

NOTE: This order is nonprecedential.

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

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**TAYLOR RUSSELL, ON BEHALF OF HIMSELF AND  
ALL OTHER SIMILARLY SITUATED,**  
*Plaintiff-Appellant,*

v.

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

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2010-1498

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Appeal from the United States District Court for the  
Northern District of California in case no. 09-CV-3239,  
Judge William H. Alsup.

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**ON MOTION**

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Before GAJARSA, *Circuit Judge.*

**O R D E R**

Taylor Russell moves to consolidate the above-captioned case with his later-filed appeal, No. 2011-1230, or in the alternative to enlarge the record. The United States opposes and moves to strike portions of the joint appendix. Russell replies and opposes the United States'

motion to strike. The court considers whether these appeals should proceed as companion cases.

Regarding Russell's motion to consolidate, because briefing is complete in appeal no. 2010-1498, we deem it the better course to treat the appeals as companion cases.

Because the cases will be treated as companion cases, there is no need to reach Russell's alternative motion to include in the joint appendix in 2010-1498 copies of documents that pertain to 2011-1230. Similarly, because the cases will be heard together, there is no need to include in the 2010-1498 joint appendix documents related to the 2011-1230 case. Thus, we grant the motion to strike without prejudice to Russell including the documents in the joint appendix for 2011-1230.

Accordingly,

IT IS ORDERED THAT:

- (1) Russell's motion to consolidate is denied.
- (2) Appeals 2010-1498 and 2011-1230 will be treated as companion cases. The appeals will be briefed separately. However, the cases will be argued together before the same merits panel.
- (3) Russell's motion to enlarge the record is denied as moot.
- (4) The United States' motion to strike is granted. Russell is directed to file a corrected joint appendix in 2010-1498 within 14 days of the date of filing of this order.
- (5) A copy of this order shall be transmitted to the merits panel assigned to hear these cases.

FOR THE COURT

JUN 01 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: S. Chandler Visher, Esq.  
Alicia M. Hunt, Esq.

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

JUN 01 2011

**JAN HORBALY**  
**- CLERK**