

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

MARTIN H. JOHNSON,
Plaintiff-Appellant,

v.

UNITED STATES,
Defendant-Appellee.

2011-5094

Appeal from the United States Court of Federal
Claims in case no. 09-CV-620, Judge Thomas C. Wheeler.

ON MOTION

O R D E R

Martin H. Johnson has filed a "motion in limine . . . to preclude certain opinion testimony pursuant to Federal Rules of Evidence 702." The United States opposes and moves to strike portions of Johnson's reply brief in which he makes similar arguments.

To the extent Johnson is seeking to strike portions of the United States' brief or appendix that discusses or includes evidence that Johnson challenges, Johnson should have made any such challenges within the context

of the briefs. Fed. Cir. R. 27(e). To the extent that the United States' motion to strike challenges Johnson's assertions in his reply brief, the court defers that issue to the merits panel.

Accordingly,

IT IS ORDERED THAT:

(1) Johnson's motion is denied. Fed. Cir. R. 27(e).

(2) The United States' motion to strike is deferred for consideration by the merits panel. Copies of this order and the motion shall be transmitted to the merits panel.

FOR THE COURT

FEB 16 2012

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Michael D.J. Eisenberg, Esq.
Eric P. Bruskin, Esq.

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

FEB 16 2012

JAN HORBALY
CLERK