

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

<p>ELIZABETH OYER, <i>Petitioner,</i></p> <p>vs.</p> <p>UNITED STATES DEPARTMENT OF JUSTICE, <i>Respondent.</i></p>	<p>No. 2026-1346</p>
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**PETITIONER’S UNOPPOSED MOTION TO MODIFY THE
CAPTION**

Petitioner Elizabeth Oyer respectfully moves to modify the caption of this proceeding to identify the Merit Systems Protection Board (MSPB), not the Department of Justice (DOJ), as the Respondent. Counsel for DOJ and the Office of Personnel Management (OPM) has authorized us to state that this motion is unopposed.

Ms. Oyer has petitioned for review of a decision that was issued in an MSPB proceeding that arose from Ms. Oyer’s termination from a position at DOJ. When this Court reviews an MSPB decision, the MSPB “shall be named respondent in any proceeding . . . , unless the employee or applicant for employment seeks review of a final order or decision on

the merits on the underlying personnel action or on a request for attorney fees, in which case the agency responsible for taking the personnel action shall be the respondent.” 5 U.S.C. § 7703(a)(2).

Here, the final MSPB decision under review did not resolve the underlying merits of Ms. Oyer’s challenge to her termination. Instead, the MSPB improperly and arbitrarily dismissed Ms. Oyer’s proceeding without prejudice, substantially delaying her ability to obtain merits review from the MSPB. Because there has been no “final order or decision on the merits on the underlying personnel action,” 5 U.S.C. § 7703(a)(2), this case is properly captioned *Oyer v. Merit Systems Protection Board*.

Respectfully submitted,

Dated: Feb. 5, 2026

/s/ Joshua M. Salzman

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CERTIFICATE OF COMPLIANCE

The forgoing motion complies with Federal Rule of Appellate Procedure 27(d)(2) because it contains 219 words.

/s/ Joshua M. Salzman

JOSHUA M. SALZMAN

CERTIFICATE OF INTEREST

Pursuant to Federal Circuit Rule 47.4, undersigned counsel certifies:

1. The sole party in this case represented by undersigned counsel is Elizabeth Oyer.
2. There is no other real party in interest.
3. There is no applicable parent corporation.
4. In addition to Democracy Forward Foundation, Ms. Oyer was represented before the MSPB by James Eisenmann and Alex Dornacker of the Alden Law Group.
5. There is no related case within the meaning of Federal Circuit Rule 47.5.
6. No disclosure under Federal Rule of Appellate Procedure 26.1(b) or (c) is applicable.

/s/ Joshua M. Salzman

JOSHUA M. SALZMAN