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

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9 Kathy Lee Kerner; and Anthony J. Kuc Jr.,  
10 **Plaintiffs,**

No. CV-11-8091-PCT-DGC

11 vs.

**ORDER**

12 Deutsche Bank National Trust Company, as  
13 Trustee of the IndyMac INDX Mortgage  
14 Trust 2007-FLX3, Mortgage Pass-Through  
15 Certificates, Series 2007-FLX3 Under the  
16 Pooling and Servicing Agreement Dated  
April 1, 2007,

**Defendant.**

17 In an order dated July 22, 2011 (Doc. 5), the Court dismissed Plaintiffs' complaint  
18 (Doc. 1) for lack of subject matter jurisdiction and remanded a related action (Doc. 4 at  
19 7-15) to state court. Plaintiffs have filed identical documents entitled "objection and  
20 demand" (Docs. 6, 7), which the Court will construe as motions for reconsideration. For  
21 reasons that follow, the motions will be denied.

22 Motions for reconsideration are disfavored and should be granted only in rare  
23 circumstances. Such a motion is denied "absent a showing of manifest error or a showing  
24 of new facts or legal authority that could not have been brought to [the Court's] attention  
25 earlier with reasonable diligence." LRCiv 7.2(g)(1); *see Carroll v. Nakatani*, 342 F.3d  
26 934, 945 (9th Cir. 2003). Mere disagreement with an order is an insufficient basis for  
27 reconsideration. *See Ross v. Arpaio*, No. CV 05-4177-PHX-MHM, 2008 WL 1776502,  
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1 at \*2 (D. Ariz. Apr. 15, 2008).

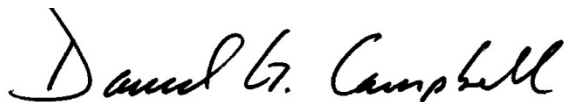
2 Plaintiffs assert that they were not notified of the motion to remand (Doc. 4), but a  
3 review of the Court's docket shows that the motion was mailed to Plaintiffs at their  
4 addresses of record on June 27, 2011. In any event, the Court clearly lacks subject matter  
5 jurisdiction over the wrongful foreclosure complaint and the related forcible entry and  
6 detainer action. *See* Doc. 5.

7 Plaintiffs note, correctly, that pro se litigants generally should be granted leave  
8 to amend and provided an explanation of the complaint's deficiencies. The Court  
9 previously explained why the wrongful foreclosure complaint fails to establish federal  
10 jurisdiction. Doc. 5. The Court finds leave to amend to be futile. Plaintiffs, of course,  
11 may seek to assert their claim for wrongful foreclosure as a counterclaim in the state  
12 court action. *See Deutsche Bank v. Kerner*, No. CV2011-00617 (Ariz. Super. Ct.  
13 Apr. 18, 2011).

14 **IT IS ORDERED:**

- 15 1. Plaintiffs' motions for reconsideration (Docs. 6, 7) are **denied**.  
16 2. No further motions shall be filed.

17 Dated this 29th day of July, 2011.

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David G. Campbell  
United States District Judge  
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