No. 26-212

IN THE SUPREME COURT OF THE UNITED STATES

LUIS J. SOTO,

Petitioner,

v.

UNITED STATES POSTAL SERVICE,

Respondent.

On Petition for Rehearing of an Order Denying Certiorari to the United States Court of Appeals for the Federal Circuit

PETITION FOR REHEARING

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PETITION FOR REHEARING

Petitioner Luis J. Soto, appearing pro se, respectfully petitions for rehearing of the October 5, 2026 order denying his petition for a writ of certiorari. This petition invokes only the "other substantial grounds not previously presented" provision of Supreme Court Rule 44.2. It does not rely on an intervening circumstance, and it does not ask the Court to decide the merits of the underlying removal.

THE GROUND IS A DISTINCT CONTRACTUAL QUESTION

The certiorari petition presented due-process questions about notice of available post-removal review and discussed the omitted grievance-arbitration route and the later arbitrability denial. Pet. 1-2, 5-6, 11-13. The distinct ground here is a contract question the certiorari petition did not ask the Court to decide: whether Article 16.9(A)'s waiver of further access to grievance-arbitration beyond Step 3 reaches a disciplinary grievance already taken directly from Step 2 to arbitration under Article 15.2(h), and how the separate hearing and decision triggers in (A)(2) and (A)(3) interact with Article 16.9(B)'s scheduling rule on this record. This is not merely an added citation to the earlier notice claim. It rests on the existing CBA and record, does not rely on intervening circumstances, and does not claim that filing the grievance deprived the MSPB of statutory jurisdiction.

THE AGREEMENT SETS OUT A SEQUENCE THAT THE DECISION DID NOT ANALYZE

Article 15.2(h) permits a disciplinary grievance to proceed directly from Step 2 to arbitration without a Step 3 appeal. Pet. App. 54. The arbitrability record reports that the Union invoked arbitration on January 31, 2023, because Management had not held the Step 2 meeting. Pet. App. XI at 212–224. That reported invocation preceded the written Step 2 denial dated February 3; this petition does not characterize the January 31 filing as an appeal from that later written denial. The MSPB appeal followed on February 14, 2023; the MSPB merits hearing occurred on April 25–26; and the Administrative Judge issued the merits decision on June 13. Fed. Cir. Op. 3; Pet. App. X at 119–120. Thus, the arbitration invocation preceded both the MSPB hearing and the MSPB merits decision, while its precise contractual basis must be understood from the arbitrability record and the agreement as a whole.

Article 16.9(A) then identifies three separate events that waive "further access" to grievance–arbitration "beyond Step 3": an MSPB settlement, commencement of an MSPB merits hearing before a merits decision, or issuance of an MSPB merits decision. Article 16.9(B) separately provides that a grievance due for arbitration will not be scheduled while a live MSPB appeal remains pending, and that a grievance not waived under subsection (A) will be scheduled promptly after the MSPB procedure ends. Pet. App. 74–75. The hearing trigger in subsection (A)(2), the decision trigger in subsection (A)(3), and the scheduling rule in subsection (B) are not interchangeable.

The CBA's words also make the direct Step 2 route consequential. Subsection (A) speaks of access "beyond Step 3," while Article 15.2(h) allows a disciplinary grievance to go from Step 2 directly to arbitration. The question is how those provisions operate when the Union has already invoked the direct arbitration route before the MSPB merits hearing begins. Does subsection (A)(2) extinguish that already-invoked route, or does its reference to access beyond Step 3 leave the direct appeal to be addressed under subsection (B)? The answer requires reading the provisions together and applying them to the actual sequence; it cannot be supplied merely by saying that two procedures may initially be pursued at once.

The arbitrator's December 28, 2023 award found the grievance not arbitrable after the June 13 MSPB merits decision and expressly relied on Article 16.9(A)(3). The award also listed the Union's separate contention concerning subsection (A)(2). Pet. App. XI at 212–224. The award thus presents the distinction; it does not resolve, for purposes of the notice claim, what legal consequence the April hearing had for an arbitration appeal invoked in January. Petitioner does not assert that subsection (A)(2) necessarily preserves arbitration or that the arbitrator decided that question in his favor.

THE DECISION BELOW ANSWERED A DIFFERENT QUESTION

The Federal Circuit held that a preference-eligible USPS employee could pursue both the MSPB appeal and the CBA grievance. It relied on the Union manual's general statement that a grievance would not be scheduled for arbitration until the MSPB appeal reached a final determination. Fed. Cir. Op. 3, 5. It also concluded that the petitioner had not identified a CBA provision ousting the Board's jurisdiction. Id. at 5. This petition accepts that simultaneous statutory proceedings may exist and does not contend that filing a grievance alone deprived the Board of jurisdiction.

The narrower question is what the Agreement said would happen to the contractual route after a merits hearing began, and whether the direct Step 2 appeal was already pending when that event occurred. The Federal Circuit's "both proceedings remain live" description tracks the scheduling language in Article 16.9(B), but it does not address the separate waiver language in subsection (A)(2), the later and distinct trigger in subsection (A)(3), or the direct-to-arbitration route in Article 15.2(h). A manual's general summary that arbitration is not scheduled during a live MSPB appeal does not answer whether the grievance remains viable under Article 16.9(B)'s express condition—"if the grievance is not waived"—or whether the hearing itself had already changed that status.

That distinction bears on the due-process issue. The Federal Circuit treated prior awareness of grievance rights and the filing of a grievance as sufficient to reject the notice claim. Fed. Cir. Op. 5. But awareness that a grievance may be filed is not the same question as whether the final removal notice adequately explained the next step, the direct Step 2 appeal to arbitration, and the consequences that the CBA attaches to a later MSPB hearing or merits decision. The record says the Union had invoked direct arbitration before the April hearing, yet the award later treated the

June decision as a bar. The timing and contractual basis of that loss are relevant to whether the omission in the final notice was immaterial and whether the employee had a meaningful opportunity to understand the procedural consequences of proceeding in both forums.

WHY THIS GROUND IS SUBSTANTIAL AND THE LIMIT OF THE REQUEST

The proposed ground is substantial because it identifies a concrete textual and chronological issue that the lower-court rationale did not answer. It does not depend on new evidence or a factual claim arising after the denial of certiorari. The CBA, the MSPB hearing date, and the arbitrability award were in the record available with the certiorari petition. Petitioner seeks rehearing so the Court may consider whether the decision below resolved the notice question without accounting for the separate contractual consequences of the hearing trigger, the merits-decision trigger, and the already-invoked direct arbitration route.

Petitioner acknowledges that the certiorari petition already raised the omission of the grievance-arbitration route and discussed the later arbitrability denial; those facts are not offered as new. It did not ask the Court whether Article 16.9(A)'s reference to access beyond Step 3 reaches a direct Step 2 arbitration appeal already invoked under Article 15.2(h), or how the hearing trigger, decision trigger, and scheduling rule interact. The Court may view this as a refinement because the same arbitration events appeared in the earlier notice argument. Petitioner submits that the contract-sequencing question is a distinct substantial ground, not merely a new citation or factual detail. The Court may nevertheless conclude that the distinction does not satisfy Rule 44.2. Petitioner does not characterize it as an intervening circumstance.

This request is limited to reconsideration of the denial of certiorari based on the specific contract-sequencing question described above. Petitioner does not ask the Court to decide whether the grievance ultimately should have been arbitrated, disturb the MSPB's merits findings, or hold that the MSPB lacked jurisdiction merely because a grievance was filed. The notice issue matters here because the decision below treated prior awareness and filing a grievance as dispositive without addressing what the Agreement did to an arbitration route already invoked before the MSPB hearing.

RELIEF REQUESTED

Petitioner respectfully requests that the Court grant rehearing of its October 5, 2026 order and reconsider the petition for a writ of certiorari in light of the specific interaction among Articles 15.2(h) and 16.9(A)(2), (A)(3), and (B), and the effect of that sequence on the notice question presented.

Respectfully submitted,

Luis J. Soto, Petitioner Pro Se

Date: 10/30/2026

CERTIFICATE UNDER SUPREME COURT RULE 44.2

I, Luis J. Soto, the petitioner and an unrepresented party, certify that this petition for rehearing is restricted to the ground identified in the petition as an "other substantial ground[] not previously presented" under Rule 44.2; that it is presented in good faith; and that it is not presented for delay.

Luis J. Soto

Date: 10/30/2026

CERTIFICATE OF WORD COUNT

As required by Supreme Court Rule 33.1(h), I certify that the accompanying Petition for Rehearing contains 1,401 words, excluding the parts exempted by the Rules. This count was generated from the final petition text using a word-processing word-count procedure.

Luis J. Soto, Petitioner Pro Se

Date: 10/30/2026

Luis J. Soto

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UNITED STATES POSTAL SERVICE, Respondent.

PROOF OF SERVICE

On Petition for Rehearing of an Order Denying Certiorari to the United States Court of Appeals for the Federal Circuit

I, Luis J. Soto, declare as follows:

I served all parties required to be served in this proceeding: Respondent United States Postal Service, identified on the docket as Federal Respondents, through counsel of record. On October, 30, 2026, I served three paper copies of the Petition for Rehearing, including its Rule 44.2 certificate, on counsel for the Respondent by United States Postal Service. I also transmitted an electronic copy to counsel at SUPREMECTBRIEFS@USDOJ.GOV on 10/30/2026, 2026, reasonably contemporaneously with filing.

The paper copies were addressed to:

D. John Sauer, Solicitor General of the United States

Counsel of Record for Federal Respondents

United States Department of Justice, Room 5616

950 Pennsylvania Avenue, N.W.

Washington, D.C. 20530-0001

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 10/30/2026, 2026, at Rio Grande, Puerto Rico

Luis J. Soto, Petitioner Pro Se

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