

**MINUTES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

United States of America v. Joseph Lipari, et al.

THE HONORABLE JOHN W. SEDWICK

3:10-cv-08142 JWS

PROCEEDINGS:

ORDER FROM CHAMBERS

August 22, 2012

Plaintiff United States moves at docket 77 to strike the demand for trial by jury in this case (or to confirm that it has already been stricken). Exeter Trinity Properties filed a perfunctory response at docket 78. No other party has responded. The court deems it unnecessary to await a reply from the United States before addressing the motion at docket 77.

The United States' first argument is that the demand for jury trial filed by Elmer Vild is of no effect, because in his capacity as a layman and trustee, he could not represent Exeter Trinity Properties. That seems a good argument, see, *Rowland v. Calif. Men's Colony*, 506 U.S. 194, 201-02 (1993); *C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697 (9th Cir. 1987). Indeed, it is a good argument: In its order at docket 9, the court specifically struck the jury demand made by Mr. Vild without prejudice to a proper demand by one of the parties. However, none of the defendants who later filed answers made any demand for a jury trial either in the answer, see dockets 22 and 23, or elsewhere on the docket. It may be added that the United States' alternate argument that the only remaining claims are equitable in nature and therefore not subject to trial by jury is correct.

For the reasons above, the motion to strike the jury demand at docket 77 is **GRANTED**. The remaining claims will be tried to the court.
