

NOTE: This order is nonprecedential.

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

MELISSA L. BURNETT,
Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent.

2012-3176

Petition for review of the Merit Systems Protection Board in case no. CH1221110614-W-1.

ON MOTION

O R D E R

The Department of Housing and Urban Development moves to recaption to name the Merit Systems Protection Board as respondent. Melissa Burnett moves for an extension of time, which the court treats as a motion for leave to file her November 13, 2012 brief and withdraw her previously submitted brief.

Pursuant to 5 U.S.C. § 7703(a)(2), the Board is designated as the respondent when the Board's decision concerns

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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 Burnett's appeal for lack of jurisdiction. Thus, the Board is the proper respondent in this petition for review.

Accordingly,

IT IS ORDERED THAT:

(1) The motion to reform the official caption is granted. The revised official caption is reflected above. The Board should calculate the due date for its response brief from the date of filing of this order.

(2) The motion for an extension of time is granted. The November 13 brief is accepted for filing. The previously submitted brief is withdrawn.

FOR THE COURT

/s/ Jan Horbaly
Jan Horbaly
Clerk

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