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EXHIBIT 1

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

SEAN MCCLARY,)
ANDREA SASSARD,)
and)
DEVEN TINES)
Plaintiffs,) Case No.: 1:25-CV-00714 (RC)) JURY TRIAL DEMANDED
v.)
ROBERT F. KENNEDY, JR., Secretary of the Department of Health)))
HOWARD LUTNICK,)
Secretary of the Department	ý
of Commerce)
STEPHEN EHIKIAN,)
Acting Director of)
The Government Services Administration)
and)
CHARLES EZELL,)
Acting Director of the Office of)
Personnel Management)
and in his Individual Capacity)
Defendants.))

SECOND AMENDED COMPLAINT

Plaintiffs, by and through undersigned counsel, bring this action against Defendants asserting that their summary terminations violated the Administrative Procedures Act, and constituted arbitrary and capricious actions in violation of Constitutional due process guarantees, and state as follows:

NATURE OF THE CASE

All three Plaintiffs are former federal employees who were terminated while in their probationary periods due to an illegal and *ultra vires* action by the Office of Personnel Management (hereinafter "OPM") and its Acting Direct Scott Ezell (hereinafter "Defendant Ezell"), which mandated that federal agencies fire probationary employees using the false pretense of poor performance to justify terminations. Plaintiffs exhausted administrative remedies via the MSPB, and now bring their claims to this Court for full consideration of the merits of their claims.

Plaintiffs assert that their terminations were arbitrary and capricious in violation of the Administrative Procedures Act, and that their terminations violated their Constitutional due process rights. Plaintiff's further assert that their SF-50 forms, which are official records, contain false and defamatory statements about them that hound and hamper them in their efforts to find alternate employment. The false and defamatory statements about them also foreclose Plaintiffs from future employment with the government or employment with many government contractors. Other federal courts have conducted fact-finding hearings, and have definitively concluded that the claim that probationary employees were terminated due to poor performance is manifestly false.

Plaintiffs sue Defendant Ezell in his individual capacity for false light defamation, for spreading and causing to be published knowing and intentional lies about Plaintiffs, both by way of public statements from government spokespersons and by way of false statements in the SF 50 documents. Plaintiffs assert that Defendant Ezell acted unlawfully in ordering their agencies to terminate them under false pretenses and to make false public statements about the reasons for their terminations.

For the reasons developed herein, Plaintiffs are entitled to remedy from this Court for violations of federal and Constitutional law. Plaintiffs seek reinstatement to their positions with back pay, as well as compensatory damages for reputational harm, financial losses, and pain and suffering from Defendant Ezell. Plaintiffs further seek costs, attorneys' fees, interest, and all other relief deemed appropriate by this Court.

PARTIES

- 1. Sean McClary is a resident of the Commonwealth of Virginia, and was employed in the Government Services Administration from July 28, 2024, to February 14, 2025.
- Andrea Sassard is a resident of the District of Columbia, and was employed by the National Oceanic and Atmospheric Administration under the Department of Commerce from September 9, 2024, to February 27, 2025.
- 3. Deven Tines is a resident of Texas, and was employed the National Institutes of Health in the Department of Health and Human Services from December 3, 2023, until February 15, 2025.
- None of the Plaintiffs are public figures.
- 5. Defendants are the cabinet secretaries or leaders of administrative departments of the federal government of the United States of America.
- 6. Defendant agencies all received a directive from OPM to terminate Plaintiffs, and acted in concert with that directive.
- 7. Defendant agencies are named in order to ensure Plaintiffs are able to obtain a complete remedy.
- 8. Defendant Ezell is named in his individual capacity solely with respect to Plaintiffs' defamation claims and to the extent Plaintiffs seek money damages.

JURISDICTION & VENUE

9. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 because Plaintiffs' causes of action arise under the Constitution and laws of the United States. This Court also has jurisdiction under 28 U.S.C. § 1361 because Plaintiffs seeks a declaratory order to compel officers and

employees of the United States and its agencies to perform duties owed to Plaintiffs and required under law.

- 10. Sovereign immunity for non-monetary relief is waived under 5 U.S.C. § 702, which entitles Plaintiffs to relief when Defendants acted unconstitutionally and beyond statutory authority.
- 11. Venue is appropriate in this judicial district under 28 U.S.C. § 1391(b) and (e).

ADMINISTRATIVE EXHAUSTION

- 12. Plaintiff McClary filed an MSPB complaint on or about March 15, 2025. See EXHIBIT1.
- 13. Plaintiff McClary's complain was consolidated into a class complaint on or about August 6, 2025. *See* EXHIBIT 2.
- 14. By letter dated August 6, 2025, the ALJ informed Plaintiff McClary that he has declined consolidation of the matter. See EXHIBIT 3. Furthermore, on pages 6-8 of EXHIBIT 3, the ALJ indicated that absent a non-frivolous allegation that Plaintiff McClary was terminated due to his political affiliation or his marital status, there was no basis for MSPB to exercise jurisdiction. See id.
- 15. On or about May 14, 2025, the Office of Special Counsel filed an *amicus curiae* brief to the MSPB, specifically reversing the findings and holdings of former Special Counsel Hampton Dellinger, and stating definitively that in the opinion of the Special Counsel, the mass termination of probationary employees was lawful. *See* EXHIBIT 4.
- 16. The OSC decision that the probationary terminations were lawful was not a preliminary or temporary decision, and was echoed in the dismissal of complaints from Plaintiffs Tines and Sassard.
- 17. Plaintiff Tines filed an OSC complaint challenging her dismissal, which was dismissed on or about June 24, 2025. *See* EXHIBIT 5.
- 18. Plaintiff Tines also filed an MSPB claim DA-752P-25-1086-I-1. It was dismissed for lack

of jurisdiction on or about July 16, 2025. See EXHIBIT 6.

- 19. Plaintiff Sassard filed an MSPB complaint on or about March 14, 2025. See EXHIBIT 7.
- 20. MSPB has not responded or acted on that complaint for five months.
- 21. However, a class action on behalf of HHS probationary employees was filed in federal court, and then referred to the MSPB for action.
- 22. On information and belief, Plaintiff Sassard's complaint has not been acted upon because MSPB is in the process of addressing the class action.
- 23. But Plaintiff Sassard's claim was not consolidated into the class action as Plaintiff McClary's was.
- 24. Plaintiff Sassard asserts that her MSPB claim has been left in limbo, and more importantly, that MSPB has already signified that it believes it lacks jurisdiction over probationary employees.
- 25. The MSPB currently lacks a quorum, and thus the initial ALJ decisions are immediately appealable to this Court.

FACTS RELEVANT TO ALL PLAINTIFFS

- 26. On or about February 13, 2025, Defendant OPM and its newly appointed Acting Director, Defendant Charles Ezell, ordered federal agencies across the country to terminate tens of thousands of federal employees by sending them standardized notices of termination, drafted by OPM, that falsely state that the terminations are for performance reasons.
- 27. OPM followed up this instruction on February 14, 2025, with a directive in writing to the Chief Human Capital Officers Council ("CHCO") for federal agencies, in which OPM reiterated the order to fire all probationary workers across the government other than those OPM permitted the agencies to retain as "mission critical," and to do so, falsely, for performance.
- 28. OPM is an agency with no statutory authority to make termination decisions for federal employees (other than for OPM's own employees).

- 29. Notwithstanding this lack of legal authority, OPM ordered federal agencies throughout the nation, including in this District, to wipe out their ranks of probationary employees without any regard to applicable statutes, including the Administrative Procedure Act ("APA") and statutes governing federal employment and the respective roles of OPM and the agencies.
- 30. Probationary employees are employees of the competitive service in their first year of employment in a particular position, and employees of the excepted service in their first two years of employment in a particular position (hereafter collectively "probationary employees"). Probationary employees may include experienced federal employees who have recently become employed in a new position or a new agency.
- 31. OPM ordered the agencies to use a template e-mail to terminate these workers, provided by OPM, that falsely inform employees that their terminations are for performance reasons rather than as part of a government-wide policy to reduce headcount that was authorized by no law.
- Plaintiffs are all former "probationary" employees who were directly affected by OPM's directives.
- 33. As probationary employees, Plaintiffs had very limited rights to appeal their terminations to the MSPB.
- 34. All Plaintiffs assert that no documented negative feedback or allegation of poor performance or poor conduct was made about them by their supervisors or upper management.
- 35. All Plaintiffs assert that their termination letters did not identify any specific performance deficiency or example of poor conduct.
- 36. The federal agencies that followed OPM's directive did not otherwise have plans to terminate the entirety of their probationary workforce, who were employed in authorized positions to perform services that in each agency's judgment were needed to perform their statutorily mandated role.

- 37. In fact, some agencies have confirmed to their employees that they did not want to terminate their probationary employees but were directed to do so by OPM. And they have confirmed that the notices of termination mandated by OPM were false, because the agencies were *not* firing the workers for performance reasons.
- 38. All Plaintiffs assert that the accusation that they were poor performers is defamatory, paints them in a false negative light, calls into question their dedication, productivity, comportment, focus and reliability, and has likely swayed potential employers not to hire them.
- 39. All Plaintiffs assert that by failing to identify in writing any specific basis for an assertion of poor performance or poor conduct, their terminations violated due process rights articulated in 5 U.S.C. §315.13.804.
- 40. All Plaintiffs assert that the accusation that their performance was unsatisfactory, or not in the public interest, is both objectively false and defamatory.
- 41. OPM, the federal agency charged with implementing this nation's employment laws, in one fell swoop has perpetrated one of the most massive employment frauds in the history of this country, telling tens of thousands of workers that they were being fired for performance reasons, when they most certainly were not.
- 42. To make matters worse, OPM and other agents of the Defendants made multiple public statements justifying OMP's actions which damaged the reputations of Plaintiffs.
- 43. On or about February 12, 2025, CNN reported that the widespread terminations of probationary employees were taking place. In the article about these terminations, it was reported that: "However, OPM has advised agencies that they do not have to cull all probationary workers but should focus on those who have been underperforming. CBS News first reported the advisory."
- 44. On or about 4:30 pm on February 13, 2025, the Federal News Service published an article that specifically references he Journalist Jory Heckman having spoken to an "OPM Spokesperson"

about the ensuing terminations, and made the representation that the agencies were given discretion to select which employees to terminate based on poor performance. *See* EXHIBIT 8.

- 45. The statement from the OPM Spokesperson that was published in the article by Mr. Heckman was published *before* most of the employees received notice of their terminations on February 13 and 14.
- 46. On or about February 13, 2025, the publication Government Executive, published an article entitled "OPM Fires its own Probationary Staff." See EXHIBIT 9. Inter alia, the article reported: "Earlier this week, OPM convened a call with federal agencies' general counsels and instructed them not to pursue widespread firings of probationary period workers. Instead, OPM said, they should terminate only such workers that they have deemed poor performers." See id.
- 47. On or about February 13, 2025, CNN reported the termination of probationary employees also highlighting that the terminations focused on employees who were underperforming. *See* EXHIBIT 10.
- 48. On or about February 14, 2025, CNN reported that the OPM's direction to agencies emphasized terminations of probationary employees who were deemed poor performers. *See* EXHIBIT 11.
- 49. The clear implication of these articles is that Plaintiffs were chosen for termination due to poor performance.
- 50. Plaintiffs assert that the information of what guidance was being given to agencies about terminating probationary employees was planted by Defendant Agencies via OPM spokespersons and sources in order to make the terminations appear justified.
- 51. On information and belief, staff at OPM also provided information to CNN journalists that appeared in articles written before Plaintiffs were terminated.
- 52. These statements set the stage for, and created a framework in which the public would view

Plaintiffs' terminations as justified.

- 53. These news outlets, particularly CNN, have massive reach that created a serious and extremely detrimental impact on the reputations of employees who were terminated in accordance with that now publicly viewed OPM directive.
- 54. The allegation that Plaintiffs were selected for termination due to poor performance was further adopted and ratified in the language of their initial termination letters.
- 55. The allegations that Plaintiffs were selected for termination due to poor performance was ratified and adopted by White House Spokesperson Anna Kelly on or about February 20, 2025, when she was directly confronted with the fact that many of the people terminated appeared to be strong performers. *See* EXHIBIT 12.
- 56. Rather than clarifying that the employees in question were not poor performers, she is quoted as saying that their presence in the government was wasteful. *See id.*
- 57. Ms. Kelly was given a direct opportunity to admit that Plaintiffs were not poor performers, and declined to rescind or disavow in any way the defamatory statement about terminated probationary employees.
- 58. On or about February 25, 2025, Congresswoman Marjorie Taylor Greene, a well-known ally of the Trump administration, while speaking in her official capacity, assert that the employees who had just been fired were "not worthy" of their government paychecks, assertively defending the terminations at issue because the terminated employees were essentially malingerers who did nothing to earn their pay. *See* EXHIBIT 13.
- 59. At no time did any spokesperson from the Defendant Agencies or the administration correct the record or contradict Ms. Taylor Greene, despite the wide dissemination of her comments.
- 60. In the Northern District of California case, OPM offered the sworn declaration of Charles Ezell, in which he alleged that OPM did not order mass firings of probationary employees, and

instead, simply gave guidance to agencies so that the agencies would identify poor performers for termination. See American Federation of Government Employees, AFL-CIO, et al. v. United States Office of Personnel Management, et al., Case No., C 25-01780 WHA (N.D. Ca.).

- 61. When Judge Alsup of the Northern District of California ordered Defendant Ezell to appear in person to answer questions about his declaration, OPM refused to produce him as a witness and withdrew his declaration.
- 62. Plaintiffs assert that this withdrawal of a sworn declaration is further evidence that the allegations within the declaration were false.
- 63. Plaintiffs assert that the culmination of the OPM spokesperson's statement to Journalist Jory Heckman, the leaked letters to major media outlets, the comments from White House spokespersons, and the statement by Ms. Taylor Greene, and the declaration of Defendant Ezell created a context in which Plaintiffs would be assumed to be poor performers simply because they were part of the cadre of employees who were terminated at that time.
- 64. These public statements, in juxtaposition with the patently false statements in Plaintiffs' termination letters, painted Plaintiffs in a false light.
- 65. Defendant Agencies benefited from the false premise their words and actions created about Plaintiffs by obtaining some sort of political and legal cover for what would otherwise be patently illegal actions.
- 66. Thankfully Judge Alsup concluded that the government's assertion that the probationary employees were terminated due to poor performance was specious, and that the facts establish that OPM ordered agencies to terminate probationary employees while using false and defamatory justifications for such actions.
- 67. In addition to the decision by the Northern District of California, the District Court for the District of Maryland also made factual findings that the claim that Defendants' assertion that

terminated probationary employees were poor performers was factually false, and was a ruse for circumventing reduction in force regulations. *See State of Maryland et al. v. United States Department of Agriculture, et al.*, Case No. 1:25-CV-00748 (D. Md.).

- 68. Plaintiffs allege that Defendants were very aware that public reporting on the terminations of probationary employees was stating or clearly implying that Plaintiffs were selected for termination due to poor performance.
- 69. Plaintiffs assert that it is factually false and patently defamatory that Plaintiffs were selected for termination due to poor performance.
- Plaintiffs assert that Defendant Agencies knew and were aware that the allegations that Plaintiffs were terminated for poor performance were not true at the time they were made, were not true when such statements were sent to Plaintiffs, and were not true when spokespersons for Defendant Agencies were confronted by the media about the firings.
- 71. Defendants in the AFGE action filed an interlocutory appeal seeking a stay of Judge Alsup's Order on the preliminary injunction that mandated return to work of all affected employees. The Ninth Circuit Court of Appeals denied the request for a stay. And yet, Defendants continue to defy the Courts, with some agencies returning employees to an administrative leave status, but not to the status *quo ante* as required by both Courts.
- 72. Plaintiffs were either not returned to work, or were terminated shortly after being returned to work.
- 73. Defendants had multiple opportunities to correct the record with regards to Plaintiffs' performance to CNN and many other news agencies who reported on the matter, and refused to do so, thus allowing false and defamatory claims to go unchecked.
- 74. All Plaintiffs assert that they are suffering ongoing and irreparable reputational harm as a result of Defendants' unjustified and unlawful action.

- 75. The reputational harm that Plaintiffs are enduring, coupled with the very serious harm of loss of pay, loss of benefits, loss of training, and loss of job opportunities are the result of Defendants' unconstitutional and unlawful acts.
- 76. The damage is dramatically affecting Plaintiffs' mental and emotional wellbeing, as well as their ability to obtain new employment.
- 77. Plaintiffs also assert that they are suffering from the irreparable harm of the stigma and shame associated with being terminated by the United States government for poor performance or conduct.

FACTS RELEVANT TO PLAINTIFF MCCLARY

- 78. Plaintiff McClary was employed with the General Schedule Administration ("GSA"), continuously, without a break in service from July 28, 2024, through February 14, 2025, when he was notified that he was being terminated. *See* EXHIBIT 14¶1.
- 79. Plaintiff McClary was classified as a probationary employee because his tenure at GSA was less than two years for schedule A. *See id.* ¶ 2.
- 80. Plaintiff McClary's duties included analyzing and evaluating the effectiveness of program operations in meeting established goals and objectives based on data analysis. His work contributed to the improvement of productivity, effectiveness, and efficiency in program operations at the GSS portfolio level. Plaintiff McClary reported directly to Jeff Beck. See id. ¶ 3.
- 81. Plaintiff McClary asserts that at no time during his employment was he informed that his performance or conduct was unsatisfactory. *See id.* ¶ 4.
- 82. To the contrary, Plaintiff McClary took the lead in establishing a new and improved data dictionary for the GSS analysts across the portfolio. The data dictionary would be implemented incrementally, focusing on the most important data tables that are commonly used across the organization to provide clear data elements, definitions of data type, and notes on the tables. This

was important to GSS to establish, share, and improve the knowledge of the data to improve the ability of the analyst to provide consistent and accurate data for the GSS organization to make business decisions. See id. ¶ 5.

- 83. Plaintiff McClary also took the lead in establishing a shared tool to document and share important shared passwords for automation projects. He created a database in a password keeper tool and established the data elements that needed to be captured. See id. ¶ 6.
- 84. Plaintiff McClary also took the initiative to create the necessary accounts and fill in the credential data for several of the accounts necessary to run a major automation that drives the data and visualization of our key GSS metrics. See id. ¶ 7.
- 85. The termination letter Plaintiff McClary received stated: Probationary periods are an essential tool for agencies to assess employee performance and manage staffing levels. In accordance with The Office of Personnel Management (OPM), Guidance on Probationary Periods, Administrative Leave and Details, January 20, 2025, I made the determination related to your retention. I do not consider it in the best interest of the government to retain you in the Federal service and have decided to terminate your appointment during your trial period. See id. ¶ 8.
- 86. The termination letter failed to provide detailed notice as to why Plaintiff McClary was being summarily terminated and lacks [GSA] conclusions as to any inadequacies of his performance or conduct necessary to justify my termination. *See id.* ¶ 9.
- 87. The termination letter did not include (a) any information concerning the right to reemployment consideration and career transition assistance; (b) a release to authorize the federal government to share my resume and employment information with my state's Workforce Innovation and Opportunity Act of 2014 agency, for employment referrals to potential public and private sector employers; and (c) any information about how to apply for unemployment insurance and access to other benefits. See id.¶ 10.

- 88. Plaintiff McClary's supervisors assured him that his termination had nothing to do with his performance and that they were not consulted in making the termination decision. *See id.* ¶ 11.
- 89. Plaintiff McClary was not provided any opportunity to respond to the allegation in the termination letter and was instead, immediately terminated following receipt of the termination letter. See id. ¶ 12.
- 90. Plaintiff McClary's supervisors were not provided the opportunity to respond to the allegations in the termination letter before the effective date of my termination. See id. ¶ 13.
- 91. Since his termination, Plaintiff McClary has applied to more than two-dozen jobs, and has been unable to secure new employment. *See id.* ¶ 14.
- 92. On no less than three occasions, Plaintiff McClary has been asked about his termination from government employment, which has hampered him since many of the jobs he has applied to were with government contractors. *See id.* ¶ 15.
- 93. Plaintiff McClary lost job opportunities with Black Duck Co., as well as with Genworth financial due to questions about his previous termination. *See id.* ¶ 16.
- 94. The issue of Plaintiff McClary's termination came up again with a company called U-Dig, which is a consulting company that works with government agencies, and again Plaintiff McClary lost out on the job opportunity due to his termination. *See id.* ¶ 17.
- 95. As a direct and proximate cause of Defendant's actions, Plaintiff McClary has lost wages, has suffered other financial losses, and has suffered severe mental and emotional stress and anxiety.

FACTS RELEVANT TO THE CLAIMS OF PLAINTIFF SASSARD

- 96. Plaintiff Sassard was employed with the National Oceanic and Atmospheric Administration (NOAA), continuously, without a break in service from September 9, 2024, through February 27, 2025, when she was notified that I was terminated. *See* EXHIBIT 15 ¶ 1.
- 97. Prior to her termination, Plaintiff Sassard's duties included working with science education

programs, analyzing program efficacy, and hiring students into government jobs with specialized scientific knowledge. See id. ¶ 2.

- 98. Plaintiff Sassard was classified as a probationary employee because her tenure at NOAA was less than two years for schedule A. *See id.* ¶ 3.
- 99. Plaintiff Sassard's duties included: coordinating the NOAA Education Council and related activities; interpreting and applying information and specialized experience in Federal STEM Education policy to develop recommendations and guidance; coordinating agency-wide strategic planning, implementation planning, and evaluation as required in the America COMPETES Act and subsequent legislation (33 USC 893a); working with NOAA's student opportunity programs to facilitate hiring of program alumni through subject matter expertise; coordinating budget formulation, performance planning, and related reporting for NOAA's Office of Education, and I reported to Christos Michalopoulos. See id. ¶ 4.
- 100. Plaintiff Sassard asserts that at no time during my employment was I informed that my performance or conduct was unsatisfactory. See id. ¶ 5.
- 101. To the contrary, Plaintiff Sassard's manager stated upon her termination that she had made invaluable contributions to the office, NOAA, and the country, and that her absence would be felt by all. See id. ¶ 6.
- 102. Plaintiff Sassard's manager noted that she was smart, committed, and hard-working, and that she personified what public servants should aspire to be. *See id.*
- 103. Plaintiff Sassard's management also noted that she had performed exceptionally throughout her tenure with NOAA, enriched the personal and professional lives of her colleagues, and contributed much to the NOAA Education community. *See id.*
- 104. At the time of Plaintiff Sassard's termination, neither she, nor her managers, had been able to sign her performance plan due to an issue with the NOAA performance management system; however, she received continuous positive feedback that she was meeting expectations. *See id.*

- 105. The termination letter Plaintiff Sassard received stated: "the Agency finds that you are not fit for continued employment because your ability, knowledge and/or skills do not fit the Agency's current needs." *See id.* ¶ 7.
- 106. The termination letter failed to provide detailed notice as to why Plaintiff Sassard was being summarily terminated and lacks NOAA's conclusions as to any inadequacies of her performance or conduct necessary to justify my termination. *See id.* ¶ 8.
- 107. The termination letter did not include (a) any information concerning the right to reemployment consideration and career transition assistance; (b) a release to authorize the federal government to share my resume and employment information with my state's Workforce Innovation and Opportunity Act of 2014 agency, for employment referrals to potential public and private sector employers; and (c) any information about how to apply for unemployment insurance and access to other benefits. *See id.* ¶ 9.
- 108. Plaintiff Sassard's supervisors assured her that her termination had nothing to do with her performance and that they were not consulted in making the termination decision. *See id.* ¶ 10.
- 109. Plaintiff Sassard was not provided any opportunity to respond to the false allegations in the termination letter and was instead, immediately terminated following receipt of the termination letter. See id. ¶ 11.
- 110. Plaintiff Sassard's supervisors were not provided the opportunity to respond to the false allegations in the termination letter before the effective date of my termination. See id. ¶ 12.
- 111. Shortly after Plaintiff Sassard's termination in February of 2025, she filed a complaint with the MSPB. *See id.* 13.
- 112. The MSPB has not acted on Plaintiff Sassard's claim, and has not corresponded with her as required by the CSRA. See id. ¶ 14.
- 113. In March of 2025, Plaintiff Sassard was returned to work as a result of a legal case, but

instead of placing her back in her duties, she was placed on paid administrative leave. See id. ¶ 15.

- 114. On April 3, 2025, Plaintiff Sassard was terminated again, and was told her termination was retroactive to February 27, 2025. *See id.* ¶ 16.
- 115. In April, Plaintiff Sassard was told that her termination was because she was a probationary employee, which is what is reflected in the latest SF-50. *See id.* ¶ 17.
- 116. On August 1, 2025, Plaintiff Sassard received a letter stating that as the result of a legal case, her agency was forced to admit that her termination was not due to poor performance. *See* EXHIBIT 16.
- 117. However, the letter made clear that the agency did not agree with the court's requirement, and went on to state that it would revert the nature of Plaintiff Sassard's dismissal to poor performance should it be allowed to do so after litigation.
- 118. The letter also stated that the admission of fraud could not be used against the agency (as if such words have legal impact, which they do not).
- 119. Plaintiff's SF-50 was sent to her in July of 2025. See EXHIBIT 17. Even though she had been informed she was involuntarily separated, the SF-50 states her separation was a termination during a probationary/trial period, which again implies poor performance.
- 120. Since April of 2025, Plaintiff Sassard has been attempting to obtain new employment and is being stigmatized in that process by having to explain why I was terminated by the government, including the fact that despite positive feedback and examples of good work, the termination letter falsely stated that she was fired for performance issues. *See* EXHIBIT 15 ¶ 20.
- 121. Plaintiff Sassard has applied to more than two-dozen open positions, but has not yet received a call back. *See id.*
- 122. Plaintiff Sassard asserts that the nature of her separation from government employment is hampering her ability to obtain new employment for the following reasons: the Department

backdated her separation date to February 27, 2025, even though she was on administrative leave through April 10, 2025, making it appear she had been out of work for an additional month; Plaintiff Sassard's field of expertise is in a narrow area (STEM education policy for federal agencies) with limited opportunities within federal agencies or partnering organizations, which are sensitive to the reputationally damaging nature of her separation. *See id.* ¶21.

123. As a direct and proximate cause of her unlawful termination, Plaintiff Sassard has suffered substantial financial loses, including lost wages and lost benefits.

FACTS RELATED TO PLAINTIFF TINES

- 124. Plaintiff Tines was employed with the National Institutes of Health "NIH" continuously, without a break in service from December 3, 2023, through February 15, 2025, when she was notified that she was being terminated. *See* EXHIBIT 18, ¶ 1.
- 125. Plaintiff Tines was classified as a probationary employee because her tenure at NIH as an IT System Analysis was less than two years for schedule A. *See id.* ¶ 2.
- 126. Plaintiff Tines' duties included defining, planning, and directing the analysis and development of complete computer systems of a highly complex nature to meet the requirements of administrative, scientific, or research applications of the assigned organization. *See id.* ¶ 3.
- 127. She was also responsible for system design, development, and implementation, planning and managing systems analysis, design, programming, testing, and installation of the proposed systems.
- 128. After implementation, Plaintiff was responsible for conducting system reviews to evaluate cost effectiveness and performance and to identify problems. See id. ¶ 4.
- 129. She also provided systems analysis for the planning, design and implementation of new and improved information systems to meet the business requirements of the program area. See id. ¶¶ 5 & 6.
- 130. Plaintiff Tines collaborated with subject matter specialists at any organizational level and other computer experts in order to determine user needs, optimal computer system design, organizational impact,

implementation schedules, environmental and administrative constraints, etc. She also developed and made presentations on project status and technical issues pertinent to projects and prepares other project related documentation such as project plans, schedules, budget documents, and statements of work. *See id.* ¶ 7.

- 131. During her tenure, Plaintiff Tines reported to Jade Blevins. See id. ¶ 8.
- 132. At no time during her employment was Plaintiff Tines informed that her performance or conduct was unsatisfactory in any way. See id. \P 9.
- 133. To the contrary, Plaintiff Tines received her PMAP review in late January 2025 scored a 3.80, which is considered a Level 4. This category made her eligible for a bonus award. *See id.* ¶ 10.
- 134. The termination letter Plaintiff Tines received stated that she was being terminated because she was "unfit for continued service or words to that effect. *See* EXHIBIT 19. The letter clearly implied that Plaintiff Tines was terminated due to her own fault.
- 135. The termination letter failed to provide detailed notice as to why Plaintiff Tines was being summarily terminated and lacks any specific facts or conclusions as to any inadequacies of her performance or conduct necessary to justify her termination. *See* EXHIBIT 18 ¶ 12.
- 136. The termination letter did not include (a) any information concerning the right to reemployment consideration and career transition assistance; (b) a release to authorize the federal government to share my resume and employment information with my state's Workforce Innovation and Opportunity Act of 2014 agency, for employment referrals to potential public and private sector employers; and (c) any information about how to apply for unemployment insurance and access to other benefits. *See id.* ¶ 13.
- 137. Plaintiff Tines' supervisors assured her that her termination had nothing to do with her performance and that they were not consulted in making the termination decision. *See id.* ¶ 14.
- 138. Plaintiff Tines was not provided any opportunity to respond to the false allegations in the termination letter and was instead, immediately terminated following receipt of the termination letter. *See id.* ¶ 15.

- 139. Plaintiff Tines' supervisors were not provided the opportunity to respond to the false allegations in the termination letter before the effective date of her termination. *See id.* ¶ 16.
- 140. Plaintiff Tines have been attempting to find new employment since my termination in March. *See id.* ¶ 17.
- 141. Plaintiff Tines made it to the interview process with potential employer Black Canyon Consulting company for a contract position with the National Library of Medicine contract. After several conversations with HR, trying to explain that I was not terminated for performance reasons, I was no longer considered for the position and never got the interview. *See id.* ¶18.
- 142. Plaintiff asserts that the confusing nature of my termination painted me in a negative light, and caused a potential employer not to want to hire me. *See id.* ¶ 19.
- 143. Plaintiff Tines have been rejected from several positions for which I was qualified because I was terminated so early in my tenure with my government employer. See id. \P 20.

CLAIMS FOR RELIEF

COUNT I

(Violation of the Fifth Amendment to the Constitution – Due Process Violation – False Light and Per Se Defamation Against Defendants)

- 144. Plaintiffs reference and incorporate all of the allegations in the previous paragraphs as if fully restated herein.
- 145. The Fifth Amendment to the Constitution protects against harms to a person's reputation caused by government actors, often referred to as "reputation plus" and "stigma plus" harms.
- 146. Plaintiffs have a clearly defined interest in the maintenance of their reputations as professionals.
- 147. Here, Plaintiffs were terminated under the auspices of their performance being poor.
- 148. On or about February 13, 2025, Defendants via the OPM spokesperson, published a statement to Journalist Jory Heckman that the employees that were being fired were poor performers.

- 149. In the days and weeks that followed, Defendants repeatedly represented that Plaintiffs were selected for termination due to underperformance.
- 150. Plaintiffs asserts that this characterization of their performance is patently and demonstrably false.
- 151. Plaintiffs assert that Defendants, via spokespersons for the White House, Congress and the OPM, made public statements that painted Plaintiffs in a false light, and that defamed their character.
- 152. Plaintiffs assert that no person would abide a public persona or reputation of being a poor performer or a malingerer who was unworthy of the pay they earned, and thus the false statements made about them were *per se* defamatory.
- 153. Plaintiffs have all suffered a material adverse action of a job loss, and direct damage to their reputations by Defendants' material and defamatory misrepresentation of their professional skills and performance.
- 154. Plaintiffs assert that the reasons given for their terminations are pretext to hide an unlawful motive.
- 155. Two separate federal District Courts have concluded that the reasons proffered by the government for its actions against Plaintiffs were false, without basis in fact, and were concocted to camouflage what was otherwise an illegally and improperly executed reduction in force.
- 156. As a direct result and proximate cause of Defendants' violation of Plaintiffs' Constitutional due process rights, Plaintiffs have suffered reputational harm and stigma, and seeks a remedy from this Court that reinstates them to their previous employment.
- 157. As a direct result and proximate cause of Defendants' violation of Plaintiffs' Constitutional due process rights, Plaintiffs have suffered reputational harm and stigma, and seeks a remedy from this Court that ORDERS Defendant Agencies to publicly admit and acknowledge that Plaintiffs were not terminated due to poor performance.

COUNT II

(Violation of the Fifth Amendment to the Constitution – Due Process Violation Against Defendant OPM and Acting Director Ezell, and the Defendant Agencies that Enacted OPM Directives)

- 158. Plaintiffs reference and incorporate all of the allegations in the previous paragraphs as if fully restated herein.
- 159. Defendants violated Plaintiffs' due process rights by terminating them without prior notice of performance deficiency, and without a right to respond to any claim that their performance was unsatisfactory.
- 160. Defendant violated Plaintiffs' due process rights by violating the provisions of 5 C.F.R. § 315.803 and 5 C.F.R. §752.401.
- 161. Two separate federal District Courts have concluded that the reasons proffered by the government for its actions against Plaintiffs were false, without basis in fact, and were concocted to camouflage what it otherwise an illegal reduction in force.
- 162. As a direct result and proximate cause of Defendants' violation of Plaintiffs' Constitutional due process rights, Plaintiffs have suffered harm, and seeks a remedy from this Court that fully reinstates them to their previous employment.
- 163. As a direct result and proximate cause of Defendants' violation of Plaintiffs' Constitutional due process rights, Plaintiffs have suffered harm, and seeks a remedy from this Court that ORDERS Defendant Agencies to correct the public record and acknowledge that Plaintiffs were not terminated due to poor performance.

COUNT III

(Violation of the Administrative Procedures Act 5 U.S.C. § 706(2)(A) and (C)
Against Defendants OMP and Acting OPM Director Ezell –
Unlawful Actions that Exceed Statutory Authority)

164. Plaintiffs reference and incorporate all of the allegations in the previous paragraphs as if

fully restated herein.

- 165. OPM is an agency that Congress has made subject to the APA. 5 U.S.C. § 701. OPM's mass termination program and order to federal agencies constitutes a final agency action under the APA. 5 U.S.C. § 704.
- 166. Under the APA, a court shall "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" (5 U.S.C. § 706(2)(A)), or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right" (5 U.S.C. § 706(2)(C)).
- 167. The actions of OPM and its Acting Director, including but not limited to the OPM program requiring federal agencies to terminate probationary employees, violate the Administrative Procedure Act because they are inconsistent with law in violation of 5 U.S.C. § 706(2)(A), and exceed statutory authority, in violation of 5 U.S.C. § 706(2)(C), and are for those reasons also arbitrary and capricious in violation of 5 U.S.C. § 706(2)(A).
- 168. The APA, was designed to "serve as the fundamental charter of the administrative state." *Kisor v. Wilkie*, 588 U.S. 558, 580 (2019) (plurality opinion) (internal quotation marks omitted).
- 169. As the Supreme Court recently explained, "Congress in 1946 enacted the APA 'as a check upon administrators whose zeal might otherwise have carried them to excesses not contemplated in legislation creating their offices." *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 391 (2024) (quoting *United States v. Morton Salt Co.*, 338 U.S. 632, 644 (1950)).
- 170. Before the first day of the new Presidential Administration, OPM had never taken the position that it had the authority to direct other agencies to terminate employees.
- 171. Before January 20, 2025, OPM had made no public statement regarding any program to terminate probationary employees. Neither had any agency in the federal government made any public statement regarding any desire to terminate probationary employees. No union or group of

federal employees had been provided any notice of any program or decision to terminate probationary employees.

- 172. On information and belief, before January 20, 2025, OPM had no plans to order federal agencies to terminate their probationary employees, and no agency had such a plan. Before January 20, 2025, no OPM Director had ever taken the position that OPM had the legal authority to direct agencies to terminate the employment of employees of other federal agencies.
- 173. On January 20, 2025, the first day of the incoming Presidential Administration, the current President appointed Charles Ezell to serve as Acting OPM Director. The same day, Acting OPM Director Ezell distributed a memo to "Heads and Acting Heads of Departments and Agencies" regarding "Guidance on Probationary Periods, Administrative Leave and Details."
- 174. In this memo, Acting Director Ezell directed department and agency heads to submit to OPM, no later than January 24, 2025, a report listing all "employees on probationary periods, who have served less than a year in a competitive service appointment, or who have served less than two years in an excepted service appointment."
- 175. The memorandum directed agencies to "promptly determine whether these employees should be retained at the agency."
- 176. OPM required agencies to adhere to a 200-character limit in any explanation provided as to why any individual employee should be retained by the agency.
- 177. On February 11, 2025, the current President issued Executive Order 14210, entitled "Implementing the President's 'Department of Government Efficiency' Workforce Optimization Initiative." The Executive Order instructed that "Agency Heads shall promptly undertake preparations to initiate large-scale reductions in force (RIFs)."
- 178. CBS News reported that: "The decision on probationary workers, who generally have less than a year on the job, came from the Office of Personnel Management, which serves as a human

resources department for the federal government. The notification was confirmed by a person familiar with the matter, who spoke on condition of anonymity because they weren't authorized to discuss it publicly."

- 179. On information and belief, as of February 13, 2025, prior to the order from OPM, no federal agency intended to terminate its probationary employees *en masse*, and no agency intended to terminate probationary employees (other than on an individualized basis for actual performance or conduct reasons) without complying with RIF procedures.
- 180. OPM did not wait for agencies to plan for or initiate any RIF. On or about February 13, 2025, OPM officials met with agency leaders across the federal government and directed them to begin firing their probationary employees without following RIF procedures.⁹
- 181. On February 14, 2025, OPM sent an email with the subject "Follow up: CHCO Council Special Session." The CHCO is the "Chief Human Capital Officers Council," an entity established by statute.
- 182. The statutory purpose of the CHCO is publicly set forth:
 - The CHCO Council is the principal interagency forum to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information and legislation affecting human resources operations and organization.
- 183. The CHCO statutory mandate does not include acting as a conduit for OPM orders to agencies regarding their employees, or receiving or effectuating instruction from OPM on terminating any employees.
- 184. OPM sent the February 14 email to the "CHCOs and Deputy CHCOs." OPM's public website identifies all of the following individuals as CHCOs and Deputy CHCOs of the agencies:
 - Commerce (CHCO Jessica Palatka; Deputy CHCO VACANT)
 - HHS (CHCO Jeffery Anoka, Deputy CHCO Jonathan Gardner)
 - GSA (CHCO Arron Helm, Deputy CHCO Jeremy Taylor)

- OPM (CHCO Carmen Garcia, Deputy CHCO Joe Knouff)
- 185. In the February 14 email, OPM instructed these CHCOs and Deputy CHCOs at each federal agency as to the "immediate next steps for probationary employees."
- 186. OPM stated: "We have asked that you separate probationary employees that you have not identified as mission-critical no later than end of day Monday, 2/17 [President's Day, a federal holiday]. We have attached a template letter."
- 187. The email further instructed agencies that "OPM believes 'qualifications for continued employment' in the current context means that only the highest-performing probationers in mission-critical areas should be retained."
- 188. The February 14, 2025, email then instructed agencies that, "[a]fter actioning" (emphasis added), they must update their previous probationary worker spreadsheets and submit those lists to OPM, and continue to do so every day.
- 189. OPM later followed up with "FAQs" provided to agencies regarding this directive. Those FAQs instructed agencies that "qualifications for continued employment' means that only the highest-performing probationers in mission critical areas should be retained" and "The notice must include the agency's conclusions as to the inadequacies of the employee's performance or conduct." OPM also instructed agencies to use the "codes" for "processing" terminations for "unacceptable or unsatisfactory performance" and instructed the agencies (twice) that the "codes should be consistent with the reasons the agency stated in the termination notices" that OPM gave them to use.
- 190. Finally, OPM instructed agencies that they need not provide employee unions with notice or information regarding the termination of probationary and trial employees.
- 191. Agencies across the federal government began acting on OPM's February 13, 2025, directive immediately through chaotic mass terminations of their probationary employees.
- 192. Tens of thousands of probationary employees have already been subjected to mass

terminations, with no advance notice, by agencies across the federal government including employees at the Defendant agencies.

- 193. OPM required agencies to use its template termination notices, which OPM created and provided to the agencies, to be sent to those agencies' probationary employees, citing performance as the basis for the termination.
- 194. The termination letters issued to probationary employees cite, as authority for the terminations, the regulations that govern terminations *for performance reasons*: 5 C.F.R. § 315.803 (directing agencies to terminate probationary employees "if the employee fails to demonstrate fully his or her qualifications for continued employment"); 5 C.F.R. § 315.804 (requiring notice of the reasons when an agency "decides to terminate an employee serving a probationary or trial period because his work performance or conduct during this period fails to demonstrate his fitness or his qualifications for continued employment," including a statement of the "agency's conclusions as to the inadequacies of [the employee's] performance or conduct"); and 5 C.F.R. § 316.304 (entitling trial period employees in the excepted service to the same notice rights upon termination for performance reasons as probationary employees in the competitive service).
- 195. The actions of OPM and its Acting Director overriding the direct Congressional authorization of agency heads to manage the affairs and employees of their respective agencies, including by overriding each and every one of the following statutes:
 - a. The authorization to employ: 5 U.S.C.§ 3101.
 - b. The authorization to manage agency affairs via rules, including rules for employment: 5 U.S.C. §§ 301, 302;
 - c. The specific authorizing statutes for each federal agency, which create the office of agency head to administer the agencies, and enumerate the duties of the agency heads including with respect to employment: See e.g., 42 U.S.C. § 203 (HHS);

- 15 U.S.C. § 1501, et seq. (Dept. of Comm.); 41 U.S.C. 251, et seq. (GSA).
- d. The CSRA authorization to agencies that govern employee removal: 5 U.S.C.
 §§ 7512, 7513;
- e. The CSRA provisions that apply to agency RIFs, which authorize OPM to promulgate regulations by which agencies may conduct RIFs of their employees: 5 U.S.C. § 3502; see also 5 C.F.R. § 351.204 Responsibility of agency ("Each agency covered by this part is responsible for following and applying the regulations in this part when the agency determines that a reduction force is necessary."); id., § 351.205 Authority of OPM ("The Office of Personnel Management may establish further guidance and instructions for the planning, preparation, conduct, and review of reductions in force.").
- 196. OPM's actions also exceed any statutory power or duties granted by Congress to OPM. In creating OPM and delegating duties to its Director, Congress did not authorize OPM or its Director to order the removal of employees employed by any other federal agency. See 5 U.S.C. § 1103 (authorizing Director of OPM to "appoint[] individuals to be employed by the Office" and "direct[] and supervis[e] employees of the Office, distribut[e] business among employees and organizational units of the Office, and direct[e] the internal management of the Office") (emphases added).
- 197. The letters Plaintiffs received align closely with the directives from OPM and either clearly state or imply that poor performance was the basis for their terminations. *See* EXHIBITS 19-21.
- 198. Despite the citation of these authorities in the template termination letters, the letters fail to provide any individualized reasons why the employees' performance warranted termination. Many termination letters appear to have been created by means of mail merges.
- 199. The reference to employee performance in the mass termination letters and the citation to the authority for the termination of probationary employees for performance reasons was a pretext.

- 200. OPM's actions disrupt the constitutional balance of power and violate numerous federal statutes, running roughshod over fundamental protections against unlawful and arbitrary federal action.
- 201. Plaintiffs asserts that Defendants' characterization of their performance as "poor," and thus worthy of the severe sanction of termination was without basis in fact, and as such, qualifies as arbitrary and capricious.
- 202. Defendants' failure to provide Plaintiff with any notice, let alone written notice, of any deficiencies in their performance, or any opportunity to respond to concerns about their performance, constituted arbitrary and capricious conduct, and directly violated applicable regulations.
- 203. Defendants' actions vis-à-vis Plaintiffs are sufficiently severe and outrageous to warrant this Court's intervention
- 204. As a direct result and proximate cause of Defendants' violation of the APA, Plaintiffs have suffered harm, and seeks a remedy from this Court that fully reinstates them to their previous employment and corrects all related employment records, as well as retracts any public statement that Plaintiffs were terminated due to poor performance.

COUNT IV

(Violation of the Administrative Procedures Act 5 U.S.C. § 706(2)(A) and (C)
Against Defendants OMP and Acting OPM Director Ezell –
Arbitrary and Capricious Actions)

- 205. Plaintiffs reference and incorporate all of the allegations in the previous paragraphs as if fully restated herein.
- 206. Plaintiffs were victims of, and harmed by the OPM order to federal agencies to terminate probationary employees and the acts of the Federal Agency Defendants implementing that order.
- 207. Plaintiffs have suffered legal wrong as a result of, and have been adversely affected or

aggrieved by, OPM and Acting OPM Director's actions for purposes of 5 U.S.C. § 702.

- 208. OPM is an agency that Congress has made subject to the APA. 5 U.S.C. § 701. OPM's order to federal agencies constitutes final agency action under the APA. 5 U.S.C. § 704.
- 209. The actions implementing OPM's mass termination program also constitute final agency actions under the APA.
- 210. The actions of OPM and its Acting Director, including but not limited to the OPM program requiring federal agencies to terminate probationary employees, violate the APA because they are arbitrary and capricious, in violation of 5 U.S.C. § 706(2)(A), for reasons that include the following: OPM's actions are based on the fiction that the employees are being terminated for performance reasons; OPM's actions are intended to deprive terminated employees of an administrative remedy; OPM's actions required agencies to terminate employees immediately, often with only a few hours' notice; OPM's actions required agencies to violate commitments made to employees and the agency's own plans for those employees; and OPM's actions had no relationship to agencies' staffing needs or statutory mandates.
- 211. Defendants' actions vis-à-vis Plaintiffs are sufficiently severe and outrageous to warrant this Court's intervention
- 212. As a direct result and proximate cause of Defendants' violation of the APA, Plaintiffs have suffered harm, and seeks a remedy from this Court that fully reinstates them to their previous employment and corrects all related employment records, as well as retracts any public statement that Plaintiffs were terminated due to poor performance.

COUNT V

(Violation of the Administrative Procedures Act 5 U.S.C. § 706(2)(A) and (C)

Against Defendants OMP and Acting OPM Director Ezell –

Noncompliance with Notice and Comment Period Requirements for Rule Making)

213. Plaintiffs reference and incorporate all of the allegations in the previous paragraphs as if

fully restated herein.

- 214. Plaintiffs were victims of, and harmed by the OPM order to federal agencies to terminate probationary employees and the acts of the Federal Agency Defendants implementing that order.
- 215. OPM is an agency that Congress has made subject to the APA. 5 U.S.C. § 701. OPM's order to federal agencies constitutes final agency action under the APA. 5 U.S.C. § 704.
- 216. OPM, like other agencies are required to provide and notice and comment period when it plans to implement large-scale programmatic changes or new "rules."
- 217. The OPM Order directing agencies to terminate probationary employees is a "rule" for purposes of the APA. 5 U.S.C. § 551(4).
- 218. Had OPM followed notice-and-comment procedures required by the APA, Plaintiffs would have provided comments about the OPM Program.
- 219. Under the APA, a court shall "hold unlawful and set aside agency action ...found to be.... without observance of procedure required by law." 5 U.S.C. § 706(2)(D).
- 220. Congress assigned to the Director of OPM the duty of "executing, administering, and enforcing—(A) the civil service rules and regulations of the President and the Office and the laws governing the civil service." 5 U.S.C. § 1103(a)(5)(1).
- Congress also required that "in the exercise of the functions assigned under this chapter, the Director shall be subject to subsections (b), (c), and (d) of section 553 of this title." 5 U.S.C. § 1105. Congress expressly made the requirements of section 553 apply to OPM actions "notwithstanding subsection (a) of such section 553," which otherwise exempts "matter[s] relating to agency management or personnel or to public property, loans, grants, benefits, or contracts." 5 U.S.C. § 553(a).
- 222. Notwithstanding the OPM Director's express obligations pursuant to 5 U.S.C. §§ 1103 and 1105 to comply with notice and comment rule-making pursuant to the APA, neither OPM nor its

Acting Director complied with the rule-making provisions set forth in 5 U.S.C. § 553 before issuing the OPM order directing agencies to terminate probationary employees.

- 223. OPM's order directing agencies to terminate probationary employees therefore also violates 5 U.S.C. § 706(2)(D) by failing to observe procedures required by law.
- 224. Defendants' actions vis-à-vis Plaintiffs are sufficiently severe and outrageous to warrant this Court's intervention
- 225. As a direct result and proximate cause of Defendants' violation of the APA, Plaintiffs have suffered harm, and seeks a remedy from this Court that fully reinstates them to their previous employment and corrects all related employment records, as well as retracts any public statement that Plaintiffs were terminated due to poor performance.

COUNT VI

(False Light and Per Se Defamation Against Defendant Ezell in his Individual Capacity)

- 226. Plaintiffs reference and incorporate all of the allegations in the previous paragraphs as if fully restated herein.
- 227. Patently false and defamatory statements about Plaintiffs were made as described in the paragraphs above.
- 228. Defendant Ezell gave detailed direction to Defendants to defame and make false statements about probationary federal employees to justify their summary termination.
- 229. Specifically, Defendant Ezell caused public statements to be made that categorized Plaintiffs as poor performers worthy of termination from government employment.
- 230. At the time that Defendant Ezell ordered Defendants to make these defamatory statements, Defendant Ezell knew the statements to be false, and knew or should have known that such statements would harm the reputations of Plaintiffs.
- 231. Defendant Ezell could clearly foresee and anticipate that his actions would defame

Plaintiffs, and in fact intended the harm he caused.

- 232. Plaintiffs have a clearly defined interest in the maintenance of their reputations as professionals.
- 233. Defendant Ezell, by the exercise of his authority, ordered, instructed, and caused the Defendant agencies to make patently false and defamatory statements about Plaintiffs.
- 234. In short, Defendant agencies and secretaries acted as agents of, and in accordance with direction from Defendant Ezell.
- 235. Defendant Ezell is not protected by sovereign immunity.
- 236. Defendant Ezell acted well beyond the scope of his authority in ordering federal personnel to make false and defamatory statements about Plaintiffs.
- 237. On or about February 13, 2025, Defendants via the OPM spokesperson, published a statement to Journalist Jory Heckman that the employees that were being fired were poor performers.
- 238. In the days and weeks that followed, Defendants repeatedly represented that Plaintiffs were selected for termination due to underperformance.
- 239. Plaintiffs asserts that this characterization of their performance is patently and demonstrably false.
- 240. Plaintiffs assert that Defendants, via spokespersons for the White House, Congress and the OPM, made public statements that painted Plaintiffs in a false light and that defamed their character.
- 241. Plaintiffs assert that no person would abide a public persona or reputation of being a poor performer or a malingerer who was unworthy of the pay they earned, and thus the false statements made about them were *per se* defamatory.
- 242. Plaintiffs have all suffered a material adverse action of a job loss, and direct damage to their reputations by Defendants' material and defamatory misrepresentation of their professional skills and performance.

- 243. Plaintiffs assert that the reasons given for their terminations are pretext to hide an unlawful motive.
- 244. Two separate federal District Courts have concluded that the reasons proffered by the government for its actions against Plaintiffs were false, without basis in fact, and were concocted to camouflage what was otherwise an illegally and improperly executed reduction in force.
- 245. Plaintiffs seek damages from Defendant Ezell for his actions in causing false and defamatory statements to be made about Plaintiffs that continue to harm their reputations and stigmatize them in their efforts to obtain new employment.
- 246. Plaintiffs therefore seek money damages in the amount of not less than \$1,000,000.00 each for the reputational damage they have suffered, as well as costs, fees, attorney's fees and interest.

PRAYER FOR RELIEF

- 247. Plaintiffs pray for an order returning them to their previous jobs and an order prohibiting their termination without proper cause.
- 248. Plaintiffs ask the Court for an order that corrects their employment records and removes any reference that they were terminated.
- 249. Plaintiff seek money damages from Defendant Ezell for not less than \$1,000,000.00 each for reputational damages as a result of a fraud created by him.
- 250. Plaintiffs seek recovery for their costs, fees, attorneys fees and interest.
- 251. Plaintiffs pray for any and all additional remedies deemed appropriate by the Court.

JURY TRIAL DEMAND

252. Plaintiffs demand trial by jury for all claims so triable.

Respectfully submitted,

/s/Pamela M. Keith
Pamela M. Keith [Bar. No. 448421]

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