



U.S. Department of Justice
Civil Division, Appellate Staff
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530-0001

Tel: (202) 532-4747

February 11, 2025

By CM/ECF

Patricia S. Dodszuweit
Clerk of Court
U.S. Court of Appeals for the Third Circuit
21400 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106

Re: *Axalta Coating Systems LLC v. FAA*, No. 23-2376 (argument
scheduled for Feb. 20, 2025)

We file this letter to notify the Court that the Acting Solicitor General has decided that the multiple layers of removal restrictions for administrative law judges in 5 U.S.C. § 7521 do not comport with the separation of powers and Article II and that the United States will no longer defend them in litigation.

Accordingly, at the oral argument scheduled for February 20, the government does not intend to press its merits defense of § 7521. Answering Br. 41-47. But the government continues to argue that petitioner must demonstrate compensable harm from an allegedly unconstitutional removal restriction, Answering Br. 48-49, and the Court can resolve petitioner's removal claim on that ground. *See NLRB v. Starbucks Corp.*, 125 F.4th 78, 88-89 (3d Cir. 2024).

Sincerely,

/s/ Joshua M. Salzman

Joshua M. Salzman
U.S. Department of Justice
Civil Division, Appellate Staff

CERTIFICATES OF COMPLIANCE AND SERVICE

I certify that this letter contains 123 words according to the count of Microsoft Office 365, and that this is within the word limit provided by Fed. R. App. P. 28(j).

I certify that on February 11, 2025, I electronically filed the foregoing with the Clerk of the Court by using the appellate CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Joshua M. Salzman
JOSHUA M. SALZMAN