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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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Margaret Marie Smith,

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No. CV 11-1437-PHX-JAT

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Plaintiff,

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ORDER

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vs.

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State of Arizona; Arizona State Board of
Education; Maricopa County Community
College District; Paradise Valley
Community College; The Higher Learning
Commission; Kelly Burton and John Doe
Burton, husband and wife; Dr. Paul Dale
and Jane Doe Dale, husband and wife; Dr.)
Denise Digianfilippo and Joe Doe
Digianfilippo, husband and wife; Dr. Mary
Lou Mosley and John Doe Mosley,
husband and wife,

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Defendants.

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On September 16, 2011, Counsel for Defendants Kelly Ann Fitzsimmons Burton and
John Doe Burton (a/k/a David Perry Burton), filed a notice that these Defendants have filed
a petition for bankruptcy (Doc. 36). An automatic stay is in place for these Defendants.
However, there is no stay of this case as a whole or and no stay as to any of the other
Defendants. Specifically, a bankruptcy court may extend the automatic stay to a proceeding
against co-defendants of the Debtor when “the claims against them and the claims against
the debtor are so inextricably interwoven, presenting common questions of law and fact,
which can be resolved in one proceeding.” *In re Ionosphere Clubs, Inc.*, 111 B.R. 423, 434

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1 (Bankr.S.D.N.Y. 1990) (internal quotations omitted). The party seeking to extend the stay
2 must “affirmatively seek an order from the *bankruptcy court*, which has authority to extend
3 the protections of 362(a) pursuant to its equity powers under section 105.” *C.H. Robinson*
4 *Company v. Paris & Sons, Inc.*, 180 F.Supp.2d 1002, 1018 (N.D. Iowa 2001) (emphasis
5 added).

6 Here, until a co-Defendant(s) files notice with this Court that they are seeking, or have
7 been granted, a stay by the bankruptcy court, no stay will be in place as to any co-Defendant.
8 Additionally, Plaintiff shall keep this Court informed of the status of the Burtons’
9 bankruptcy, whether Plaintiff is pursuing her claims in the bankruptcy, and whether, as a
10 result of the bankruptcy, this civil action against the Burtons can be dismissed. Therefore,

11 **IT IS ORDERED** that Plaintiff shall file a status report regarding her claims against
12 the Burtons on December 1, 2011, and shall file a further status report on the first of the
13 month every four months thereafter (with the next report being due April 1, 2012) until either
14 this case against the Burtons can be dismissed or the stay can be lifted.

15 DATED this 11th day of October, 2011.

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20 James A. Teilborg
21 United States District Judge
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