

United States Court of Appeals, Tenth Circuit.

UNITED STATES of America, ex rel. Virginia Belle STONE, personal representative of the Estate of James S. Stone, and United States of America, Plaintiffs-Appellees and Cross-Appellants,

v.

ROCKWELL INTERNATIONAL CORPORATION, and Boeing North American, Inc., Defendants-Appellants and Cross-Appellees.

American Hospital Association, National Defense Industrial Association, Electronic Industries Alliance, Amici Curiae.

Nos. 99-1351, 99-1352, 99-1353.

June 18, 2007.

Christopher J. Koenigs (Michael A. Williams and Michael B. Carroll, with him on the briefs) of Williams, Youle & Koenigs, P.C., Denver, CO, for the Appellants/Cross-Appellees Rockwell International Corp. and Boeing North American, Inc. Maria L. Vullo (Robert E. Montgomery, Jr., Matthew Chavez, Jeannie S. Kang, Paul, Weiss, Rifkind, Wharton & Garrison, New York, NY; Hartley D. Alley, Wheat Ridge, Colorado, with her on the briefs) of Paul, Weiss, Rifkind, Wharton & Garrison, New York, NY, for Appellee/Cross-Appellant James S. Stone.

Peter R. Maier, Civil Division, Appellate Staff, U.S. Department of Justice, Washington, D.C., (David W. Ogden, Acting Assistant Attorney General, Douglas N. Letter, Civil Division, Appellate Staff, U.S. Department of Justice, Washington, D.C.; Thomas L. Strickland, United States Attorney, Denver, CO, with him on the briefs), for the Appellee/Cross-Appellant United States of America.

Herbert L. Fenster, C. Stanley Dees, Mark R. Troy, McKenna & Cuneo, L.L.P., Denver, CO; Maureen D. Mudron, American Hospital Association, Washington D.C., filed a brief on behalf of the Amici Curiae, American Hospital Association, National Defense Industrial Association, Electronic Industries Alliance.

Before BRISCOE, HOLLOWAY, and HARTZ, Circuit Judges.

ORDER ON REMAND FROM THE UNITED STATES SUPREME COURT S.Ct. No. 05-1272

BRISCOE, Circuit Judge.

This case is before us after the Supreme Court granted Rockwell International Corporation's petition for writ of certiorari and reversed the portion of our prior judgment in favor of plaintiff James S. Stone. *Rockwell Int'l Corp. v. United States*, --- U.S. ----, --- S.Ct. ----, ---L.Ed.2d ----, 2007 WL 1388039 (May 14, 2007). Consistent with the Supreme Court's decision, we AFFIRM the district court's judgment in favor of the United States for the reasons stated in our prior panel opinion, *United States v. Rockwell Int'l Corp.*, 282 F.3d 787 (10th Cir.2002), and REMAND this case to the district court with directions to vacate the portion of the judgment entered in favor of Stone and dismiss Stone's portion of the Count One False Claims Act claims for lack of subject matter jurisdiction.