

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

Dec 6 9 44 AM '96

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No. 95-2600

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FEDERAL ELECTION COMMISSION,

Plaintiff-Appellant,

vs.

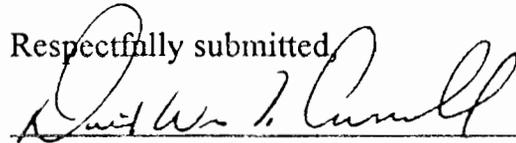
CHRISTIAN ACTION NETWORK and  
MARTIN MAWYER

Defendants-Appellees.

**MOTION FOR DETERMINATION OF  
PROPER COURT FOR EAJA APPLICATION**

Defendants-Appellees Christian Action Network and Martin Mawyer move the Court for an Order determining whether the Equal Access to Justice Act (EAJA) attorneys' fees application, filed simultaneously in this Court and in the United States District Court for the Western District of Virginia, should be determined by the Court of Appeals or by the District Court. Counsel's research discovered confusion among the circuit courts as to whether the EAJA Application should be filed in the District Court (as in *Garcia v. Schweiker*, 829 F2d 396 (3rd Cir. 1987)) or in the Circuit Court of Appeals (as in *McCarthy v. Bowen*, 824 F2d 182 (2nd Cir. 1987)).

Respectfully submitted,



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APPELLEES**

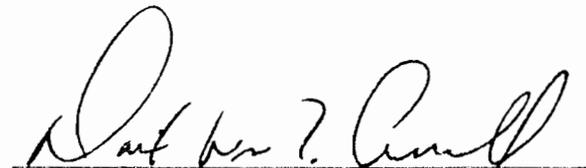
**CERTIFICATE OF SERVICE**

On November 27, 1996, a copy of the foregoing Motion was served upon ordinary

U.S. Mail, postage prepaid, upon the following:

Lawrence M. Noble  
Richard B. Bader  
David Kolker  
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