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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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Ray C. Pitre

No. CV 11-821-PHX-JAT

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Plaintiff,

**ORDER**

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vs.

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BAC Home Loans Servicing LP;  
Mortgage Electronic Registration Systems,  
Inc.,

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Defendants.

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Pending before the Court is the motion to dismiss filed by (1) Bank of America, N.A.,  
17 as successor by merger to BAC Home Loans Serving, LP, BANA CWB CIG 1st Liens, (2)  
18 MERSCORP, Inc., and (3) Mortgage Electronic Registration Systems, Inc.<sup>1</sup> Doc. 13. In  
19 response to this motion to dismiss, Plaintiff opposed dismissal, in the alternative asked for  
20 leave to amend the complaint, and asked for a 120 day stay of the case to hire counsel. Doc. 15.  
21 Defendant then replied in support of its motion to dismiss and opposed any stay of the case.  
22 Thereafter, on September 19, 2011, Plaintiff filed a notice that he filed bankruptcy and  
23 suggested that this case be stayed. Doc. 18.

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The automatic stay of the bankruptcy code does not apply to plaintiffs. *See Martin-*  
25 *Trigona v. Champion Federal Savings & Loan*, 1988 WL 46596, \*2 (N.D. Ill. 1988); *In re*

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<sup>1</sup> Defendant moved to dismiss Plaintiff's original complaint on June 27, 2011. In response  
28 to that motion, Plaintiff filed an amended complaint (Doc. 11). The currently pending  
motion to dismiss addresses the amended complaint.

1 *Hill*, 39 B.R. 894, 897 (Bkrcty. Or., 1984).<sup>2</sup> Accordingly this case is not stayed.

2 With respect to Plaintiff's request that this case be stayed for 120 days to allow  
3 Plaintiff to hire an attorney, while Plaintiff may hire counsel if he chooses, the Court will not  
4 stay a cause of action pending the hiring of counsel. Therefore, the request to stay the case  
5 is denied.

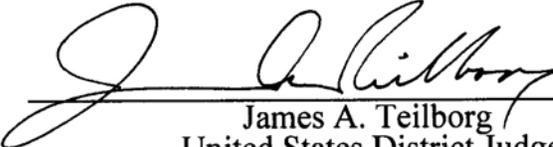
6 Based on the foregoing,

7 IT IS ORDERED that the suggestion of a stay based on filing bankruptcy (Doc. 18)  
8 is denied.

9 IT IS FURTHER ORDERED that the motion to stay this case to hire counsel (Doc.  
10 15) is also denied.

11 IT IS FINALLY ORDERED that the Court deems the motion to dismiss (Doc. 13) to  
12 be fully briefed, and because no party requested oral argument, the motion is under  
13 advisement.

14 DATED this 21st day of November, 2011.

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18 James A. Teilborg  
United States District Judge

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27 <sup>2</sup> But the cause of action is the property of the estate. *Turner v. Cooke*, 362 F.3d 1219, 1225-  
28 26 (9<sup>th</sup> Cir. 2004); *Cusano v. Klien*, 264 F.3d 936, 945 (9<sup>th</sup> Cir. 2001).