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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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MetLife Home Loans,

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No. CV-11-0185-PHX-FJM

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Plaintiff,

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ORDER

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vs.

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Earl D. Maxie; Yvette Hernandez,

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Defendants.

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The court has before it plaintiff MetLife Home Loans' motion to remand (doc. 5),
defendants' response (doc. 6) and motion to strike (doc. 7), and plaintiff's reply (doc. 12).

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On January 20, 2011, MetLife filed an action against defendants in the Superior Court of
Arizona in Pinal County for forcible entry and detainer pursuant to A.R.S. §§ 12-1173, 12-

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1173.01. MetLife asserted in the state court action that it purchased property, formerly
owned by defendants, at a trustee's sale. MetLife gave defendants notice to vacate the

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property, but the defendants failed to vacate. The forcible entry and detainer action followed.

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Defendants removed the case to this court, asserting federal question, 28 U.S.C. § 1331, and
diversity of citizenship jurisdiction, 28 U.S.C. § 1332(a).

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It is clear that MetLife's complaint for forcible entry and detainer arises under Arizona

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law and does not present a federal question. Defendants' generic reference to a federal

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question in their notice of removal is insufficient to support removal. Moreover, we see no

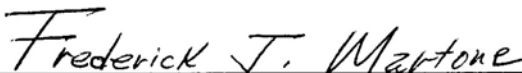
1 evidence to support defendants' reliance on a counterclaim based on federal law. Even if
2 such a claim had been presented, however, it is well settled that a federal counterclaim cannot
3 serve as the basis for a district court's federal question removal. Holmes Group, Inc. v.
4 Vornado Air Circulation Sys., Inc., 535 U.S. 826, 831-32, 122 S. Ct. 1889, 1894 (2002).

5 If a complaint does not present a federal question, "such action shall be removable
6 only if none of the parties in interest properly joined and served as defendants is a citizen of
7 the State in which such action is brought." 28 U.S.C. § 1441(b). Because defendants purport
8 to be citizens of Arizona, this action is not removable under 28 U.S.C. § 1441.

9 Therefore, **IT IS ORDERED GRANTING** plaintiff's motion to remand (doc. 5), and
10 **DENYING** defendants' motion to strike (doc. 7).

11 It is further **ORDERED REMANDING** this case to the Superior Court of Arizona
12 in Pinal County.

13 DATED this 25th day of March, 2011.

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17 Frederick J. Martone
18 United States District Judge
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