

IN THE SUPREME COURT OF THE UNITED STATES

No. 21-1270

MOAC MALL HOLDINGS LLC, PETITIONER

v.

TRANSFORM HOLDCO LLC, ET AL.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MOTION OF THE UNITED STATES FOR LEAVE TO PARTICIPATE
IN ORAL ARGUMENT AS AMICUS CURIAE, FOR DIVIDED ARGUMENT,
AND FOR ENLARGEMENT OF TIME FOR ARGUMENT

Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in the oral argument in this case as amicus curiae supporting petitioner; that the time allotted for oral argument be enlarged to 70 minutes; and that the time be allotted as follows: 20 minutes for petitioner, 15 minutes for the United States, and 35 minutes for respondent. Petitioner and respondent have consented to this motion.

This case presents the question whether 11 U.S.C. 363(m) imposes a jurisdictional limitation on the appellate review of sale or lease orders issued by bankruptcy courts under 11 U.S.C. 363(b) or (c). The United States is the Nation's largest creditor, and in that capacity, it often raises objections to efforts to sell or lease assets under Sections 363(b) and (c). In addition, United States Trustees are charged with supervising the administration of bankruptcy cases, including those involving sale and lease orders under Sections 363(b) and (c). 28 U.S.C. 581-589a; see 11 U.S.C. 307 ("The United States trustee may raise and may appear and be heard on any issue in any case or proceeding under [the Bankruptcy Code]"). The United States therefore has a substantial interest in the question presented.

The United States has participated in oral argument as amicus curiae in previous cases involving interpretation of the Bankruptcy Code. E.g., City of Chicago v. Fulton, 141 S. Ct. 585 (2021) (No. 19-357); Mission Prod. Holdings, Inc. v. Tempnology, LLC, 139 S. Ct. 1652 (2019) (No. 17-1657); Lamar, Archer & Cofrin, LLP v. Appling, 138 S. Ct. 1752 (2018) (No. 16-1215); U.S. Bank N.A. v. Village at Lakeridge, LLC, 138 S. Ct. 960 (2018) (No. 15-1509); Czyzewski v. Jevic Holding Corp., 137 S. Ct. 973 (2017) (No. 15-649); Husky Int'l Elecs., Inc. v. Ritz, 578 U.S. 356 (2016) (No. 15-145); Baker Botts L.L.P. v. ASARCO LLC, 576 U.S. 121 (2015) (No. 14-103). Oral presentation of the views of the United States is therefore likely to be of material assistance to the Court.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

OCTOBER 2022