

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

RICHARD D. WARREN AND  
ELIZABETH K. WARREN,

*Petitioners-Appellees,*

v.

COMMISSIONER OF INTERNAL REVENUE,

*Respondent-Appellant*

No. 00-71217

APPELLEES' MOTION TO SUSPEND FURTHER BRIEFING

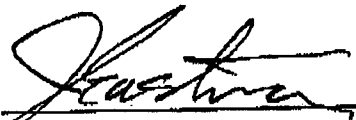
Petitioners-Appellees Richard D. and Elizabeth K. Warren, by and through their undersigned counsel, hereby move that the supplemental briefing schedule in the above-captioned appeal be suspended pending the entry of an order of dismissal pursuant to the parties' stipulation. In support thereof, counsel states as follows:

1. Pursuant to the Court's order dated April 4, 2002 (modifying the Court's order dated March 4, 2002), optional supplemental reply briefs are currently due Friday, May 24, 2002.
2. On Monday, May 20, 2002, the Clergy Housing Allowance Clarification Act of 2002 ("the Act") was signed into law by President George W. Bush.
3. The Act clarifies that for tax years prior to 2001, including the tax years at issue in this appeal, the housing allowance exemption from income afforded by Internal Revenue Code section 107(2) was not limited by the imputed rental value of housing, as had been urged by the Commissioner of Internal Revenue below and in this Court, but extended to the actual sums paid for authorized housing expenses, as claimed by Appellees and as held by the Tax Court below.
4. As a result, the interpretation of I.R.C. § 107(2)—the only issue contested by the parties to this appeal—is no longer in dispute, and the parties have accordingly executed a stipulation for dismissal of the appeal, which is being filed simultaneously with this motion.
5. Counsel for the Appellees believe that the resources of the Court, the parties, the court-appointed amicus curiae, and other amici curiae

would be conserved if the due date for optional supplemental reply briefs were suspended in order to allow the Court sufficient time to enter an order of dismissal pursuant to the parties' stipulation.

6. Counsel for Appellant does not oppose this motion.

WHEREFORE, Appellees request that the time for filing optional supplemental reply briefs be suspended pending entry of an order dismissing the appeal pursuant to the parties' stipulation.

  
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Dated: May 21, 2002.

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

RICHARD D. WARREN AND  
ELIZABETH K. WARREN,

*Petitioners-Appellees,*

vi.

COMMISSIONER OF INTERNAL REVENUE,

*Respondent-Appellant*

No. 00-71217

DECLARATION OF JOHN C. EASTMAN

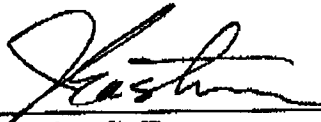
I, John C. Eastman, state as follows:

1. I am the Director of The Claremont Institute Center for Constitutional Jurisprudence, a public interest law firm affiliated with The Claremont Institute for the Study of Statesmanship and Political Philosophy, and in that capacity represent Appellees Richard D. and Elizabeth K. Warren in this appeal.

2. The facts set forth in the accompanying Motion to Suspend Further Briefing are true to the best of my knowledge and belief.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed this 21st day of May, 2002, in Orange, California

  
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John C. Eastman