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4 **IN THE UNITED STATES DISTRICT COURT**  
5 **DISTRICT OF ARIZONA**

<p>7 UNITED STATES OF AMERICA,</p> <p>8 Plaintiffs,</p> <p>9 vs.</p> <p>10 JOSEPH J. LIPARI, EILEEN H. LIPARI and EXETER TRINITY PROPERTIES, L.L.C.,</p> <p>11 Defendants.</p>	<p>No. 3:10-CV-08142 JWS</p> <p>MOTION TO EXTEND THE TIME TO PERMIT A CROSS-MOTION FOR SUMMARY JUDGMENT BY DEFENDANT EXETER TRINITY PROPERTIES, L.L.C.</p> <p>Honorable John W. Sedwick</p>
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13 Defendant Exeter Trinity Properties, L.L.C., respectfully requests that the Court  
14 extend the time in which it may file a Cross-Motion for Summary Judgment coupled with its  
15 response to the Plaintiff's Motion for Summary Judgment.

16 The deadline to file a Motion for Summary Judgment was December 1, 2011,  
17 and the Plaintiff filed its Motion on that date. The deadline to respond is January 6, 2012.

18 This Motion reflects a misunderstanding between counsel. During the course of  
19 this litigation there were many instances in which the Plaintiff sought an extension of various  
20 deadlines which had been established for discovery, for filing dispositive motions, etc. In  
21 each instance the undersigned received a brief informal request from Plaintiff's counsel, and  
22 the undersigned immediately stipulated.

23 The undersigned understood that this informality was the way counsel would  
24 continue to operate in this case and that the undersigned would also be allowed to obtain an  
25 extension when requested. Counsel had discussed filing motions for summary judgment and  
26 the fact that those motions will likely conclude the case.

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1           The undersigned anticipated that after the Plaintiff filed its motion for summary  
2 judgment, Defendant Exeter would thereafter file a Response/Cross-Motion for Summary  
3 Judgment. It was understood by counsel undersigned that the Plaintiff would agree to the  
4 necessary extension. This is the first extension or continuance requested by Exeter (although  
5 as a courtesy Exeter assisted with the extension of the deadline for dispositive motions which  
6 was previously sought by Plaintiff - see Docket # 35).

7           On December 22, 2011, it was learned the Plaintiff is not willing to make the  
8 requested stipulation. However, after discussion between counsel, the Plaintiff agreed not to  
9 object to Exeter's request for additional time to file a Cross-Motion for Summary Judgment.

10           Both attorneys are acting in good faith, but they have different understandings  
11 of their dealings. It is respectfully submitted that this misunderstanding should not be  
12 allowed to prevent a resolution on the merits.

13           Even in the absence of a misunderstanding, this Motion should be granted. This  
14 case has not been left idle by either party and the interests of justice would not be served by  
15 denying Exeter an extension.

16           The undersigned avows that the Defendant Exeter will not request a trial - it  
17 simply does not have the funds to bring the case to trial. In addition, the undersigned is now  
18 working without compensation and is owed a large fee balance. Thus, if Exeter is not allowed  
19 to bring a Cross-Motion for Summary Judgment, the case will effectively be concluded in  
20 favor of the Plaintiff, even if the Plaintiff's Motion for Summary Judgment is not granted.

21           In a normal context, it could be claimed that judicial economy will be fostered  
22 by allowing a Motion for Summary Judgment which could be dispositive. However, in this  
23 instance there will be no trial, either way. Thus, judicial economy is not a factor, but the lack  
24 of trial makes this extension crucial.

25           Exeter's Response/Cross-Motion for Summary Judgment has already been  
26 drafted, and the undersigned is working on the Statement of Facts. An extension to Friday,

1 December 30, 2011, is requested. It is submitted that this delay will cause no prejudice to the  
2 Plaintiff since that date is prior to the due date for a Response to its Motion.

3 Throughout this case, both counsel have recognized that the Court's calendar is  
4 controlled by the Court, not by the parties' stipulations. However, the parties have not made  
5 unreasonable requests, and the Court has agreed. The undersigned regrets that this matter has  
6 to be brought to the Court in this manner, but the interests of justice leave no alternative.

7 Without an extension Exeter has lost, irrespective of the merits.

8 Dated: December 22, 2011.

9 RESPECTFULLY SUBMITTED,

10 /s/ John Friedeman

11 John Friedeman  
12 5103 E. Thomas Road  
13 Phoenix, AZ 85018  
14 Attorney for Exeter Trinity Properties, LLC

15 CERTIFICATE OF SERVICE

16 I HEREBY CERTIFY that on this December 22, 2011, I electronically filed the foregoing  
17 with the Clerk of Court and served the following attorney of record using the CM/ECF system:

18 Charles M. Duffy  
19 P.O. Box 683  
20 Ben Franklin Station  
21 Washington, D.C. 20044-0683

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

24 Eileen Lipari  
25 156 Johnson Hill Drive  
26 Waynesville, NC 28786  
Defendant, pro per

/s/ John Friedeman

\_\_\_\_\_  
John Friedeman

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiffs,</p> <p>vs.</p> <p>JOSEPH J. LIPARI, EILEEN H. LIPARI and EXETER TRINITY PROPERTIES, L.L.C.,</p> <p style="text-align: center;">Defendants.</p>	<p style="text-align: center;">No. 3:10-CV-08142 JWS</p>  <p style="text-align: center;">ORDER</p>
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The Defendant Exeter Trinity Properties, L.C.C., having filed a Motion to Extend the Time to Permit a Cross-Motion for Summary Judgment, and there being no opposition from Plaintiff and the Defendants Lipari not participating in this case, and good cause appearing:

IT IS ORDERED:

Granting the Motion of Exeter Trinity Properties, L.L.C., and extending the time within which it may file a Cross-Motion for Summary Judgment to December 30, 2011.