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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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FREEDOM FROM RELIGION  
FOUNDATION, INC.; PAUL STOREY;  
BILLY FERGUSON; KAREN  
BUCHANAN; JOSEPH MORROW;  
ANTHONY G. ARLEN; ELISABETH  
STEADMAN; CHARLES AND COLLETTE  
CRANNELL; MIKE OSBORNE; KRISTI  
CRAVEN; WILLIAM M. SHOCKLEY;  
PAUL ELLCESSOR; JOSEPH  
RITTELL; WENDY CORBY; PAT  
KELLEY; CAREY GOLDSTIEN;  
DEBORA SMITH; KATHY FIELDS;  
RICHARD MOORE; SUSAN ROBINSON;  
AND KEN NAHAGIAN,

NO. CIV. 2:09-2894 WBS DAD

ORDER RE: JOINT MOTION TO STAY

Plaintiffs,

v.

TIMOTHY GEITHNER, in his  
official capacity as Secretary  
of the United States  
Department of the Treasury;  
DOUGLAS SHULMAN, in his  
official capacity as  
Commissioner of the Internal  
Revenue Service; and SELVI  
STANISLAUS, in her official  
capacity as Executive Officer  
of the California Franchise  
Tax Board,

Defendants.

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1 Presently before the court is the parties' joint motion  
2 to stay the instant action pending the Supreme Court's decision  
3 in the appeal of Arizona Christian School Tuition Organization v.  
4 Winn, --- U.S. ----, 130 S. Ct. 3350 (2010). The court, having  
5 reviewed the joint motion, finds no need for oral argument on the  
6 matter. Courts have the power to stay proceedings "incidental to  
7 the power inherent in every court to control the disposition of  
8 the causes on its docket with economy of time and effort for  
9 itself, for counsel, and for litigants." Landis v. N. Am. Co.,  
10 299 U.S. 248, 254 (1936). This power extends to stays pending  
11 other judicial proceedings, and does not require the issues in  
12 such proceedings to be necessarily controlling of the action  
13 before the court. Leyva v. Certified Grocers of Cal., Ltd., 593  
14 F.2d 857, 863-64 (9th Cir. 1979).

15 In determining whether a stay is appropriate pending  
16 the resolution of another case, a district court must consider  
17 various competing interests, including: (1) the possible damage  
18 which may result from the granting of a stay; (2) the hardship to  
19 the parties if the suit is allowed to go forward; and (3) the  
20 "orderly course of justice measured in terms of the simplifying  
21 or complicating of issues, proof, and questions of law which  
22 could be expected to result from a stay." CMAX, Inc. v. Hall,  
23 300 F.2d 265, 268 (9th Cir. 1962). "A stay should not be granted  
24 unless it appears likely the other proceedings will be concluded  
25 within a reasonable time in relation to the urgency of the  
26 claims." Leyva, 593 F.2d at 864.

27 A stay in this case would benefit the "orderly course  
28 of justice." CMAX, 300 F.2d at 268. The instant case involves

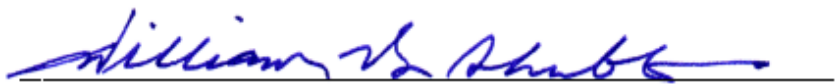
1 an Establishment Clause challenge to certain tax exemptions, and  
2 taxpayer standing is at issue. A ruling in Arizona Christian  
3 School would therefore assist this court in that it could change  
4 or clarify the law regarding taxpayer standing, which could alter  
5 or limit the need for further argument on the matter in this  
6 case.

7           Considering that all parties have joined in this motion  
8 because they believe that a stay may allow them to limit the  
9 relevant issues in discovery after Arizona Christian School is  
10 decided and could avoid the expenditure of unnecessary discovery  
11 costs, the court finds that no hardship is likely to result from  
12 a stay, and that the parties would be burdened by potentially  
13 unnecessary discovery costs if a stay were not granted.

14           The Supreme Court heard oral argument in Arizona  
15 Christian Schools on November 3, 2010, and will decide the matter  
16 no later than at the end of the 2010 term. The stay of the  
17 action will thus conclude within a reasonable period of time.

18           IT IS THEREFORE ORDERED that the parties' joint motion  
19 to stay the action pending the Supreme Court's decision in  
20 Arizona Christian School Tuition Organization v. Winn, --- U.S. -  
21 ---, 130 S. Ct. 3350 (2010), be, and the same hereby is, GRANTED.  
22 No later than ten days following the issuance of the Supreme  
23 Court's decision, the parties shall file a joint status report  
24 with the court.

25 DATED: February 11, 2011

26 

27 WILLIAM B. SHUBB  
28 UNITED STATES DISTRICT JUDGE