

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

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In The  
Supreme Court of the United States

United States,  
*Petitioner,*

v.

Arthrex, Inc., et al.,  
*Respondents.*

\_\_\_\_\_  
Smith & Nephew, Inc., et al.,  
*Petitioners,*

v.

Arthrex, Inc., et al.,  
*Respondents.*

\_\_\_\_\_  
Arthrex, Inc.,  
*Petitioner,*

v.

Smith & Nephew, Inc., et al.,  
*Respondents.*

On Writs of Certiorari to the United States  
Court Of Appeals for the Federal Circuit

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**BRIEF *AMICUS CURIAE* OF  
JOSHUA J. MALONE IN SUPPORT OF  
RESPONDENT IN 19-1434**

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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.

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