

NOTE: This order is nonprecedential.

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

ACROW CORPORATION OF AMERICA,
Plaintiff-Appellant,

v.

UNITED STATES,
Defendant-Appellee,

AND

MABEY BRIDGE & SHORE, INC.,
Defendant-Appellee.

2011-5035

Appeal from the United States Court of Federal
Claims in case no. 10-CV-682, Judge Christine O.C.
Miller.

ON MOTION

Before GAJARSA, MAYER and PROST, *Circuit Judges.*
GAJARSA, *Circuit Judge.*

O R D E R

Acrow Corporation of America moves for an injunction pending appeal or alternatively for an expedited consideration of this appeal. The United States opposes. Acrow replies. The United States moves to dismiss the motion for an injunction as moot. Acrow opposes. The United States replies.

Rule 8(a)(1)(C),(2) of the Federal Rules of Appellate Procedure authorize this court to grant an injunction pending appeal in our discretion. Similar to a motion to stay a judgment or injunction pending appeal, which is authorized under the same rule, our determination is governed by four factors, the first two of which are the most critical: (1) whether the stay applicant had made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies: *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987).

Upon consideration thereof,

IT IS ORDERED THAT:

- (1) The motion for an injunction is denied.
- (2) The motion to dismiss the motion for an injunction is denied.
- (3) The case will be placed on the next available oral argument calendar after the briefing is completed, which is the usual course.

FOR THE COURT

MAY 25 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

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

MAY 25 2011

JAN HORBALY
CLERK

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s19