

IN THE SUPREME COURT OF THE UNITED STATES

No. 17-587

MOUNT LEMMON FIRE DISTRICT, PETITIONER

v.

JOHN GUIDO, ET AL.

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
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, respectfully moves that the United States be granted leave to participate in the oral argument in this case as amicus curiae supporting respondents and that the United States be allowed ten minutes of argument time. Respondents have agreed to cede ten minutes of argument time to the United States and therefore consent to this motion.

This case concerns the Age Discrimination in Employment Act of 1967 (ADEA), 29 U.S.C. 621 et seq. The ADEA prohibits employers from "discriminat[ing] against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age." 29 U.S.C. 623(a)(1). The ADEA defines "employer" to "mean[] a person engaged in an industry affecting commerce who has twenty or more employees" and to "also mean[] * * * a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State." 29 U.S.C. 630(b). The question presented is whether that definition covers all political subdivisions or only those with 20 or more employees.

The United States has a substantial interest in the resolution of that question. The Equal Employment Opportunity Commission (EEOC) is responsible for administering and enforcing the ADEA. 29 U.S.C. 626(a)-(b). The proper interpretation of "employer" as to political subdivisions thus affects the EEOC's administration of the ADEA. The EEOC accordingly participated as *amicus curiae* in this case in the court of appeals.

The government has previously presented oral argument as *amicus curiae* on questions concerning the interpretation and application of the ADEA. See, e.g., Gross v. FBL Fin. Servs., Inc., 557 U.S. 167 (2009); Meacham v. Knolls Atomic Power Lab., 554 U.S. 84 (2008); Federal Express Corp. v. Holowecki, 552 U.S.

389 (2008). In light of the substantial federal interest in the scope of the ADEA, the government's participation at oral argument could materially assist the Court in its consideration of this case.

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General
Counsel of Record

JULY 2018