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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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Federal Deposit Insurance Corp., Receiver)
for First National Bank of Nevada,

CV 11-00499-PHX-FJM

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Plaintiff,

ORDER

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vs.

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Artesa Holdings LLC,

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Defendant.

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The court has before it plaintiff's motion for summary judgment (doc. 60) and separate statement of facts (doc. 61). We also have before us plaintiff's request for judicial notice concerning its motion for summary judgment (doc. 66). Defendant did not respond, and the time for responding has expired.

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Plaintiff brings this action in its capacity as Receiver for the First National Bank of Nevada, which merged with the First National Bank of Arizona in June 2008 and closed in July 2008. The action arises from a loan of \$12,000,000 from First National Bank of Nevada to defendant to develop lots on a piece of property. Defendant defaulted on the loan, and plaintiff foreclosed. Plaintiff purchased the property at a trustee's sale on December 21, 2010. As of the date of sale, plaintiff calculates the total net deficiency on the property as \$12,135,538.30. Interest accrues at a daily rate of \$3,608.32. Plaintiff moves for summary judgment on its one count of contract deficiency against defendant.

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Because defendant failed to respond to the motions, we construe the lack of a response as a concession and grant both motions summarily. See LRCiv 7.2(i) ("if . . . counsel does not serve and file the required answering memoranda . . . such non-compliance may be deemed a consent to the denial or granting of the motion and the Court may dispose of the motion summarily").

Accordingly, **IT IS ORDERED GRANTING** plaintiff's request for judicial notice (doc. 66). **IT IS FURTHER ORDERED GRANTING** plaintiff's motion for summary judgment (doc. 60). Summary judgment is granted to plaintiff in the amount of \$12,135,538.30, plus interest at the daily rate of \$3,608.32 from December 21, 2010 to the present. The Clerk shall enter judgment.

DATED this 11th day of April, 2012.

Frederick J. Martone

Frederick J. Martone
United States District Judge