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

MARSHALL NAIFY REVOCABLE  
TRUST,

Plaintiff,

v.

UNITED STATES OF AMERICA,  
Defendant.

No. C 09-01604 CRB

**ORDER FOR SUPPLEMENTAL  
BRIEFING**

The parties are ordered to file briefs not to exceed seven pages in response to the following proposition:

Despite the fact that the Estate might have foreseen an audit as to Naify's 1999 California tax return, because no audit or investigation had been initiated at the time of death, and because Naify had made an estimated tax payment not reflecting the Mimosa transaction, there was therefore no claim on the estate at the time of death. See Treas. Reg. § 20.2053-4 (providing for a deduction for "obligations . . . existing at the time of death"). The question therefore is not whether the claim was "ascertainable with reasonable certainty," id. § 20-2053-1(b)(3), but rather whether there was a claim at all at the time of death.

1 Both parties are to file briefs by August 16, 2010.

2 **IT IS SO ORDERED.**

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5 Dated: August 5, 2010

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CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE