

NOTE: This disposition is nonprecedential.

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

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**MELISSA KENNEDY, AS NEXT FRIEND FOR,  
MICHAEL DAN KENNEDY,**  
*Petitioners-Appellants,*

v.

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

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2011-5106

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Appeal from the United States Court of Federal  
Claims in Case No. 90-VV-1009, Judge Francis M.  
Allegra.

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**JUDGMENT**

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ANDREW D. DOWNING, Rhodes, Hieronymus, Jones,  
Tucker & Gable, of Tulsa, Oklahoma, argued for  
petitioners-appellants.

MICHAEL P. MILMOE, Senior Trial Counsel, Torts  
Branch, Civil Division, United States Department of  
Justice, of Washington, DC, argued for respondent-  
appellee. With him on the brief TONY WEST, Assistant  
Attorney General, MARK W. ROGERS, Acting Director,  
VINCENT J. MATANOSKI, Acting Deputy Director, and  
CATHARINE E. REEVES, Assistant Director.

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THIS CAUSE having been heard and considered, it is

ORDERED and ADJUDGED:

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

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

ENTERED BY ORDER OF THE COURT

October 15, 2012  
Date

/s/ Jan Horbaly  
Jan Horbaly  
Clerk