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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

WESTWIND MERANTO, LLC,)
)
Plaintiff,)
)
vs.)
)
FEDERAL DEPOSIT INSURANCE)
COMPANY,)
)
Defendant.)

2:11-CV-01812-PMP-VCF

ORDER

Before the Court for consideration is Defendant Federal Deposit Insurance Company's ("FDIC") fully briefed Motion to Dismiss (Doc. #4) filed February 6, 2012.

Defendant asserts three grounds in support of its Motion to Dismiss Plaintiff's Complaint (Doc. #4). First, Defendant argues that this Court lacks subject matter jurisdiction over Plaintiff's declaratory relief claims because Plaintiff failed to comply with the mandatory administrative claims process provided under the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") 12 U.S.C. § 1811 *et seq.*

Second, Defendant contends that the declaratory relief sought by Plaintiff is prohibited under 12 U.S.C. § 1821(j), because the declaratory relief requested would restrain the FDIC from performing its statutorily authorized functions. Finally, Defendant argues that Plaintiff's claims are barred by the Doctrine of Issue Preclusion because Plaintiff has previously argued and lost the same issues in a prior suit between the Parties in state court. The Court agrees and finds that for the reasons set forth in Defendant's Motion

1 to Dismiss (Doc. #4) and it's Reply Memorandum (Doc. #9) Defendant is entitled to the
2 relief requested.

3 **IT IS THEREFORE ORDERED** that Defendant's Motion to Dismiss (Doc. #4)
4 is **GRANTED**.

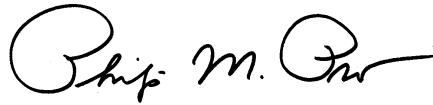
5 **IT IS FURTHER ORDERED** that the Clerk of Court shall forthwith enter
6 judgment in favor of Defendant and against Plaintiff.

7 DATED: March 26, 2012.

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PHILIP M. PRO
United States District Judge

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