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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNIVERSAL TRADING AND
INVESTMENT CO.,

Plaintiff and Judgment
Creditor,

No. C 08-03632 CRB

**ORDER LIFTING STAY AND
RETURNING MATTER TO ACTIVE
STATUS**

v.

DUGSBERY INC., et al.,

Defendants.

I. BACKGROUND AND DISCUSSION

On August 4, 2010, Plaintiff and Judgment Creditor Universal Trading and Investment Company filed a Motion for “Administrative Relief” pursuant to Local Rule 7-11 to have the stay in this matter lifted because the Court’s reason for imposing the stay – the pendency of a related action in the United States Court of Appeals for the Ninth Circuit (Case No. 06-cv-80086) – is no longer present. (Dkt. 93.)

Defendants Lazarenko, Dugbery, Inc., and Lady Lake Investment Corp. oppose the Motion on the ground that it should have been filed as a substantive motion pursuant to Local Rule 7-2. Specifically, Defendants argue that (1) there has been an unreasonable delay of eight months between the end of the related case on appeal and the filing of the instant Motion to lift the stay and (2) they should have the opportunity to fully brief the possible applicability of Federal Rule 41(b).

1 Defendants' arguments against lifting the stay are not well taken. They do not dispute
2 that the reason for the stay is no longer present, and their concerns about Plaintiff's delay in
3 re-starting this matter did not cause them to move for dismissal pursuant to Rule 41(b) as an
4 affirmative matter. Moreover, the stay has been lifted twice at the behest of Plaintiff since
5 the 9th Circuit mandate issued on December 2, 2009 for the purpose of dismissing specific
6 Defendants. Remaining Defendants had no reason to believe Plaintiff had entirely
7 abandoned his case, and the delay is not so long as to cause them to be unduly prejudiced by
8 the recommencement of the action.

9 **II. CONCLUSION**

10 Accordingly, Plaintiff's Motion for Administrative Relief (Dkt. 93) is GRANTED, the
11 stay is lifted, and this matter is now ACTIVE.

12 **IT IS SO ORDERED.**



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15 Dated: August 13, 2010

16 CHARLES R. BREYER
17 UNITED STATES DISTRICT JUDGE
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