

NOTE: Pursuant to Fed. Cir. R. 47.6, this disposition is not citable as precedent. It is a public record.

United States Court of Appeals for the Federal Circuit

05-5121

ROBERT CURTIS,

Plaintiff-Appellant,

v.

UNITED STATES,

Defendant-Appellee.

DECIDED: November 14, 2005

Before NEWMAN, MAYER, and BRYSON, Circuit Judges.

PER CURIAM.

Robert Curtis appeals the order of the United States Court of Federal Claims, Curtis v. United States, No. 03-CV-1247 (Fed. Cl. Apr. 14, 2005), dismissing his complaint under Rule 41 of the Rules of the Court of Federal Claims (RCFC) for “failure . . . to prosecute or to comply with these rules or any order of court,” RCFC 41(b). The real party in interest in this case is Curtis, Ltd., which existed at the time the contracts at issue were entered into, and not Curtis in his individual capacity. Therefore, representation by counsel in the Court of Federal Claims was required. See RCFC

83.1(c)(8). Curtis could not substitute himself as a successor-in-interest as to claims of Curtis, Ltd. against the United States because the Assignment of Claims Act invalidates such transfers. 31 U.S.C. § 3727. Furthermore, Curtis' claim is derivative in nature and therefore must be brought in the name of the corporation. The trial court's order that Curtis either be represented by counsel as a shareholder of Curtis, Ltd., or substitute Curtis, Ltd. as plaintiff to be represented by its own counsel, was proper. His failure to comply with the order violated RCFC 41(b). Accordingly, we affirm.