

UNITED STATES OF AMERICA  
MERIT SYSTEMS PROTECTION BOARD

THOMAS F. DAY,  
Appellant,

DOCKET NUMBER  
DC-1221-12-0528-W-1

v.

DEPARTMENT OF HOMELAND  
SECURITY,

Agency.

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**NOTICE OF INTENT TO FILE *AMICUS CURIAE* BRIEF**

The Office of Special Counsel (OSC) hereby notifies the Merit Systems Protection Board (Board) that it will seek leave to file an *amicus curiae* brief in the above-captioned matter. OSC understands that the above-captioned individual right of action (IRA) appeal has been certified for interlocutory review and seeks to offer its perspective on the important question of whether, based on the enactment of the provisions of the Whistleblower Protection Enhancement Act<sup>1</sup> and its elimination of the *Willis*<sup>2</sup>-*Huffman*<sup>3</sup> disclosure criteria, appellant has a right to pursue an IRA appeal. OSC intends to request leave to file an *amicus curiae* brief no later than January 25, 2013 and requests that the Board inform OSC if it intends to rule in this matter prior to January 25, 2013. OSC is not aware of any briefing schedule in this matter.

Respectfully submitted,

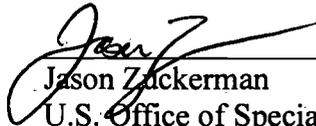
Carolyn N. Lerner  
Special Counsel

Bruce D. Fong  
Associate Special Counsel

<sup>1</sup> Pub. L. No. 112-199.

<sup>2</sup> *Willis v. Dep't of Agriculture*, 141 F.3d 1139, 1144 (Fed. Cir. 1998).

<sup>3</sup> *Huffman v. Office of Personnel Management*, 263 F.3d 1341 (Fed. Cir. 2001).



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January 10, 2012

CERTIFICATE OF SERVICE

I, Jason Zuckerman, an employee with the U.S. Office of Special Counsel, hereby certify that on this 10<sup>th</sup> day of January 2013, I caused the Notice of Intent to File Amicus Curiae Brief to be served to the following in the manner indicated:

By U.S. Mail

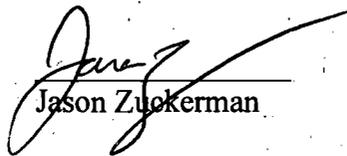
Appellant

Thomas F. Day

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Agency Representative

Lorna J. Jerome  
Department of Homeland Security  
Commandant (CG-0944), Attention: Paralegal, U. S. Coast  
Guard,  
2100 2nd Street, SW, STOP 7121  
Washington, DC 20593-7121

  
Jason Zuckerman

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