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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**

8 M&I Marshall & Ilsley Bank,  
9  
10 Plaintiff,

No. CV-11-1177-PHX-DGC

**ORDER**

11 vs.

12 Jay and Tana Boersma, husband and wife,  
13 Defendants.

14 On June 6, 2011, Plaintiff filed a forcible entry and detainer action against  
15 Defendants in state court. Doc. 1-1 at 3-45. Defendant Jay Boersma removed the action  
16 to this Court a week later. Doc. 1. In an order dated July 18, 2011, the Court remanded  
17 the case for lack of subject matter jurisdiction. Doc. 12.

18 Plaintiff has filed a motion for an award attorneys' fees against Jay Boersma in the  
19 amount of \$2,911. Doc. 13. No response has been filed. For reasons stated below, the  
20 motion will be granted.

21 Pursuant to 28 U.S.C. § 1447(c), the Court "may require payment of just costs and  
22 any actual expenses, including attorney fees, incurred as a result of the removal." The  
23 Court finds that Defendant "had no objectively reasonable basis for removal." *Patel v.*  
24 *Del Taco, Inc.*, 446 F.3d 996, 999 (9th Cir. 2006). Because Plaintiff's forcible entry and  
25 detainer action does not depend on resolution of any issue of federal law, the Court does  
26 not have federal question jurisdiction under 28 U.S.C. § 1331. Defendant presented no  
27 evidence, or even an argument, that the amount in controversy exceeds the jurisdictional  
28 amount for purposes of diversity jurisdiction under 28 U.S.C. § 1332. Moreover, because

1 Defendant is a citizen of Arizona, the forum defendant rule, 28 U.S.C. § 1441(b),  
2 prohibited removal on the basis of diversity jurisdiction. *See* Doc. 12.

3 “The process of removing a case to federal court and then having it remanded back  
4 to state court delays resolution of the case, imposes additional costs on both parties, and  
5 waste judicial resources.” *Martin v. Franklin Capital Corp.*, 546 U.S. 132, 140 (2005).  
6 “Assessing costs and fees on remand reduces the attractiveness of removal as a method  
7 for delaying litigation and imposing costs on the plaintiff.” *Id.* The Court finds that an  
8 award of fees for the improper removal is appropriate in this case even though Defendant  
9 is proceeding pro se. Defendant is not a novice litigator, having filed multiple suits  
10 against Plaintiff and another bank. *See* Case Nos. CV-10-2221-NVW, CV-11-0148-  
11 ROS, CV-11-0768-JAT, CV-11-1522-DGC.

12 Having reviewed Plaintiff’s supporting memorandum (Doc. 13) and counsel’s  
13 declaration and statement of fees (Docs. 13-3, 13-4), and having considered the record as  
14 a whole and the relevant fee award factors, *see Hensley v. Eckerhart*, 461 U.S. 424,  
15 429-30 & n.3 (1983), the Court finds the requested fee award to be reasonable and  
16 appropriate. *See also* LRCiv 54.2(c)(3)(A)-(M). The Court will grant Plaintiff’s motion  
17 and award it attorneys’ fees in the amount of \$2,911.

18 **IT IS ORDERED:**

- 19 1. Plaintiff’s motion for attorneys’ fees against Jay Boersma (Doc. 34) is  
20 **granted.**
- 21 2. Attorneys’ fees are awarded in favor of Plaintiff and against Defendant Jay  
22 Boersma in the amount of **\$2,911.00.**

23 Dated this 14th day of September, 2011.

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David G. Campbell  
United States District Judge