

No. 21-1078

In the Supreme Court of the United States

OFFICE OF THE UNITED STATES TRUSTEE,
PETITIONER

v.

JOHN Q. HAMMONS FALL 2006, LLC, ET AL.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT*

REPLY BRIEF FOR THE PETITIONER

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Respondents concede (Br. in Opp. 23) that the question of the constitutionality of Section 1004(a) of the Bankruptcy Judgeship Act of 2017, Pub. L. No. 115-72, Div. B., 131 Stat. 1232, is certworthy and presented in *Siegel v. Fitzgerald*, cert. granted, No. 21-441 (oral argument scheduled for Apr. 18, 2022). Respondents nevertheless contend (Br. in Opp. 23-25) that the question of the appropriate remedy is not independently certworthy. The remedial issue, however, is included within the question presented in *Siegel*, as the petitioner in *Siegel* has already acknowledged by specifically briefing it at the merits stage. Pet. Br. at 17-18, 31-32, *Siegel, supra* (No. 21-441). Respondents cannot and do not contend that a resolution of the remedial issue in *Siegel* (should the Court rule against the government on the question of constitutionality and therefore reach the

question of remedy) would fail to resolve the remedial question that would also arise in this case if the government did not prevail on the constitutional question in this case.

Alternatively, respondents suggest (Br. in Opp. 23, 27) that their case be “consolidate[d]” with *Siegel*. Aside from their mistaken contention that the remedial question is not presented in *Siegel*, respondents identify no advantages that would arise from granting plenary review in this case, which presents the same purely legal questions as that one. In addition, because briefing in *Siegel* is substantially underway and oral argument has been set for April 18, 2022, consolidating the two cases is unwarranted at this point.

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For the foregoing reasons and those stated in the petition for a writ of certiorari, the Court should hold the petition for a writ of certiorari in this case pending disposition of *Siegel v. Fitzgerald, supra* (No. 21-441), and then dispose of the petition as appropriate in light of the Court’s decision in that case.

Respectfully submitted.

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