

NOTE: This order is nonprecedential.

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

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**PHYLLIS ARCHER,**  
*Petitioner,*

v.

**MERIT SYSTEMS PROTECTION BOARD,**  
*Respondent.*

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2012-3032

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Petition for review of the Merit Systems Protection Board in case no. DC0752110337-I-1.

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**ON MOTION**

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**O R D E R**

The Department of Homeland Security (DHS) moves without opposition to recaption to name the Merit Systems Protection Board (Board) as respondent. Also, DHS moves to suspend the further briefing pending the resolution of the motion to recaption and for an extension of time for the Board to file its brief following the disposition of the motion.

Pursuant to 5 U.S.C. § 7703(a)(2), the Board is designated as the respondent when the Board's decision concerns the procedure or jurisdiction of the Board. The employing agency is designated as the respondent when the Board reaches the merits of the underlying case. Here, the Board dismissed Archer's appeal for lack of jurisdiction. Thus, the Board is the proper respondent in this petition for review.

Accordingly,

IT IS ORDERED THAT:

The motions are granted. The revised official caption is reflected above. The Board should calculate its brief due date from the date of filing of this order.

FOR THE COURT

FEB 09 2012

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Phyllis Archer  
Douglas G. Edelschick, Esq.  
Michael Carney, Esq. (Copy of Informal Brief Enclosed)

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

FEB 09 2012

JAN HORBALY  
CLERK