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6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF ARIZONA

9 IN RE:  
Non-Judicial Civil Forfeiture Proceeding  
10 involving Bureau of Alcohol, Tobacco,  
Firearms, and Explosives seizure of:

11 One hundred nineteen (119) Firearms  
12 ATF Case No.: 785045-06-0016

MC-07-75-PHX-JAT

**MOTION/STIPULATION  
TO EXTEND TIME TO FILE  
COMPLAINT FOR FORFEITURE  
AND/OR TO OBTAIN INDICTMENT  
ALLEGING FORFEITURE**

(Second Request)

15 The United States of America, and through its attorney, DANIEL G. KNAUSS, United  
16 States Attorney for the District of Arizona, and Lisa Roberts, Assistant United States Attorney,  
17 and John W. Will ("Claimant"), by and through his attorney, Wade F. Waldrip, Sampair &  
18 Waldrip, P.C. as authorized by 18 U.S.C. § 983(a)(3)(A), hereby stipulate, and request that the  
19 Court extend the 18 U.S.C. § 983 time limit in which the United States is required to file a  
20 complaint for forfeiture or obtain an indictment, from its current date of October 12, 2007,  
21 regarding property to which a claim has been filed by John W. Hill, in a nonjudicial civil  
22 forfeiture proceeding with the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF").  
23 That property consists of one hundred nineteen (119) firearms, seized from John H. Hill, in ATF  
24 Case # 785045-06-0016. The parties stipulate to the following:

25 1. All of the written notice of intent to forfeit required by 18 U.S.C. § 983(a)(1)(A) to be  
26 sent by the ATF to interested parties has been sent.

27 2. The time has expired for any person to file a claim to the property under 18 U.S.C.  
28

1 § 983(a)(2)(A)-(E).

2 3. No person other than John H. Hill has filed a claim to the property as required by law  
3 in the nonjudicial civil forfeiture proceeding.

4 MEMORANDUM

5 18 U.S.C. § 983(a)(3)(A)-(C) states:

6 (A) Not later than 90 days after a claim has been filed, the Government shall file a  
7 complaint for forfeiture in the manner set forth in the Supplemental Rules for Certain  
8 Admiralty and Maritime Claims or return the property pending the filing of a complaint,  
except that a court in the district in which the complaint will be filed may extend the period  
for filing a complaint for good cause shown or upon agreement of the parties.

9 (B) If the Government does not -

10 (I) file a complaint for forfeiture or return the property, in accordance with subparagraph  
11 (A); or

12 (ii) before the time for filing a complaint has expired -

13 (I) obtain a criminal indictment containing an allegation that the property is subject to  
forfeiture; and

14 (II) take the steps necessary to preserve its right to maintain custody of the property as  
15 provided in the applicable criminal forfeiture statute, the Government shall promptly release  
the property pursuant to regulations promulgated by the Attorney General, and may not take  
16 any further action to effect the civil forfeiture of such property in connection with the  
underlying offense.

17 (C) In lieu of, or in addition to, filing a civil forfeiture complaint, the Government may  
18 include a forfeiture allegation in a criminal indictment. If criminal forfeiture is the only  
forfeiture proceeding commenced by the Government, the Government's right to continued  
19 possession of the property shall be governed by the applicable criminal forfeiture statute.

20 On or about April 19, 2007, the ATF seized the above stated property.

21 ATF initiated administrative forfeiture proceedings, and sent notice of the seizure to  
22 potential Claimant John H. Hill. On May 29, 2007, Claimant, by and through his attorney,  
23 Wade F. Waldrip, filed a claim to the property with the ATF in a non-judicial civil forfeiture  
24 proceeding against the property. Under 19 U.S.C. § 608 and § 1610, upon the filing of such  
25 claim, the seizing agency transmitted the claim to the United States Attorney for the purpose  
26 of initiating a judicial forfeiture action against the property.

1 Under 18 U.S.C. § 983(a)(3)(A), the United States is required to file a complaint for  
2 forfeiture against the property and/or to obtain an indictment alleging that the property is  
3 subject to forfeiture within 90 days after a claim has been filed in the administrative  
4 forfeiture proceedings. That date would have been August 27, 2007, but the Court granted  
5 an extension in an Order entered on September 4, 2007 (Dkt. #3), upon agreement of the  
6 parties, extending the date to October 12, 2007.

7 As provided in 18 U.S.C. § 983(a)(3)(A), the parties wish, by agreement, to again  
8 extend the time in which the United States is required to file a complaint for forfeiture  
9 against the property and/or to obtain an indictment alleging that the property is subject to  
10 forfeiture, in order that the parties may have a reasonable and sufficient period in which to  
11 evaluate their respective interests in and positions regarding the property.

12 Claimant knowingly, intelligently, and voluntarily gives up any right he may have  
13 under 18 U.S.C. § 983(a)(3)(A)-(C) to require the United States to file a complaint for  
14 forfeiture against the property and/or to obtain an indictment alleging that the property is  
15 subject to forfeiture by October 12, 2007, and any right he may have to seek dismissal of any  
16 complaint and/or any forfeiture allegation in an indictment on the ground that it was not filed  
17 or returned on or before such date.

18 The parties agree that the deadline by which the United States shall be required to file  
19 a complaint for forfeiture against the property and/or to obtain an indictment alleging that the  
20 property is subject to forfeiture shall be extended from Friday, October 12, 2007 to Friday,  
21 November 16, 2007.

22 Claimant agrees that until the United States files a complaint for forfeiture against the  
23 property and/or obtains in indictment alleging that the property is subject to forfeiture, or  
24 until November 16, 2007, whichever occurs first, the property shall remain in the custody of  
25 the United States and Claimant shall not seek its return for any reason in any manner.

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Conclusion


The Parties therefore respectfully request that the Court extend the period in which the United States is required to file a complaint against the property subject to forfeiture and/or to obtain an indictment alleging the property is subject to forfeiture to November 16, 2007. Undersigned certifies that the content of the document is acceptable to counsel for Claimant, and that undersigned is authorized to sign for Claimant's counsel. A proposed Order is attached.

Respectfully submitted this 9<sup>th</sup> day of October 2007.

DANIEL G. KNAUSS  
United States Attorney  
District of Arizona

S/Lisa Roberts

LISA ROBERTS  
Assistant U.S. Attorney

  
WADE F. WALDRIP  
Attorney for Claimant

CERTIFICATE OF SERVICE

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✓ I hereby certify that on October 9, 2007, I e- mailed the attached document, to the following:

Wade F. Waldrip  
Sampair & Waldrip, P.C.  
8671 W. Union Hills Drive, #502  
Peoria AZ 85382

S/Lisa Roberts  
Lisa Roberts