

IN THE SUPREME COURT OF THE UNITED STATES

No. 156, Original

NEW YORK, PLAINTIFF

v.

NEW JERSEY

ON CROSS-MOTIONS FOR JUDGMENT ON THE PLEADINGS

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, if this case is set for oral argument, the United States be granted leave to participate in the oral argument as an amicus curiae supporting defendant; that the time allotted for oral argument be enlarged to 70 minutes; and that the time be allotted as follows: 35 minutes for plaintiff; 20 minutes for defendant; and 15 minutes for the United States. Defendant has consented to this motion, and plaintiff does not oppose.

This case concerns the Waterfront Commission Compact, Act of Aug. 12, 1953, ch. 407, 67 Stat. 541, a congressionally approved interstate compact between New York and New Jersey that establishes a joint commission to regulate the Port of New York, which spans

the shared border of the two States. The question presented is whether New Jersey may unilaterally withdraw from that compact. The United States has filed a brief as amicus curiae in support of defendant, arguing that New Jersey may withdraw unilaterally.

The United States has a substantial interest in the resolution of the question presented and the circumstances in which a State may withdraw from an interstate compact. Interstate compacts require congressional approval under the Constitution's Compact Clause, in part because they frequently implicate regional or national concerns. See Art. I, § 10, Cl. 3. The compact at issue was approved by Congress and thus has the status of federal law. At the Court's invitation, the United States filed a brief as amicus curiae in a prior iteration of this dispute. See Waterfront Comm'n of N.Y. Harbor v. Murphy, 142 S. Ct. 561 (2021) (No. 20-772). And it filed an amicus brief addressing a legal issue similar to the one presented in this case in State ex rel. Dyer v. Sims, 341 U.S. 22 (1951).

The United States has previously presented oral argument as amicus curiae in cases involving disputes over States' obligations under interstate compacts. See, e.g., Kansas v. Nebraska, 574 U.S. 445 (2015); Tarrant Reg'l Water Dist. v. Herrmann, 569 U.S. 614 (2013); Montana v. Wyoming, 563 U.S. 368 (2011); Alabama v. North Carolina, 560 U.S. 330 (2010); New Jersey v. New York, 523 U.S. 767 (1998). More generally, the United States regularly

presents oral argument as amicus curiae or as an intervenor in actions between States falling within this Court's original jurisdiction. See, e.g., Mississippi v. Tennessee, 142 S. Ct. 31 (2021); Texas v. New Mexico, 141 S. Ct. 509 (2020); Florida v. Georgia, 138 S. Ct. 2502 (2018); Texas v. New Mexico, 138 S. Ct. 954 (2018). Accordingly, the United States' participation in oral argument would materially assist the Court in its consideration of the question presented in this case.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

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