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15 *Attorneys for the United States of America*

16 IN THE UNITED STATES DISTRICT COURT
17 DISTRICT OF ARIZONA

18 UNITED STATES OF AMERICA,

19 Plaintiffs,

20 v.

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

23 Defendants.

Civ. No. 10-CV-08142-JWS

JOINT MOTION BY THE UNITED STATES AND EXETER REQUESTING AN EXTENSION OF THE DISCOVERY CUTOFF DATE TO SEPTEMBER 30, 2011 OR, IN THE ALTERNATIVE, THE SETTING OF A DISCOVERY CONFERENCE

24 The United States, the plaintiff, and Exeter Trinity Properties (hereafter "Exeter"), one of the
25 defendants, hereby jointly request the Court to extend the discovery cutoff date to September 30,
26 2011 or, in the alternative, set a discovery conference. This joint motion is based on the following
27 facts:

28 1. In December, 2010, the Court entered a Scheduling Order in this matter which set forth
a discovery cutoff date of May 20, 2011;

2. In February, 2011, the United States propounded requests for admissions,
interrogatories and requests for production to each of the defendants. Exeter's responses to the

1 document production request are still outstanding and Exeter's counsel has represented that the
2 responses will be forthcoming in the near future;

3 3. In late April, 2011 the United States and Exeter stipulated to extend the discovery
4 period until July 20, 2011 under the terms of the Scheduling Order which permitted a two month
5 extension of the period without the Court's intervention;

6 4. Phillip O'Neil, also known as Elmer P. Vild, who is connected to Exeter through its
7 members, has relevant information regarding various claims in the complaint (*e.g.*, the fourth, fifth
8 and sixth claims). Exeter's counsel recently informed the undersigned Government counsel that Mr.
9 O'Neil would be away from Arizona from the last week of May until the first week of July, 2011.
10 Also, Exeter's counsel will be away from Arizona during the second and third week of July, 2011.
11 Further, the undersigned Government counsel has vacation plans in August, 2011;

12 5. Based on scheduling and cost issues, counsel for the United States would prefer to
13 make only one trip from Washington D.C. to Arizona to take Mr. O'Neil's deposition and also the
14 depositions of others who are located there (*e.g.*, Jimmy Chisum, Terry Major and Exeter).
15 However, based on the schedules of Mr. O'Neil and Exeter's counsel and the fact that Exeter still
16 has not responded to the Government's document request, it is not feasible to take the Arizona
17 depositions and complete discovery by the July 20, 2011 discovery cutoff date;

18 6. It appears that none of the other scheduling dates set forth in the Court's December,
19 2010 scheduling order would be effected if the extension requested herein is granted;

20 7. The United States is scheduled to take the depositions of defendants Joseph and Eileen
21 Lipari ("the Liparis") on July 7 and 8, 2011 in Asheville, North Carolina; and

22 8. The undersigned Government counsel left a voice mail message with the Liparis on
23 May 20, 2011 to ascertain if they oppose this joint motion but they have not yet responded.


24 Based on the above, the United States and Exeter request the Court to extend the discovery
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1 cutoff in this matter to September 30, 2011 or, in the alternative, set a discovery conference to
2 discuss the discovery cutoff date.

3 DATED this 20th day of May, 2011.

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6 DENNIS K. BURKE
United States Attorney

7
8 /s/ Charles M. Duffy
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9 Trial Attorney, Tax Division
U.S. Department of Justice
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12 
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15 *Attorney for Exeter*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of May, 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system and certify that I have mailed by U.S. Postal Service the foregoing to the following:

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

Joseph J. Lipari
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/s/ Charles M. Duffy
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