

April 4, 1966.

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ESTATE OF LEYMAN *v.* COMMISSIONER OF  
INTERNAL REVENUE.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT.

No. 385. Decided April 4, 1966.

Certiorari granted; 344 F. 2d 763, vacated and remanded.

*Daniel M. Gribbon, William H. Allen and Matthew J. Zinn* for petitioner.

*Solicitor General Marshall* for respondent.

PER CURIAM.

Upon the consent of the Solicitor General and consideration of the entire record, the petition for a writ of certiorari is granted, the judgment of the United States Court of Appeals for the Sixth Circuit is vacated and the cause is remanded to that court with instructions to remand it to the United States Tax Court for computation and imposition of civil fraud penalty in accordance with the provisions of Public Law 89-359, 80 Stat. 28.

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BALTIMORE & OHIO RAILROAD CO. ET AL. *v.*  
ATCHISON, TOPEKA & SANTA FE  
RAILWAY CO. ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF CALIFORNIA.

No. 143. Decided April 4, 1966.

238 F. Supp. 528, vacated and remanded with instructions to dismiss the case as moot.

*Hugh B. Cox and William H. Allen* for appellants.

*Douglas F. Smith, Howard J. Trienens, George L. Saunders, Jr., John E. McCullough, S. R. Brittingham,*

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*Jr., Monroe E. Clinton, Frank S. Farrell, Lawrence W. Hobbs, L. E. Torinus, Jr., and E. L. Van Dellen* for appellees *Atchison, Topeka & Santa Fe Railway Co. et al.*, and *E. P. Porter, Alan C. Furth, Charles W. Burkett, Robert L. Pierce* and *Thormund A. Miller* for appellees *Southern Pacific Co. et al.*, on memoranda suggesting that the cause is moot. *Robert Y. Thornton*, Attorney General of Oregon, *Lloyd G. Hammel* and *Richard W. Sabin*, Assistant Attorneys General, *John J. O'Connell*, Attorney General of Washington, and *Frank P. Hayes*, Assistant Attorney General, for intervening plaintiffs-appellees, *Regulatory Commissions of the State of Arizona et al.*, and *Mary Moran Pajalich* and *J. Thomson Phelps* for intervening plaintiffs-appellees, the State of California et al., on motions to affirm. *Solicitor General Marshall* and *Robert W. Ginnane* on the memorandum for the United States and the Interstate Commerce Commission in response to the suggestions of mootness and in opposition to the motions to affirm.

## PER CURIAM.

We treat the order of the District Court as divisible from the appeals in No. 159, *Chicago & North Western R. Co. v. Atchison, Topeka & Santa Fe R. Co.*, and No. 576, *United States v. Atchison, Topeka & Santa Fe R. Co.* Upon consideration of the memoranda of certain appellees and an examination of the entire record, the judgment is vacated as respects the parties to this appeal and to that extent the cause is remanded to the District Court with instructions to dismiss the case as moot.