

NOTE: This order is nonprecedential.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

Before LINN, *Circuit Judge.*

O R D E R

Martin H. Johnson moves to supplement the joint appendix with two medical documents. The United States opposes and moves to strike those two documents from the joint appendix, as well as references to them in Johnson's opening brief. Johnson opposes the United States motion to strike. Johnson further moves without opposition for an extension of time for its reply brief. Lastly, Johnson moves for a stay of the briefing schedule.

Rule 10(a) of the Federal Rules of Appellate Procedure provides that the record on appeal is generally limited to the original papers and exhibits filed in the lower court. *See also Wegner Mfg., Inc. v. Coating Mach. Sys., Inc.*, 239 F.3d 1225, 1236 n. 2 (Fed. Cir. 2001). The documents Johnson wishes to include in the joint appendix were not before the United States Court of Federal Claims. Because they were not presented below, their submission to this court is improper. *Ballard Med. Prods. v. Wright*, 821 F.2d 642, 643 (Fed. Cir. 1987).

Accordingly,

IT IS ORDERED THAT:

(1) Johnson's motion to supplement the joint appendix is denied.

(2) The United States' motion to strike portions of the joint appendix as well as portions of Johnson's brief that reference the two documents is granted. Johnson must file a corrected joint appendix and corrected brief within 14 days of the date of filing of this order.

(3) The motion for extension of time is granted to the extent that Johnson's reply brief is due within 21 days of the date of filing of this order.

(4) The motion to stay the briefing schedule is moot.

FOR THE COURT

JAN 03 2012

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

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

JAN 03 2012

JAN HORBALY
CLERK

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

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