

No. 19-719

In the
Supreme Court of the United States

DAMI HOSPITALITY, LLC
Cross-Petitioner,
v.

COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT,
DIVISION OF WORKERS' COMPENSATION,
Cross-Respondent.

**On Cross-Petition for a Writ of Certiorari to
the Colorado Supreme Court**

BRIEF FOR CROSS-RESPONDENT

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December 23, 2019

QUESTION PRESENTED

How is an offender's ability to pay relevant in determining whether a fine is unconstitutional under Excessive Fines Clause of the Eighth Amendment?

ARGUMENT

In the conditional cross-petition, the Cross-Petitioner, Dami Hospitality, LLC (“Dami”), “in an abundance of caution,” asks this Court to resolve the split across the country on *how* an individual’s ability to pay is relevant under the Excessive Fines Clause of the Eighth Amendment. Cross-Pet. 5, n.6.

The Cross-Respondent, the Colorado Department of Labor, Division of Workers’ Compensation, believes this issue is encompassed within the question presented in the petition for writ of certiorari in No. 19-641. Cross-Respondent thus agrees with Dami that, if this Court first determines the Excessive Fines Clause applies to corporations *and* that ability to pay is a relevant consideration in evaluating the constitutionality of a fine, how a court should consider ability to pay is an important question requiring this Court’s guidance.

CONCLUSION

The Cross-Respondent agrees that, if the Court grants the petition for a writ of certiorari in No. 19-641, it should grant the petition in this case as well and consolidate the petitions for argument.

Respectfully submitted,

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