
In the Supreme Court of the United States

EDWARD G. McDONOUGH,
Petitioner,

v.

YOUEL SMITH, INDIVIDUALLY AND AS SPECIAL DISTRICT
ATTORNEY FOR THE COUNTY OF RENSSELAER,
NEW YORK, AKA TREY SMITH,
Respondent.

**On Writ of Certiorari to the United States Court of
Appeals for the Second Circuit**

**MOTION OF *AMICI CURIAE* THE INTERNATIONAL MUNICIPAL LAWYERS
ASSOCIATION, NATIONAL LEAGUE OF CITIES, AND U.S. CONFERENCE OF
MAYORS FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT
AND FOR DIVIDED ARGUMENT**

Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, *amici curiae* the International Municipal Lawyers Association, National League of Cities, and U.S. Conference of Mayors respectfully move for leave to participate in oral argument as *amici curiae* in support of respondent and for divided argument.¹ *Amici* request that ten minutes of Respondent Youel Smith’s argument be allocated to *amici*. Respondent supports this motion and agrees to cede ten minutes of his time to counsel for *amici*. Granting this motion would therefore not require the Court to enlarge the overall time set for argument.

Amici today filed a brief in support of Respondent, and wish to present argument on points that are of unique and particular importance to the wide array of

¹ Pursuant to Rule 29.6, each of the International Municipal Lawyers Association, National League of Cities, and U.S. Conference of Mayors hereby confirms that there is no parent or publicly held company that owns 10% or more of its stock.

local governments and officials that *amici* represent, and that are aligned with but distinct from those presented by Respondent, who will be represented at oral argument by his trial counsel, Mr. Thomas O'Connor of Albany, New York.

As written, the Question Presented in this case addresses the determination of the accrual date for § 1983 claims based on “fabrication of evidence.” *Amici* represent the interests of the local governments and officials who bear the lion’s share of such claims. As such, they have a strong and systematic interest in this issue that differs in material respects from that of the individual Respondent. Respondent’s primary interest is obtaining affirmance of the Second Circuit’s decision dismissing Petitioner’s claim as untimely. *Amici*’s interests are institutional and broader: as reflected in their brief, they seek doctrinal clarification about the scope of § 1983 itself, the necessity of tying § 1983 claims to a specific provision of the “Constitution and laws,” the unavailability of § 1983 claims rooted entirely in common-law tort, and the applicability of the “standard” accrual rule to § 1983 claims—like this one—that arise under the Due Process Clause.

The Court’s decision in this case will affect state and local governments, agencies, and officials across the nation. *Amici* are uniquely positioned to offer argument to the Court not only about the complex doctrinal issues embodied in the question presented, but also about the practical effects and broad impacts and consequences of the Petitioner’s proposed accrual rule.

The interests of *amici* are therefore distinct from, but complementary to, those of Respondent. Because of the importance of issues at stake, the broad expe-

rience of *amici* and its members with those issues, and the practical effects of any accrual rule the Court may elect to adopt in this case, *amici* have a direct and important interest in being heard on this matter.

The Court has granted similar motions for divided argument and allowed amici to appear and present argument where amici had a valuable perspective distinct from that of Petitioner or Respondent. *See, e.g., ONEOK, Inc. v. Learjet, Inc.*, 135 S. Ct. 1591 (2015); *Kennedy v. Louisiana*, 128 S. Ct. 2641 (2008); *Leegin Creative Leather Prods. Inc. v. PSKS Inc.*, 127 S. Ct. 2705 (2007); *United Haulers Ass'n v. Oneida-Herkimer Solid Waste Mgmt. Auth.*, 550 U.S. 330 (2007); *Halbert v. Michigan*, 125 S. Ct. 1822 (2005); *Clingman v. Beaver*, 125 S. Ct. 825 (2005); *Jackson v. Birmingham Bd. of Educ.*, 125 S. Ct. 457 (2005); *City of Boerne v. Flores*, 519 U.S. 1088 (1997); *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 901 (2004); and *Aetna Health Inc. v. Davila*, 540 U.S. 1175 (2004).

Amici believe they can offer the Court a unique and valuable perspective on the question presented that is distinct from Respondent's, and that the Court's resolution of the case would benefit from divided argument. *Amici* therefore respectfully request that they be allotted ten minutes of Respondent's time.

Respectfully submitted,

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