an additional problem by representing that Rocque himself was not the 11 owner of the property in question, but rather that it was being held in a trust or estate for his 12 benefit. This created even more doubt about Rocque's capacity to pursue this action. Some 13 of the exhibits attached to the complaint similarly suggest that a trust identified only as 14 "Sancon" is the legal owner of the property and that someone named Ania or Anna Binkul, 15 not Rocque, is Sancon's trustee. See Exs. E, G, I.

16 The complaint appears to be a patchwork of allegations cut and pasted from other 17 sources. It consists primarily of legal conclusions and is very thin on factual allegations. For 18 example, it mentions a mortgage but doesn't say whether it was a purchase money 19 mortgage, the amount of the loan, whether Rocque made payments when due, and if not 20 why not. Apparently a non-judicial foreclosure sale has already taken place and some 21 unknown party (not named here) bought it. While federal laws are mentioned, no factual 22 allegations support any federal claims. For example, Rocque says Defendants violated 23 HOEPA, RESPA, TILA, and Regulation Z by engaging in "predatory lending practices," but 24 never alleges what they did or explains why whatever they did would give rise to a claim. 25 The basic contention appears to be that Defendants don't really own the deed of trust and 26 therefore have no right to foreclose. But if that's so, his claims arise under state law, not 27 federal law.

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While Rocque has alleges his residence is in Illinois, he has not alleged his citizenship
as required to establish diversity jurisdiction. See Bernal v. Comerica Bank, 2010 WL
3037259 (C.D.Cal., July 30, 2010) ("Allegations of residency but not citizenship are
insufficient to determine the existence of diversity jurisdiction") (citation omitted).
Actual citizenship is a particular concern here because Rocque has alleged he is "in
possession" of the residential property at issue here.

In short, the complaint establishes neither federal question nor diversity jurisdiction,
nor is any other source of jurisdiction apparent on the face of the complaint. Various
documents are attached to the complaint as exhibits, but their significance is largely left
unexplained, and the Court cannot properly serve as Rocque's attorney by reading through
them and creating his arguments or allegations for him.

Under Civil Local Rule 7.1(f)(3)(c), failure to file an opposition to a motion when
required to do so can constitute consent to the granting of that motion. The Court so
construes Rocque's failure to oppose the motions. Because no jurisdiction is apparent on
the face of the complaint and Defendants Award, Inc. and Judy Bohlen have pointed this out,
Rocque's claims will be dismissed for lack of jurisdiction.

The complaint, and this action, are therefore **DISMISSED WITHOUT PREJUDICE**.

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IT IS SO ORDERED.

20 DATED: December 7, 2010

Camp A. (Sunny

HONORABLE LARRY ALAN BURNS United States District Judge