

NOTE: This order is nonprecedential.

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

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**CHRISTIE Y. HERBERT,**  
*Petitioner,*

v.

**DEPARTMENT OF HEALTH AND HUMAN  
SERVICES,**  
*Respondent.*

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2014-3011

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Petition for review of the Merit Systems Protection  
Board in No. AT0752120776-I-1.

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**ON MOTION**

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PER CURIAM.

**O R D E R**

Christie Y. Herbert moves for leave to proceed in  
forma pauperis, to file electronically, exception or waiver  
for PACER fees, and for exception to Federal Circuit Rule  
31(e)(4) requiring filing an original and 3 copies of paper

briefs filed with the court.<sup>1</sup> The Department of Health and Human Services (HHS) moved for an extension of time to file their brief. Herbert opposes.

The Public Access to Court Electronic Records (“PACER”) system allows users to view and print case filings, judicial opinions, and other docket information from the federal trial, bankruptcy, and appellate courts. A small fee is ordinarily required to search and print such documents, but the Electronic Public Access Fee Schedule (“Schedule”) carves out a narrow exception to that rule, allowing courts discretion to exempt certain persons or classes of persons from payment. Accordingly, a movant seeking a fee waiver must demonstrate that the exemption “is necessary in order to avoid unreasonable burdens and to promote public access to information.”

The Administrative Order relating to electronic filing in this court makes clear that a pro se party must file documents in paper form. Administrative Order Regarding Electronic Case Filing ECF-8(A). In accordance with the Administrative Order, however, Herbert may attempt to agree in writing with counsel for the government to electronic service between herself and HHS.

Herbert also states an intent to file an amended opening brief. Because HHS responded to her brief, Herbert may not amend her opening brief, but may file a reply brief in response to HHS's brief.

Upon consideration thereof,

IT IS ORDERED THAT:

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<sup>1</sup> Herbert cites Fed. R. App. P. 5(c) as the requirement to file paper copies. That rule is not applicable here, but instead pertains to a petition for permission to appeal. The rule requiring an original and three copies of a brief in this case is Fed. Cir. R. 31(e)(4).

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(1) The motion to proceed in forma pauperis is granted.

(2) The motion for an exemption from the fees for accessing documents on PACER is granted for use in case no. 14-3011 by Herbert. A copy of this order shall be sent to the PACER Service Center. This does not resolve any matter concerning overdue payment of fees but merely allows access in 14-3011.

(3) The motion to file papers electronically is denied.

(4) The motion for an exemption from Federal Rule of Appellate Procedure 31(e)(4) is denied.

(5) HHS's motion for an extension of time is granted.

(6) If Herbert intends to file a reply brief, it is due within 30 days of the date of this order.

FOR THE COURT

/s/ Daniel E. O'Toole  
Daniel E. O'Toole  
Clerk of Court

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