

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARSHALL NAIFY REVOCABLE
TRUST et al.,

Plaintiff,

v.

UNITED STATES OF AMERICA,
Defendant.

No. C 09-1604 CRB

**ORDER TO PROVIDE
SUPPLEMENTAL BRIEFING**

The Court orders that the parties submit further briefing on the following question:
Assuming the Court agrees with the Government that post-death events are relevant to the tax determination at issue in this case, but disagrees that judicial estoppel applies, is this case subject to resolution on a motion for judgment on the pleadings? Or must the case go forward toward a fact determination as to the value of the claim on the date of death?

The Government shall submit a brief no later than February 19, 2010. Plaintiff shall respond no later than February 26. A reply, if the Government wishes to file one, shall be filed by March 5. Opening briefs should be no more than 10 pages, and the reply no more

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1 than 5 pages.

2 **IT IS SO ORDERED.**

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5 Dated: February 4, 2010

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CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE