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5 P.O. Box 683
6 Washington, D.C. 20044
7 202-616-2885 (v)
8 202-307-0054 (f)
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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE DISTRICT OF NEVADA

13 UNITED STATES OF AMERICA,)

14 Plaintiff,)

15 v.)

16 JEFFREY A. MARTINEZ, individually,)
17 and as Trustee of the Martinez Family Trust;)
18 DOLORES M. MARTINEZ, individually and)
19 as Trustee for the Martinez Family Trust;)
20 THE MARTINEZ FAMILY TRUST;)
21 MARTINEZ & ASSOCIATES, INC.)
(NV20041370692); MARTINEZ &)
22 ASSOCIATES INC. (NV20181033912);)
23 SIERRA MORTGAGE CORPORATION;)
24 FIDELITY NATIONAL TITLE; CHASE)
25 MORTGAGE COMPANY; JP MORGAN)
CHASE BANK NATIONAL)
ASSOCIATION; RHODES RANCH)
ASSOCIATION; and REPUBLIC SILVER)
STATE INC., DBA, REPUBLIC)
SERVICES,)

Defendants.)

Case No.: 2:19-cv-1986-GMN-DJA

**UNITED STATES' MOTION TO
ALLOW DEFENDANTS
JEFFREY A. AND DOLORES
MARTINEZ (INDIVIDUALLY AND
AS TRUSTEES FOR THE
MARTINEZ FAMILY TRUST),
MARTINEZ & ASSOCIATES, INC.
(NV20041370692), AND MARTINEZ
& ASSOCIATES INC.
(NV20181033912) 30 DAYS TO
RESPOND TO THE COMPLAINT,
IF A SETTLEMENT IS NOT
REACHED**

(SIXTH REQUEST)

1 The United States of America has made five requests for limited stays to facilitate
2 settlement discussions with taxpayers Jeffrey and Dolores Martinez. The last stay will end on
3 September 26, 2020 (or the next business day, since September 26 is a Saturday). (See ECF No.
4 40 at 5). It had previously become clear that settlement would be unlikely unless the Martinezes
5 submit certain tax returns for themselves and their business that are not at issue in the suit, but
6 that were delinquent. The Martinezes have now submitted the missing returns, and the
7 government is reviewing them. (The IRS had extended the deadlines for filing 2019 returns in
8 light of the COVID-19 pandemic.) Neither the Martinezes nor their businesses have answered
9 the complaint, but, in light of the cooperation, the United States did not seek an entry of default
10 against any of them. The United States is hesitant to request further extensions of the schedule
11 but now that the returns are in hand, it may be easier to complete a settlement. The United States
12 therefore asks that the Court allow the Martinezes and their businesses 30 days to finalize a
13 settlement, or respond to the complaint.

14 MEMORANDUM OF POINTS AND AUTHORITIES

15 *Background*

16 This is a federal tax case. The United States seeks a judgment against taxpayers Jeffrey
17 and Dolores Martinez, and against two corporations associated with them, for various federal tax
18 liabilities. The United States also seeks to foreclose its tax liens against certain real property to
19 help satisfy the judgment. The property is putatively held in a trust.

20 The United States also named as defendants other parties that might assert a lien or other
21 claim against the property, pursuant to 26 U.S.C. § 7403(b) (“Action to enforce lien or to subject
22 property to payment of tax”). That way, those parties’ claims to the property (if any) could be
23 adjudicated if and when the Court determines that the property should be foreclosed. It is
24 common in such cases for the United States to reach stipulations with other claimants as to lien
25 priority, to the extent they do not disclaim any interest.

1 If the matter settles without a foreclosure, the other lienholders would not need to be paid
2 out. In any event, to date only one of the potential lienholders, the Rhodes Ranch Association,
3 has answered the complaint. (ECF No. 4).¹ Another, Fidelity National Title, has disclaimed any
4 interest. (See ECF No. 7). Defendants JP Morgan Chase Bank National Association and Chase
5 Bank National Association (together, the “Chase defendants”), and the United States have
6 reached a stipulation concerning lien priority as between them. (See ECF No. 20 (Order
7 approving stipulation)). (The Chase defendants currently control the mortgage loan that was
8 initially issued by defendant Sierra Mortgage Corporation). Defendant Republic Silver State Inc.
9 has been served but has not yet appeared, and has not contacted the United States. Finally, the
10 United States filed a notice of dismissal concerning defendants Nevada Mortgage Assistance
11 Company and the Cooper Castle Law firm, and the Clerk has terminated them from the case.

12 The litigation would therefore focus on the Martinezes and their business. Neither of the
13 Martinezes, or the corporations, have appeared. The United States served the Martinezes,
14 individually and as representatives of their business, on December 27, 2019. Their time to
15 respond to the complaint thus expired on January 17, 2020, under Fed. R. Civ. P. 12(a)(1)(A)(i).

16 Ordinarily the United States would be moving for an entry of default and a default
17 judgment. However, the Martinezes have reached out to the undersigned counsel, and the parties
18 are discussing a possible settlement. The Martinezes made a formal offer and provided certain
19 financial information that the United States had requested. However, it has become clear that the
20 United States cannot properly evaluate the offer, including the Martinezes’ ability to pay, unless
21 and until the Martinezes submit certain tax returns that are currently outstanding.

22 It is important that the Martinezes come into compliance with their tax reporting
23 obligations, including for the most recent tax year. The Martinezes have now submitted the
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25 ¹ Counsel for the United States conferred with counsel for Rhodes Ranch Association by e-mail,
on September 23, 2020, and the association does not oppose a continued stay.

1 missing returns. Their submission of the missing returns is an important consideration in
2 evaluating their settlement offer.

3 The United States is prepared to proceed with active litigation, including seeking entries
4 of default, if the Court were to deny this request. However, the United States submits that
5 allowing an additional 30 days for the Martinezes to reach a settlement or answer the complaint
6 would likely facilitate the potential resolution, and may conserve both the parties' and the
7 Court's resources. Under the circumstances, and given the Martinezes' willingness to participate
8 in the discussions and submit missing returns, the United States continues to believe that the
9 parties' efforts are best focused on the preparation and review of outstanding returns, and in
10 reaching a resolution.

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1 ***Request for Relief***

2 WHEREFORE, United States respectfully asks that the Court allow 30 days for the
3 parties to reach a resolution, or for the Martinezes and their businesses to respond to the
4 complaint. The United States reserves the right to seek an entry of default or default judgment
5 after 30 days if the negotiations do not resolve the matter.

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7 Dated this 25th day of September, 2020.

8 RICHARD E. ZUCKERMAN
9 Principal Deputy Assistant Attorney General

10 */s/ E. Carmen Ramirez*

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20 IT IS SO ORDERED:

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22 Daniel J. Albregts
23 United States Magistrate Judge

24 Dated: September 29, 2020
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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing is made this September 25, 2020, via the Court's ECF system to all current parties who have appeared electronically. In an abundance of caution, the United States is sending this motion to the persons listed below, via U.S. Mail. Due to in-office staffing limitations related to the Covid-19 pandemic, the mailing may take two business days to send.

Jeffrey Martinez
262 Cliff Valley Dr.
Las Vegas, NV 89148

Dolores Martinez
262 Cliff Valley Dr.
Las Vegas, NV 89148

/s/ E. Carmen Ramirez
E. CARMEN RAMIREZ
Trial Attorney, Tax Division
U.S. Department of Justice