

NOTE: This order is nonprecedential.

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

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**ROBERT A. DUBSKY,**  
*Plaintiff-Appellant,*

v.

**UNITED STATES,**  
*Defendant-Appellee.*

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2011-5123

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Appeal from the United States Court of Federal  
Claims in case no. 05-CV-397, Judge Thomas C. Wheeler.

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**ON MOTION**

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**O R D E R**

Robert A. Dubsky moves for leave to file his opening  
brief out of time.\*

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\* The court notes that the brief contains footnotes  
that are not in the required 14 point type. The court  
waives the requirement in this instance but directs coun-  
sel's attention to the rules. Fed. R. App. P. 32(a)(5)(A).

Upon consideration thereof,

IT IS ORDERED THAT:

The motion is granted. The mandate is recalled, the dismissal order is vacated, and the appeal is reinstated. The United States should calculate its brief due date from the date of filing of this order.

FOR THE COURT

MAR 12 2012

Date

/s/ Jan Horbaly

Jan Horbaly  
Clerk

cc: Edward A. Zimmerman, Esq.  
Douglas K. Mickle, Esq.

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

MAR 12 2012

JAN HORBALY  
CLERK