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Attorney for Exeter Trinity Properties

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<br/>and EXETER TRINITY PROPERTIES,<br/>11 L.L.C.,</p> <p>12 Defendants.</p> | <p>No. 3:10-CV-08142 JWS</p> <p>RENEWED<br/>MOTION TO SUBSTITUTE</p> <p>Honorable John W. Sedwick</p> |
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13 Defendant Exeter Trinity Properties, LLC, [Exeter] respectfully requests that  
14 Timeless Windsor Ventures [Timeless], a Nevada trust, be substituted and/or joined as a party  
15 Defendant. It is further requested that Exeter either be dismissed as a party defendant or that  
16 Timeless be substituted as a party defendant in its stead. These Motions are supported by the  
17 attached Memorandum.

18 Dated: July 19, 2012.

19 RESPECTFULLY SUBMITTED,

20 /s/

21 John Friedeman  
5103 E. Thomas Road  
22 Phoenix, AZ 85018  
Attorney for Defendant Exeter

23 **MEMORANDUM OF POINTS AND AUTHORITIES**

24 This Renewed Motion to Substitute is filed pursuant to the gracious Order from  
25 Chambers dated July 18, 2012, in which the Court advised Exeter of the deficiencies in its  
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(602) 840-0314

1 original Motion and offered to set a hearing in advance, to facilitate compliance with the  
2 notice requirement of Rule 25(a)(3).

3 Attached hereto is a copy of the Notice of Hearing which will be served on the  
4 Plaintiff and on Defendant Lipari.

5 Rule 23(a)(3) requires a notice of death when the substitution is requested due  
6 to the death of a party. Though the Rule does not specify a similar notice when substitution is  
7 requested due to transfer of interest, Exeter has given notice that it sold the subject real  
8 property by attaching copies of the Sales Agreement and the Deed to the original Motion, and  
9 that Motion has been served on the Plaintiff and Defendant Lipari.

10 Exeter has noted the Court's comments regarding the representation of a trust  
11 by counsel. Nevertheless, Exeter is unable to continue in this litigation, and the subject real  
12 property has already been sold, so the substitution is necessary.

13 Below is the substance of the original Motion to Join/Substitute:

14 Defendant Exeter Trinity Properties, LLC, [Exeter] has reached a point beyond  
15 which it is unable to financially continue in this litigation. Therefore, for the purpose of  
16 defending the rights of the beneficiary of the trusts that constitute the members of Exeter,  
17 Exeter has sold its interest in the subject real property to Timeless Windsor Ventures  
18 [Timeless].

19 Timeless has purchased Exeter's interest in the subject real property subject to  
20 this lawsuit and Notices of Federal Tax Lien currently clouding the title to said property. This  
21 purchase was not intended to delay or confuse these proceedings. Its sole purpose was to  
22 preserve the rights of the beneficiary by clearing the cloud on the title of the subject real  
23 property. Timeless intends to proceed to trial.

24 The only beneficiary of Timeless is the Guiding Eyes for the Blind, which is the  
25 same beneficiary named by the two trusts that are the only members of Exeter.

26

1 Timeless has paid reasonable compensation to Exeter to acquire Exeter's  
2 interest in the subject real property.

3 Exeter cannot pay the expense of trial and therefore has filed this Motion to  
4 substitute Timeless for Exeter. Timeless has agreed that it be substituted as a party defendant  
5 for Exeter pursuant to Rule 25(c).

6 The address and telephone of Timeless are:

7 P.O. Box 2023  
8 Cottonwood, AZ 86326  
9 928-634-7023

10 The Trustees of Timeless are:

11 Elmer P. Vild  
12 Terry I. Major  
13 Mike Macek

14 Regardless of the ruling on this Motion, Exeter has consented that the  
15 undersigned may withdraw as attorney of record. Timeless will not retain the undersigned.

16 Dated: July 19, 2012.

17 RESPECTFULLY SUBMITTED,

18 /s/

19 John Friedeman  
20 5103 E. Thomas Road  
21 Phoenix, AZ 85018  
22 Attorney for Exeter Trinity Properties, LLC  
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5 **DISTRICT OF ARIZONA**

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13 Notice is hereby given that on August 21, 2012, at 9:00 a.m. Alaska time (10:00 a.m.  
14 Arizona time) the Court will conduct a telephonic hearing on the Renewed Motion to Substitute filed  
15 by Exeter Trinity Properties, LLC. Any party may participate by in the hearing by calling 907-677-  
16 6247.

17 Dated: July 19, 2012.

18 RESPECTFULLY SUBMITTED,

19 /s/

20 John Friedeman  
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21 Phoenix, AZ 85018  
Attorney for Exeter

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this July 19, 2012, I electronically filed the foregoing with the Clerk of Court and served the following attorney of record using the CM/ECF system:

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

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 Lipari  
156 Johnson Hill Drive  
Waynesville, NC 28786  
Defendant, pro per

/s/

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

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