

IN THE SUPREME COURT OF THE UNITED STATES

No. 16-1215

LAMAR, ARCHER & COFRIN, LLP, PETITIONER

v.

R. SCOTT APPLING

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

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

Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States as amicus curiae, respectfully moves that the United States be granted leave to participate in oral argument in this case and that the United States be allowed ten minutes of argument time. The United States has filed a brief as amicus curiae supporting respondent. Respondent has agreed to cede ten minutes of his argument time to the United States.

This case concerns the dischargeability of a debt under Chapter 7 of the Bankruptcy Code. The Code bars an individual debtor from receiving a discharge of 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, other than a statement respecting the debtor's * * * financial condition." 11 U.S.C. 523(a)(2)(A) (emphasis added). A debt that arises from a fraudulent statement "respecting the debtor's * * * financial condition" is also nondischargeable, but only if the statement is in writing and additional requirements are met. 11 U.S.C. 523(a)(2)(B). The question presented in this case is whether a debtor's statement concerning one of his assets can be a "statement respecting the debtor's * * * financial condition" within the meaning of Section 523(a)(2).

The United States has filed a brief as amicus curiae in support of respondent. The brief argues that the phrase "statement respecting the debtor's * * * financial condition" is naturally understood to encompass a representation about a debtor's asset that is offered as evidence of his ability to pay. The brief contends that this interpretation is supported by the text, history, and purpose of the relevant Bankruptcy Code provision, and avoids the substantial line-drawing problems

and other anomalies that would result under petitioner's approach.

The United States has a substantial interest in this case. The United States is the largest creditor in the Nation, and federal agencies frequently appear as creditors in bankruptcy cases. In addition, the Attorney General appoints United States Trustees, who are Justice Department officials, to supervise the administration of bankruptcy cases. 28 U.S.C. 581-589a; see also 11 U.S.C. 307. At the Court's invitation, the Solicitor General filed an amicus brief on behalf of the United States at the petition stage of this case. We therefore believe that the United States' participation in oral argument would be of material assistance to the Court.

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General
Counsel of Record

APRIL 2018