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NOT FOR PUBLICATION

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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Credit Suisse First Boston,
Plaintiff,

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No. CV-10-2180-PHX-FJM

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vs.

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ORDER

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R. Wayne Gruninger; Karen Gruninger,

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Defendants.

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The court has before it plaintiff's motion to remand this case to state court (doc. 7).

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Defendants have not responded and the time for doing so has expired. See LRCiv 7.2(c).

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Defendants Wayne and Karen Gruninger owned property secured by a deed of trust.

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On April 2, 2010, the property was sold at a trustee's sale pursuant to the terms of the deed

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of trust. U.S. Bank, as trustee for Credit Suisse First Boston, became the owner of the

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property. Plaintiff filed a forcible entry and detainer action in state court, contending that

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defendants continue to occupy the property although they are not the rightful owners. On

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October 13, 2010, defendants filed a notice of removal, removing the matter to this court.

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Plaintiff now moves to remand to state court, arguing that the forcible entry and detainer

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action arises under state law and presents no federal question. Plaintiff further contends that

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under 28 U.S.C. § 1441(b) there is no removal jurisdiction because defendants are citizens

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of the forum state. Moreover, even assuming that there is complete diversity of citizenship,

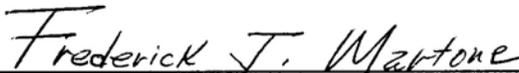
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this a forcible detainer action seeking only to recover possession of the property, not

1 damages. Thus, there is no monetary amount in controversy for purposes of diversity
2 jurisdiction. See Curtis v. Morris, 186 Ariz. 534, 535, 925 P.2d 259, 260 (1996) (holding
3 that the only issue presented in a forcible detainer action is the right of actual possession).

4 Defendants' failure to respond to the motion to remand may be deemed a consent to
5 the granting of the motion and we may dispose of the case summarily. LRCiv 7.2(i). We
6 agree with plaintiff that there is no basis for federal jurisdiction. Accordingly, **IT IS**
7 **ORDERED GRANTING** plaintiff's motion to remand (doc. 7).

8 DATED this 23rd day of November, 2010.

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12 Frederick J. Martone
13 United States District Judge
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