

NOTE: This order is nonprecedential.

## United States Court of Appeals for the Federal Circuit

2008-5163

ANTHONY L. FAZIO, FAVE E. FAZIO, CURTIS L. IVEY,  
DORIS W. IVEY, MICHAEL P. JOHNSON, MARY B. JOHNSON,  
WALTER P. LEDET, JR., and PHILLIP E. NICHOLS,

Plaintiffs-Appellants,

v.

UNITED STATES,

Defendant-Appellee.

Appeal from the United States Court of Federal Claims in 07-CV-163, Judge Lawrence  
J. Block.

ON MOTION

ORDER

Anthony L Fazio, et al. move without opposition to stay the briefing schedule in this appeal pending disposition of Keener v. United States, 2008-5004.

The appellants state that this appeal and Keener both involve the issue whether the Court of Federal Claims has jurisdiction over certain claims under the Tax Equity and Fiscal Responsibility Act of 1982. The appellants state that the court's decision in Keener may resolve the jurisdictional issues in this case.

Accordingly,

IT IS ORDERED THAT:

The motion is granted. The appellants are directed to notify this court within 21 days of the date the mandate issues in Keener concerning how they believe this appeal should proceed. The United States may also respond within that time.

FOR THE COURT

MAR 20 2009

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

**FILED**  
U.S. COURT OF APPEALS FOR  
THE FEDERAL CIRCUIT

cc: Sallie W. Gladney, Esq.  
Deborah K. Snyder, Esq.

MAR 20 2009

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JAN HORBALY  
CLERK