

Nos. 19-1434, 19-1452, and 19-1458

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IN THE  
**Supreme Court of the United States**

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UNITED STATES OF AMERICA,  
*Petitioner,*

v.

ARTHREX, INC., ET AL.,  
*Respondents.*

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**On Writ of Certiorari  
to the United States Court of Appeals  
for the Federal Circuit**

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**BRIEF FOR ARTHREX, INC.**

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ANTHONY P. CHO  
DAVID J. GASKEY  
JESSICA E. FLEETHAM  
DAVID L. ATALLAH  
CARLSON, GASKEY & OLDS, P.C.  
400 West Maple Road, Suite 350  
Birmingham, MI 48009  
(248) 988-8360

CHARLES W. SABER  
SALVATORE P. TAMBURRO  
BLANK ROME LLP  
1825 Eye Street, N.W.  
Washington, D.C. 20006  
(202) 420-2200

JOHN W. SCHMIEDING  
TREVOR ARNOLD  
ARTHREX, INC.  
1370 Creekside Blvd.  
Naples, FL 34108  
(239) 643-5553

JEFFREY A. LAMKEN  
*Counsel of Record*  
ROBERT K. KRY  
JAMES A. BARTA  
MOLOLAMKEN LLP  
The Watergate, Suite 500  
600 New Hampshire Ave., N.W.  
Washington, D.C. 20037  
(202) 556-2000  
jlamken@mololamken.com

JORDAN A. RICE  
MOLOLAMKEN LLP  
300 North LaSalle Street  
Chicago, IL 60654  
(312) 450-6700

*Counsel for Arthrex, Inc.*

*(additional captions on inside cover)*

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SMITH & NEPHEW, INC., ET AL.,  
*Petitioners,*

v.

ARTHREX, INC., ET AL.,  
*Respondents.*

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ARTHREX, INC.,  
*Petitioner,*

v.

SMITH & NEPHEW, INC., ET AL.,  
*Respondents.*

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## QUESTIONS PRESENTED

1. Whether, for purposes of the Appointments Clause, U.S. Const. art. II, §2, cl. 2, administrative patent judges of the U.S. Patent and Trademark Office are principal officers who must be appointed by the President with the Senate’s advice and consent, or “inferior Officers” whose appointment Congress has permissibly vested in a department head.

2. Whether, if administrative patent judges are principal officers, the court of appeals properly cured any Appointments Clause defect in the current statutory scheme prospectively by severing the application of 5 U.S.C. §7513(a) to those judges.

(i)

**CORPORATE DISCLOSURE STATEMENT**

Pursuant to this Court's Rule 29.6, Arthrex, Inc. states that it has no parent corporation and that no publicly held company owns 10% or more of its stock.

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