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*Attorneys for Republic Silver State Disposal, Inc.
d/b/a Republic Services, Inc.*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
CONSTANTIN OCHESCU,)
)
LILIANA COSMA,)
)
DITECH FINANCIAL LLC, and)
)
REPUBLIC SERVICES, INC.,)
)
Defendants.)

Case No.: 2:15-cv-02424-APG-GWF

**JOINT MOTION TO ALLOW EARLY
SUMMARY JUDGMENT MOTIONS
AFTER DECEMBER 2, 2016
(First Request)**

1
2 Plaintiff the United States of America and defendants Ditech Financial LLC (“Ditech”) and
3 Republic Services, Inc. (“Republic Services”), hereby move the Court for an order modifying the date
4 for early partial summary judgment motions in the Discovery Plan and Scheduling Order. (ECF No.
5 30). Defendants Constantin Ochescu and Liliana Cosma have not appeared in the suit, and have not
6 participated in this Motion, or in formulating the Discovery Plan and. In support of their request, the
7 parties state as follows:
8

9 **BACKGROUND**

- 10 1) This is a civil action concerning federal income taxes. The Complaint (ECF No. 1) seeks a
11 judgment against defendant Mr. Ochescu for unpaid federal income taxes, and seeks to
12 satisfy a portion of the judgment by foreclosing on tax liens on real property that Mr.
13 Ochescu transferred to his wife, defendant Ms. Cosma. Defendants Republic Services, Inc.
14 (“Republic”) and Ditech Financial LLC (“Ditech”) were named because they may also have
15 liens on the property. Mr. Ochescu and Ms. Cosma have not appeared in this matter, and the
16 Clerk of Court has noted their default.
17
18 2) The United States, Republic, and Ditech have engaged in good faith negotiations to attempt
19 to resolve any competing claims to the property.
20
21 3) The United States and Ditech are working to finalize an agreement between the two of them,
22 but the parties agree an agreement between all three parties may be most beneficial for
23 resolving the disputes.
24
25 4) All three parties also agree that the dispute between Republic and the United States turns
26 primarily on a question of law: whether a Nevada state statute applies and would give

1 priority to certain liens Republic Services claims on the property over the federal tax liens
2 and/or over Ditech's claims.

3
4 5) Counsel for the United States believed that the question would be most efficiently addressed
5 by an early motion for partial summary judgment, for which little or no fact discovery would
6 be required. Therefore, the parties proposed, and the Court approved, the following
7 deadlines, as relevant here:

- 8 • **Initial Disclosures:** The parties shall exchange Federal Rule of Civil Procedure 26(a)
9 Initial Disclosures by September 1, 2016.
- 10 • **Deadline for Initial Motions for Summary Judgment, if any:** The parties will
11 conduct limited discovery on the issue of lien priority and submit early motions for
12 summary judgment, if any, by December 2, 2016.
- 13 • **Discovery Cut-Off Date:** If appropriate, other fact discovery in this action will be
14 completed one hundred eighty (180) days from the date of the Court's ruling(s) on
15 any early motions for partial summary judgment. If the parties do not submit any
16 such motions, the fact discovery cut-off date will be May 31, 2017, which is one
17 hundred eighty (180) days from December 2, 2016.

18 19 20 **REQUEST FOR RELIEF**

21 6) The parties have exchanged initial disclosures, and have completed their informal discovery
22 concerning lien priority. They have discussed a possible stipulation that would resolve the
23 claims between them, as well as separate stipulations between two of them if a three-part
24 agreement is not reachable. However, the parties have not been able to resolve questions
25 related to the lien priority issues. A related issue concerns whether Republic's liens would
26

1 persist on the property, if the property is ultimately sold but the proceeds do not satisfy all
2 liens.

3 7) The parties respectfully request that they be permitted to continue their negotiations on these
4 issues, but retain the right to submit early summary judgment motions by **January 16, 2017**
5 (45 days after December 2, 2016), if those negotiations fail.

6 8) The parties are not asking to modify the other deadlines in the case, and good cause exists for
7 the request. It is not made for delay, but to facilitate a possible resolution of the issues. If
8 the issues can be resolved, even in part, it will save the parties and the Court from having to
9 address some or all of the dispute on summary judgment briefing.
10

11
12 WHEREFORE, the parties respectfully request that the deadline for early summary judgment
13 motions be extended through **January 16, 2017**.
14

15
16 Dated: December 1, 2016

16 Respectfully submitted,

17
18 CAROLINE D. CIRAULO
19 Principal Deputy Assistant Attorney General

20 /s/ E. Carmen Ramirez

21 E. CARMEN RAMIREZ

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Republic Services, Inc.*

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IT IS SO ORDERED:


George Foley, Jr.
United States Magistrate Judge

DATED: December 2, 2016

1 CERTIFICATE OF SERVICE

2 IT IS HEREBY CERTIFIED that service of the foregoing is made this 1st day of December,
3 2016 on the following parties, by the following means:
4

5 By U.S. Mail:

6 Constantin Ochescu
7 8064 Cetus Circle
8 Las Vegas, NV 89128

9 Liliana Cosma
10 8064 Cetus Circle
11 Las Vegas, NV 89128

12
13 By ECF:

14 Republic Silver State Disposal, Inc. d/b/a Republic Services, Inc.
15 c/o Donald H. Williams
16 Williams & Associates
17 612 South Tenth St.
18 Las Vegas, NV 89101

19 Ditech Financial LLC
20 c/o Rebecca Kern
21 Aldrige Pite LLP
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