

NOTE: This disposition is nonprecedential.

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

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**COLIN CLARKE,**  
*Petitioner*

v.

**DEPARTMENT OF VETERANS AFFAIRS,**  
*Respondent*

**MERIT SYSTEMS PROTECTION BOARD,**  
*Intervenor*

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2014-3103

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Petition for review of the Merit Systems Protection Board in No. NY-1221-10-0226-W-2, NY-1221-11-0169-W-2.

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**JUDGMENT**

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JOYCE E. KITCHENS, Kitchens New Cleghorn LLC, Atlanta, GA, for petitioner.

TANYA KOENIG, Commercial Litigation Branch, Civil Division, United States Department of Justice, Washington, DC, for respondent. Also represented by JOYCE R.

BRANDA, ROBERT E. KIRSCHMAN, JR., ALLISON KIDD-MILLER.

KATRINA LEDERER, Office of the General Counsel, Merit Systems Protection Board, Washington, DC, for intervenor. Also represented by BRYAN G. POLISUK.

GREGORY GIACCIO, United States Office of Special Counsel, Washington, DC, for amicus curiae United States Office of Special Counsel. Also represented by CAROLYN N. LERNER, ERIC BACHMAN, LOUIS LOPEZ.

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THIS CAUSE having been heard and considered, it is

ORDERED and ADJUDGED:

PER CURIAM (NEWMAN, CLEVINGER, and MOORE,  
*Circuit Judges*).

**AFFIRMED. See Fed. Cir. R. 36.**

ENTERED BY ORDER OF THE COURT

December 11, 2015  
Date

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