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10  
11 IN THE UNITED STATES DISTRICT COURT  
12 DISTRICT OF ARIZONA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 JOSEPH J. LIPARI, EILEEN H. LIPARI and  
EXETER TRINITY PROPERTIES, L.L.C.,

17 Defendants.  
18

Civ. No. 10-CV-08142-JWS

**UNITED STATES' OPPOSITION TO  
EXETER'S MOTION FOR LEAVE TO  
FILE A SUPPLEMENTAL STATEMENT  
OF FACTS**

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20 The United States, the plaintiff herein, and defendant Exeter Trinity Properties, L.L.C.  
21 ("Exeter") have filed cross-motions for summary judgment on the foreclosure part of this case. The  
22 United States' motion for summary judgment was fully briefed as of January 27, 2012. On February  
23 15, 2012, Exeter filed a reply brief regarding its summary judgment motion. Along with its reply,  
24 Exeter lodged a supplemental statement of facts ("supplemental statement") and filed a motion for  
25 leave to file the supplemental statement.

26 The Court's Local Rules do not permit the filing of a supplemental statement of facts with a  
27 reply brief in the context of a summary judgment motion. *See* Local Rules 56.1(a) and 56.1(b).  
28 Also, Exeter has not shown good cause to support its motion for leave to file the supplemental

1 statement. In this regard, Exeter essentially states in its motion for leave that it wants to bring  
2 additional facts to the Court's attention that it could have submitted previously (with its motion for  
3 summary judgment or its opposition to the Government's motion for summary judgment) but chose  
4 not to.

5 Under these circumstances the Court should deny the motion for leave to file supplemental  
6 statement. In the alternative, to the extent that the Court grants the motion for leave, the United  
7 States should be allowed thirty (30) days to file a response to the supplemental statement and a  
8 surreply, if it so chooses.

9 DATED this 22nd day of February, 2012.

10  
11 JOHN A. DICICCO  
Principal Deputy Assistant Attorney  
12 General, Tax Division  
U.S. Department of Justice

13  
14 By: /s/ Charles M. Duffy  
CHARLES M. DUFFY  
15 Trial Attorney, Tax Division

16 Of Counsel:

17 ANN SCHEEL  
Acting United States Attorney  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 22nd day of February, 2012, I electronically filed the foregoing with the Clerk of Court and served the following attorney of record using the CM/ECF system:

John Friedeman, P.C.  
5103 E. Thomas Road  
Phoenix, Arizona 85018

I further certify that on the same day, I mailed by U.S. Postal Service the foregoing to the following party who is not represented by counsel:

Joseph J. Lipari  
156 Johnson Hill Drive  
Waynesville, NC 28786

/s/ Charles M. Duffy  
Charles M. Duffy  
Trial Attorney, Tax Division  
U.S. Department of Justice