

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

June 4, 2012

Elisabeth A. Shumaker  
Clerk of Court

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SALMAN RANCH, LTD.; FRANCES  
KOENIG, Tax Matters Partner,

Petitioners - Appellees,

v.

COMMISSIONER OF INTERNAL  
REVENUE,

Respondent - Appellant.

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BAUSCH & LOMB INCORPORATED,

Amicus Curiae.

No. 09-9015  
(U.S. Tax Court Docket No. 13677-08)

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**ORDER**

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Before **LUCERO** and **SEYMOUR**, Circuit Judges.\*

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This matter is before the court on the appellant's *Unopposed Motion To Dismiss Appeal*, which was filed in this court on May 30, 2012. The motion follows the United

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\*The Honorable Deanell Reece Tacha sat on this panel originally and participated in the court's decision. On May 31, 2011, however, she retired and resigned her commission. The two remaining members of the panel, who are in agreement, considered appellant's *Unopposed Motion To Dismiss Appeal*. See 28 U.S.C. § 46(d).

States Supreme Court's grant of certiorari in this matter, its directive to vacate our judgment, and its remand to this court. The appeal was reopened on June 1, 2012 following issuance of the Supreme Court's judgment. Upon consideration of the motion to dismiss, the request is granted. *See* Fed. R. App. P. 42(b). Each party shall bear its own costs. A copy of this order shall stand as the mandate of this court.

Entered for the Court

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker", followed by a horizontal flourish.

ELISABETH A. SHUMAKER  
Clerk of Court