

NOTE: This disposition is nonprecedential.

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

---

**MARILYN DAVIS,**  
*Petitioner-Appellant,*

v.

**SECRETARY OF HEALTH AND HUMAN  
SERVICES,**  
*Respondent-Appellee.*

---

2010-5159

---

Appeal from the United States Court of Federal  
Claims in Case No. 07-VV-451, Judge Charles F. Lettow.

---

**JUDGMENT**

---

SYLVIA CHIN-CAPLAN, Conway, Homer, & Chin-Caplan, P.C., of Boston, Massachusetts argued for petitioner-appellant. On the brief was RONALD C. HOMER

DARRYL R. WISHARD, Trial Attorney, Torts Branch, Civil Division, United States Department of Justice, of Washington, DC argued for respondent-appellee. With him on the brief were TONY WEST, Assistant Attorney General, TIMOTHY P. GARREN, Director, MARK W. ROGERS, Deputy Director and CATHARINE E. REEVES, Assistant Director.

---

THIS CAUSE having been heard and considered, it is

ORDERED and ADJUDGED:

PER CURIAM (LINN, CLEVINGER and MOORE, *Circuit Judges*).

**AFFIRMED. See Fed. Cir. R. 36.**

ENTERED BY ORDER OF THE COURT

May 12, 2011  
Date

/s/ Jan Horbaly  
Jan Horbaly  
Clerk