

NOTE: This order is nonprecedential.

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

JOHN-PIERRE BANEY,
Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent,

and

DEPARTMENT OF JUSTICE,
Intervenor.

2010-3097

Petition for review of the Merit Systems Protection Board in case no. DA1221090479-W-1.

ON MOTION

ORDER

John-Pierre Baney moves for reconsideration of the court's September 10, 2010 order denying his motion for leave to proceed in forma pauperis and submits a a Uniformed Services Employment and Reemployment Rights Act (USERRA) notification form indicating that his case

before the Merit Systems Protection Board involved USERRA claims and thus he is exempt from paying the filing fee.

Pursuant to 38 U.S.C. § 4323(h), if a petitioner claims rights under USERRA, the filing fee is waived. In this case, Baney claimed rights under USERRA before the Board. Thus, Baney is exempt from paying the fee.

Accordingly,

IT IS ORDERED THAT:

(1) The motion for reconsideration is granted. Baney is exempt from paying the filing fee.

(2) The briefs of the Board and the Department of Justice are due within 21 days of the date of filing of this order.

FOR THE COURT

OCT 04 2010

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: John-Pierre Baney
Stephanie Conley, Esq.
Courtney S. McNamara, Esq.

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

OCT 04 2010

JAN HORBALY
CLERK