

IN THE SUPREME COURT OF THE UNITED STATES

No. 21-908

KATE MARIE BARTENWERFER, PETITIONER

v.

KIERAN BUCKLEY

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

MOTION OF THE UNITED STATES FOR LEAVE TO
PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE,
ENLARGEMENT OF ARGUMENT, AND DIVIDED 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, that the time for oral argument be enlarged to 70 minutes, and that the time be allotted as follows: 35 minutes for petitioner, 20 minutes for respondent, and 15 minutes for the United States. Petitioner and respondent both consent to this motion.

Section 523(a)(2)(A) of the Bankruptcy Code provides that "[a] discharge under section 727, 1141, 1192[,] 1228(a), 1228(b),

or 1328(b) of this title does not discharge an individual debtor from any debt * * * for money, property, services, or an extension, renewal, or refinancing of credit, to the extent obtained by * * * false pretenses, a false representation, or actual fraud.” 11 U.S.C. 523(a)(2)(A) (2018 & Supp. II 2020). This case concerns whether that provision bars an individual from discharging in bankruptcy a debt for money she obtained through the actual fraud of her business partner, in the absence of a finding that the debtor personally committed the fraud or intended or knew of its occurrence. The United States has filed a brief as amicus curiae supporting respondent, arguing that the text, context, and history of Section 523(a)(2)(A) foreclose a debtor from discharging such a debt.

The United States has a substantial interest in this case. The United States is the Nation’s largest creditor, and in that capacity it invokes Section 523(a)(2)(A) to oppose discharge of debts based on fraud. Federal agencies also may participate in bankruptcy proceedings as receivers for defrauded creditors, or as guarantors or issuers of a defrauding debtor’s obligation. In addition, United States Trustees are charged with supervising the administration of bankruptcy cases. See 28 U.S.C. 581-589a; see also 11 U.S.C. 307 (“The United States trustee may raise and may appear and be heard on any issue in any [bankruptcy] case or proceeding.”).

The United States has previously presented oral argument as amicus curiae in cases involving interpretation of the Bankruptcy Code. E.g., 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 (2017) (No. 15-1509); Husky Int'l Elecs., Inc. v. Ritz, 578 U.S. 356 (2016) (No. 15-145). The United States' participation in oral argument in this case accordingly may be of material assistance to the Court.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

SEPTEMBER 2022