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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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David L. Woodard,

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No. CV 07-1377-PHX-FJM

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Plaintiff,

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ORDER

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vs.

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Steven J. Delaportas et al,

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Defendant.

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On February 28, 2011, we entered an order noting that there had been no activity in this case in years (doc. 241). When a case is subject to the automatic bankruptcy stay, we give the claimant an option. He may pursue his claim in the bankruptcy court, or he may pursue it here by seeking to get the stay lifted. We do not allow a party to sit on our docket for years while he is litigating his claim in the bankruptcy court. No purpose is served.

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Thus, we required plaintiff to make his election. We now have before us "Plaintiff's Notice to the Court Regarding Status of Pending Adversary Proceeding" (doc. 244), in which plaintiff states that he does not seek to get the stay lifted here. Instead, he is pursuing his claim in the bankruptcy court. This is understandable. However, he asks us not to dismiss this action, yet does not tell us why he needs it. This is an action to enforce a judgment which is now being presented to the bankruptcy court. Our dismissal of this action without prejudice does not interfere with plaintiff's claim in the bankruptcy court. And, although it seems highly unlikely, should the need ever arise, he can always file a new action to enforce

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1 his judgment.

2 Therefore, pursuant to our order of February 28, 2011, it is ORDERED DISMISSING
3 this action without prejudice for lack of prosecution.

4 DATED this 15th day of March, 2011.

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Frederick J. Martone

Frederick J. Martone
United States District Judge

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