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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Case No. C-08-2595 JCS

Plaintiff(s),

ORDER FOR FURTHER BRIEFING

v.

RICHARD D. LEE, ET AL.,

Defendant(s).

Pending before the Court is a motion for summary judgment filed by Plaintiff United States of America. Oral argument is scheduled for July 23, 2010 at 9:30 a.m.

In this action to foreclose on property to satisfy outstanding tax obligations, Plaintiff argues that Defendant taxpayer is not entitled to any offset on the stipulated amount of unpaid tax assessments. Defendant argues that the United States owes him approximately \$750,000 and that any sale of his property should be offset by the amount owed to him by the United States. Plaintiff argues that this “issue is not before this court as the taxpayer has not filed an action against the United States concerning this contractual dispute.” United States’ Motion for Summary Judgment at 9. The United States cites to no authority in support of this proposition, nor does it address whether a taxpayer may bring an offset claim as an affirmative defense in a foreclosure action. Rather, the United States argues that the court lacks jurisdiction to hear contract claims against the government in amounts exceeding \$10,000.

The United States is hereby ORDERED to file a supplemental reply brief on or before June 28, 2010, which shall address two issues and be supported by relevant legal authority:

(1) Defendant’s affirmative defense that he is owed sums by the United States and that these sums should be an offset or reduction in the tax assessment and lien in this case; and

1 (2) Defendant taxpayer's argument that his request for an offset is an equitable remedy,
2 providing jurisdiction in this Court.

3 Defendant may file a response on or before July 2, 2010.

4 IT IS SO ORDERED.

5 Dated: June 22, 2010



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7 JOSEPH C. SPERO
United States Magistrate Judge

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