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~~JUDGE'S COPY~~

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REC'D \_\_\_\_\_ FILED \_\_\_\_\_  
CAMERON S. BURKE  
CLERK IDAHO

Attorneys for Plaintiff/Counterdefendant Recuperos, LLC

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

RECUPEROS, LLC, an Idaho limited liability  
company,

Plaintiff,

vs.

AMERICAN FOOD STORES, LLC, a  
California limited liability company,

Defendant.

AMERICAN FOOD STORES, LLC, a  
California limited liability company,

Counterclaimant,

vs.

RECUPEROS, LLC, an Idaho limited liability  
company,

Counterdefendant.

Civil No. 04-229-S-BLW

**MOTION TO EXPEDITE AND  
SHORTEN TIME FOR HEARING ON  
PLAINTIFF'S MOTION FOR PARTIAL  
SUMMARY JUDGMENT RE:  
SPECIFIC PERFORMANCE**

**MOTION TO EXPEDITE AND SHORTEN TIME FOR HEARING  
ON PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT  
RE: SPECIFIC PERFORMANCE - 1**

COMES NOW the plaintiff/counterdefendant, Recuperos, LLC (the "plaintiff"), by and through its undersigned counsel of record, and hereby moves this Court for its order shortening the time to have its Motion for Partial Summary Judgment Re: Specific Performance heard. For the reasons set forth more fully below, the plaintiff submits that an expedited hearing on this matter is necessary and appropriate.

As more fully discussed in the Memorandum in Support of Plaintiff's Motion for Partial Summary Judgment Re: Specific Performance, the defendant continues to encumber four parcels of real property, formerly owned by the plaintiff, through the recordation of spurious lis pendens. The defendant is relying on the existence of its equally spurious specific performance claim, as set forth in its counterclaim filed on July 12, 2004, to support the lis pendens and to continue the defendant's attempts to extort a settlement from the plaintiff. At the initial telephonic hearing on the plaintiff's petition for injunctive relief to remove the lis pendens, this Court raised the possibility of an expedited hearing on a narrow motion for summary judgment, which addressed only the claim for specific performance, although the matter was not addressed in the Court's July 2, 2004 Memorandum Decision and Order. Such expedited hearing, however, is required in order to prevent further damage to the plaintiff from the defendant's lis pendens, which have now been found improper by two courts.

Accordingly, the plaintiff respectfully requests that the Court hear its motion at the earliest possible date.

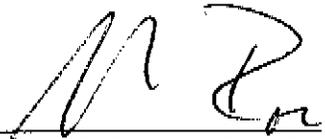
**MOTION TO EXPEDITE AND SHORTEN TIME FOR HEARING  
ON PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT  
RE: SPECIFIC PERFORMANCE - 2**

BOI\_MT2.554166.1

The Motion for Partial Summary Judgment Re: Specific Performance and a supporting affidavit are being filed contemporaneously herewith.

DATED this 11 day of August, 2004.

MOFFATT, THOMAS, BARRETT, ROCK &  
FIELDS, CHARTERED

By  \_\_\_\_\_  
Michael O. Roe – Of the Firm  
Attorneys for Plaintiff/Counterdefendant  
Recuperos, LLC

**CERTIFICATE OF SERVICE**

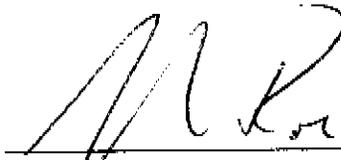
I HEREBY CERTIFY that on this 11 day of August, 2004, I caused a true and correct copy of the foregoing **MOTION TO EXPEDITE AND SHORTEN TIME FOR HEARING ON PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT RE: SPECIFIC PERFORMANCE** to be served by the method indicated below, and addressed to the following:

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\_\_\_\_\_  
Michael O. Roe