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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 EASTERN DIVISION

13 JOHN GARY GIVEN, MICHELE LOUISE No. ED CV 04-00075 RT (MCx)
14 GIVEN,)
15 Plaintiff,) STATUS REPORT PURSUANT TO ORDER
16 v.) DATED APRIL 4, 2005
17 UNITED STATES OF AMERICA,)
18 Defendant.)

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21 Pursuant to the Court's order dated April 4, 2005, Assistant
22 United States Attorney Donna Ford, counsel for defendant United
23 States of America, hereby submits this unilateral status report on
24 the basis that plaintiffs John Gary Given, and Michele Louise
25 Given, plaintiffs, pro per refused to sign the joint status report
26 prepared by the United States Attorneys Office.

27 **1. Summary of the Case**

28 This is a civil action brought by plaintiffs to recover

1 [REDACTED] plus statutory interest paid as income tax for the
2 years 1997, 1998 and 1999. Plaintiffs contend that "common law-
3 labor for hire-wages, as annual receipts; are not net-income
4 subject to Title 26, Subtitle A, subsection 61(a)(1) reporting
5 requirements, nor does the performance of common labor for hire
6 constitute 'personal services' rendered in payment for
7 'compensation for services' as required by the cited Statute."

8 Defendant United States of America contends that wages
9 received for personal services are income, no matter what the form
10 of payment, and must be included in gross income. This includes
11 salary or wages paid in cash, as well as the value of property
12 and other economic benefits received because of services
13 performed, or to be performed in the future.

14 During the taxable years 1997, 1998, and 1999 the plaintiffs
15 had the following amounts withheld as income tax paid on their
16 wage income, \$ [REDACTED], \$ [REDACTED] and \$ [REDACTED]. Plaintiffs now
17 request that such monies be refunded to them on the basis of their
18 claim, typed on line 21 of the Form 1040X, Amended U.S. Individual
19 Tax Return, that "wages not subject to income tax per attachment
20 A."

21 **2. Status of the case**

22 The United States of America intends to file a motion for
23 summary judgment.
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1 3. Suggestion of procedures that would result in resolution
2 of the case

3 None. This is a case which can be resolved by motion.

4 DATE: April 27, 2005

Respectfully submitted,

5 DEBRA W. YANG
6 United States Attorney
7 SANDRA R. BROWN
8 Assistant United States Attorney
9 Chief, Tax Division



10 DONNA FORD
11 Assistant United States Attorney

12 Attorneys for Defendant
13 United States of America

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