

NOTE: This order is nonprecedential.

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

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**LEROY GAGE,**  
*Petitioner,*

v.

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

AND

**UNITED STATES POSTAL SERVICE,**  
*Intervenor.*

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2011-3219

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Petition for review of the Merit Systems Protection Board in case no. CH0351100802-I-1.

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**ON MOTION**

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**O R D E R**

The United States Postal Service (USPS) moves without opposition to recaption to name the Merit Systems Protection Board as respondent and to allow the USPS to intervene. Also, the Merit Systems Protection Board moves for a 21-day extension of time to file its brief.

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 Gage'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 and the Intervenor should calculate their 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: Leroy Gage  
Melissa M. Devine, Esq.  
Katherine Smith, Esq. (Copy of Informal Brief En-  
closed)  
Alice L.A. Covington, Esq.

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

FEB 09 2012

JAN HORBALY  
CLERK