

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

MEGAN JACKLER and)	
BRANDON JAROCH,)	
Petitioners,)	
)	
)	No. 26-1575
v.)	
)	
DEPARTMENT OF JUSTICE and)	
DIRECTOR OF THE OFFICE OF)	
PERSONNEL MANAGEMENT,)	
Respondents.)	

**CORRECTED MOTION FOR LEAVE TO FILE BRIEF *AMICUS CURIAE*
OF JUSTICE CONNECTION IN SUPPORT OF PETITION FOR INITIAL
HEARING EN BANC**

Justice Connection respectfully requests to appear as *amici curiae* in the above-captioned case and submits a proposed Brief *Amicus Curiae* filed herewith. Justice Connection is in a position to provide factual and legal context to the Court concerning Department of Justice employees, and the substantial interest of these employees implicated by this proceeding.

Counsel for Justice Connection contacted the parties in this case to seek consent to appear as *amicus curiae*. Counsel for the Petitioners (Nathaniel Zelinsky) and Counsel for the Department of Justice (Daniel Aguilar) consented to the filing

of Justice Connection's *amicus curiae* brief; Counsel for the Executive Office for Immigration Review (Robert Ley) did not consent.

I. Justice Connection has an Interest in the Issues before the Court and the Matters Presented in the Proposed *Amicus Curiae* Brief are Relevant to those Issues

Justice Connection provides direct support to the Department of Justice's apolitical career workforce. As a network of DOJ alumni, the organization connects current and recent employees with pro bono legal representation, mental health counseling, employment assistance, and media support. It also advocates for the integrity of DOJ's mission-critical work and speaks out in defense of the rule of law. Justice Connection is fiscally sponsored by the Government Accountability Project, a nonpartisan nonprofit organization that promotes government accountability by protecting whistleblowers.

Justice Connection and the DOJ employees that it supports are directly impacted by the issues before the Court regarding the President's authority to terminate the employment of federal workers without due process in contravention of the Civil Service Reform Act and decades of precedent stemming from the rights enshrined in the Act. Justice Connection's interest lies in obtaining a conclusive ruling from the Court that will set a precedent regarding this exceptionally important issue for numerous employees with pending cases involving the same legal question about the constitutionality of the CSRA.

Through its work connecting DOJ employees with services related to their employment, Justice Connection has unique insight into the breadth of the President's use of Article II of the U.S. Constitution since January 2025 as a basis for terminating DOJ employees. As this issue has already impacted over 100 former DOJ employees who have currently pending cases on this same issue at the MSPB, as well as untold numbers of DOJ employees who may be subject to removal on the same basis in the future, Justice Connection is seeking leave of the Court to present its attached proposed *amicus curiae* brief which highlights the importance of assigning this matter for initial *en banc* review.

II. This Request is Timely and Will Not Delay the Adjudication of this Matter

It is within the Court's discretion whether to grant Justice Connection's request to participate as *amicus curiae* on this issue. *See Fluor Corp. v. United States*, 35 Fed. Cl. 284, 285 (1996). Factors such as any objections from the opposing party, interest of the moving party, partisanship on the part of the *amici*, adequacy of representation, and timeliness are relevant considerations in determining whether to grant such a request. *Id.*

Justice Connection is not presenting a partisan view or seeking to weigh in on the merits of the issues at this time. Rather, Justice Connection seeks to provide relevant information to the Court regarding the significance of initial *en banc* review given the number of pending cases that will be impacted by the Court's decision and

the need for this Court's guidance to ensure consistency on this exceptionally important issue in other cases before the MSPB or other courts.

Granting Justice Connection's request for leave to file the attached Brief *Amicus Curiae* will not delay the litigation. Justice Connection's *amicus curiae* brief encourages quick resolution of the exceptionally important constitutional question raised in this case, and provides the Court with information regarding other interested employees that are not parties to the case.

Conclusion

For the reasons stated herein, Justice Connection respectfully seeks leave to participate as *amicus curiae* in the case through the filing of the brief attached hereto.

Respectfully submitted,

/s/ Kerrie D. Riggs

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April 13, 2026

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CERTIFICATE OF INTEREST

Counsel for Justice Connection certifies the following:

1. The full name of every party or *amicus* represented by me is:

Justice Connection

2. The names of the real parties in interest represented by me are:

N/A

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or *amicus curiae* represented by me are:

None. There is no such corporation as described in paragraph 3.

4. The names of all law firms and the partners or associates that have not entered an appearance in the appeal, and or are expected to appear for the entity in this court:

None.

5. Other than the originating case number(s), the title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal.

None. There is no such case as described in paragraph 5.

6. All information required by Federal Rule of Appellate Procedure 26.1(b) and (c) that identifies organizational victims in criminal cases and debtors and trustees in bankruptcy cases.

N/A

/s/ Kerrie D. Riggs

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 32, the undersigned attorney certifies that:

1. This motion complies with the type-volume limitation of Fed. R. App. P. 32 because this brief contains 684 words, excluding the parts of the motion exempted by the Rules.
2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this motion has been prepared in a proportionally spaced typeface using Microsoft Word Times New Roman in 14 point (and 12 point for footnotes).

/s/ Kerrie D. Riggs

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

MEGAN JACKLER AND BRANDON JAROCH,
Petitioners,

v.

**DEPARTMENT OF JUSTICE AND DIRECTOR OF THE
OFFICE OF PERSONNEL MANAGEMENT,**
Respondents.

Petition for Review from the Merit Systems Protection Board
MSPB Docket No. CF-0752-26-0069-I-1

**CORRECTED BRIEF *AMICUS CURIAE* OF JUSTICE CONNECTION IN
SUPPORT OF PETITION FOR INITIAL HEARING *EN BANC***

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April 13, 2026

Counsel for Amicus Curiae Justice Connection

Disclosure Statement

Justice Connection is a project that is fiscally sponsored by the Government Accountability Project, a tax-exempt nonprofit organization. There is no publicly held corporation that owns 10% or more of its stock.

Statement Regarding Brief for *Amicus Curiae*

The brief of *Amicus Curiae* Justice Connection was authored by *Amicus Curiae*'s counsel. The brief was not authored in part or in full by a party or party's counsel. No party to this case or party's counsel contributed money that was intended to fund preparing or submitting this brief. No person — other than *Amicus Curiae* or its counsel — contributed money that was intended to fund preparing or submitting this brief.

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Statement of Identity and Interest of *Amicus Curiae*

Justice Connection provides direct support to the Department of Justice's apolitical career workforce. As a network of DOJ alumni, the organization connects current and recent employees with pro bono legal representation, mental health counseling, employment assistance, and media support. It also advocates for the integrity of DOJ's mission-critical work and speaks out in defense of the rule of law. Justice Connection is fiscally sponsored by the Government Accountability Project, a nonpartisan nonprofit organization that promotes government accountability by protecting whistleblowers.

Argument

In its decision in this case, the Merit Systems Protection Board ruled that it lacked jurisdiction to consider appeals of removal actions of Petitioners Megan Jackler and Brandon Jaroch. The Board ruled that Article II abrogates the procedural and substantive removal protections of the Civil Service Reform Act (“CSRA”), 5 U.S.C. § 7701, *et seq.*, for certain federal civil service workers.

The Board’s decision in this case marked a fundamental change in the law that covers over 2 million current federal civil service workers. For the first time, the Board ruled that the President has unfettered discretion to terminate the employment of thousands of career civil service workers.

The Board’s decision canceled the statutory protections in place since 1978, and federal civil service principles that have been in place for about 150 years.

The Court’s decision on this appeal will impact not only the employment of the two petitioners. A decision on the constitutionality of the CSRA (and its protections of a professional civil service) may be determinative on the pending MSPB appeals of over 100 other civil servants removed without due process in the past 14 months. As discussed below, the Department of Justice has terminated over 150 civil service employees in violation of statutory law under its presumption that the Civil Service Reform Act is unconstitutional as to those employees.

The Court's decision may also control the employment rights of thousands of other federal civil service workers going forward.

If the Court does not grant an initial hearing *en banc* in this matter, there will likely be over 100 additional appeals to the Court from the MSPB raising the very same constitutional question. Rather than sending over 100 separate cases before multiple panels (and possibly before other Courts of Appeals and District Courts), the Court should use its discretion to properly manage this matter and provide for an initial hearing *en banc*.

The Court should grant an initial hearing *en banc* to provide a clear determination on the exceptional constitutional question presented.

1. The Court Will Be Faced with Over 100 Appeals Raising the Same Constitutional Issue That is Presented in This Case.

There are currently over 100 MSPB appeals that are pending involving terminations that were handled in the same manner as the terminations of Petitioners Jackler and Jaroch. The MSPB has entered orders dismissing without prejudice many of these cases pending a resolution of the appeals of Petitioners Jackler and Jaroch. *See, e.g., Sinn v. Dep't of Justice*, No. DC-315H-25-1961-I-1, 2026 MSPB LEXIS 1467 (M.S.P.B. Mar. 12, 2026) (Initial Decision).

Based on information that Justice Connection has collected, since January 2025 there have been at least 158 termination actions of DOJ career civil service

workers in which Article II of the U.S. Constitution was cited as the basis for the termination. These removal actions have occurred without a merit-based justification or the procedural due process required by the CSRA. These removal actions have been continuing from January 2025 up to March 2026, with no indication that such terminations will cease in the near future. Further, the information obtained by Justice Connection shows that these removal actions have impacted civil servants from various components and subagencies within DOJ, including, but not limited to, attorneys from Main Justice and U.S. Attorneys Offices, FBI employees, Immigration Judges, and employees of the U.S. Marshals Service.

Information from the MSPB shows that since January 2025, there have been about 130 cases filed that involve employment actions taken under Article II. In addition to the DOJ components listed above, MSPB appeals of Article II terminations have been filed by civil servants from the Department of Homeland Security and the Department of Health and Human Services. In each one of these cases, the MSPB and then this Court on appeal will be faced with the same constitutional question raised in this matter.

2. The Constitutional Question at Issue Presents an Exceptionally Important Question and Requires Uniformity in Adjudication.

This case involves “issues of exceptional importance.” *V.O.S. Selections, Inc. v. Trump*, 149 F.4th 1312, 1322 (Fed. Cir. 2025) (assigning case for initial hearing

en banc). The Board’s ruling on the President’s powers over the employment of civil service workers breaks from decades of precedent. Now, for the first time in over 100 years, the President has been granted authority to bypass statutory civil service protections for thousands of workers.

The ways in which the President and his principal officers have already used this power demonstrates the importance of this matter. Since taking office in January 2025, the President and his principal officers have used this power to terminate at least 158 DOJ employees, including dozens of FBI Special Agents, dozens of attorneys from Main Justice and U.S. Attorneys Offices, and workers with the U.S. Marshals Service. These termination actions came without any procedural due process, without any justification of the merits of the termination decisions, and (under the Board’s decision) potentially without any judicial review.

This Court’s decision on whether the Board correctly ruled on the constitutionality of the protections under the CSRA will have widespread and dramatic implications for the entire operation of the federal government.

As this Court recently affirmed, “the Civil Service Reform Act (‘CSRA’), ushered in a new system ‘designed to balance the legitimate interests of the various categories of federal employees with the needs of sound and efficient administration.’” *Palmeri v. Merit Sys. Prot. Bd.*, 164 F.4th 878, 881 (Fed. Cir. 2026) (quoting *United States v. Fausto*, 484 U.S. 439, 445 (1988)). The Act “specifically

enacted into law” “merit principles,” which “Congress viewed ... from the advantage to the *public*.” *Lovshin v. Dep’t of the Navy*, 767 F.2d 826, 831 (Fed. Cir. 1985) (emphasis in original).

The Board’s decision in this case substantially alters the careful balance incorporated by the CSRA. The significant change in law ushered in by the Board’s decision in this case eradicates protections put in place to “[a]llow civil servants to be able to be hired and fired more easily, but for the right reasons,” *Lovshin, supra* (quoting Senate Report at 4, 1978 U.S. Code Cong. & Ad. News at 2726).

The management of the federal civil service is at issue in this case. The case will determine whether the President has the power to immediately terminate the employment of thousands of previously protected civil service workers, without any merit-based reason or judicial review. The public’s “right to an efficient and effective Government,” *id.*, is at stake here.

As such, this case presents the Court with a constitutional question of exceptional importance compelling initial *en banc* review.

3. The Court Should Provide Uniformity in Adjudication Covering the Constitutional Question at Issue.

The number of cases raising the same constitutional question requires uniformity in adjudication. As discussed above, the same constitutional question raised in this case is at issue in over 100 other cases that have been filed before the

MSPB and could soon be before this Court. In addition, some of these MSPB cases may end up before District Courts or other Courts of Appeals (if the cases also involve claims of discrimination and/or whistleblower retaliation). *See* 5 U.S.C. § 7703.

This Court should not distribute the same extraordinary constitutional question presented to various panels of this Court, panels of other Courts of Appeals, and District Courts. Instead, under the Court's standards for assigning cases for initial hearings *en banc*, the Court should grant Petitioner's request.

Conclusion

For these reasons, the Court should grant Petitioners' petition and designate this matter for initial *en banc* review.

Respectfully submitted,

/s/ Kerrie D. Riggs

Kerrie D. Riggs

Jeremy D. Wright

Kator, Parks, Weiser & Wright, P.L.L.C.

April 13, 2026

Counsel for Amicus Curiae Justice Connection

Certificate of Compliance

Pursuant to Rule 32, the undersigned attorney certifies that:

1. This brief complies with the type-volume limitation of Fed. R. App. P. 32 because this brief contains 1339 words, excluding the parts of the brief exempted by the Rules.
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/s/ Kerrie D. Riggs
Kerrie D. Riggs

Certificate of Interest

Counsel for Justice Connection certifies the following:

1. The full name of every party or *amicus* represented by me is:
Justice Connection
2. The names of the real parties in interest represented by me are:
N/A
3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or *amicus curiae* represented by me are:
None. There is no such corporation as described in paragraph 3.

4. The names of all law firms and the partners or associates that have not entered an appearance in the appeal, and or are expected to appear for the entity in this court:

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5. Other than the originating case number(s), the title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal.

None. There is no such case as described in paragraph 5.

6. All information required by Federal Rule of Appellate Procedure 26.1(b) and (c) that identifies organizational victims in criminal cases and debtors and trustees in bankruptcy cases.

N/A

/s/ Kerrie D. Riggs
Kerrie D. Riggs

Certificate of Service

I hereby certify that on April 13, 2026, I electronically filed the foregoing with the Clerk of the Court for the U.S. Court of Appeals for the Federal Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Kerrie D. Riggs
Kerrie D. Riggs