

IN THE SUPREME COURT OF THE UNITED STATES

No. 18-328

KEVIN C. ROTKISKE, PETITIONER

v.

PAUL KLEMM, ET AL.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE THIRD 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 oral argument in this case as amicus curiae in support of 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.

1. This case concerns the Fair Debt Collection Practices Act (FDCPA or Act), 15 U.S.C. 1692 et seq. Congress enacted the

FDCPA "to eliminate abusive debt collection practices by debt collectors." 15 U.S.C. 1692(e). To that end, the Act imposes various requirements and restrictions on the conduct of "a debt collector * * * in connection with the collection of any debt." 15 U.S.C. 1692c(a); see 15 U.S.C. 1692c-1692i.

In addition to administrative enforcement of those requirements by federal agencies, 15 U.S.C. 1692l, the FDCPA authorizes a private suit against a debt collector "who fails to comply with any" of the FDCPA's provisions. 15 U.S.C. 1692k(a). Such an action "may be brought * * * within one year from the date on which the violation occurs." 15 U.S.C. 1692k(d). The question presented in this case is whether the "discovery rule" applies to the FDCPA's one-year limitations period for private actions. See Pet. i; Pet. Br. i.

2. The United States has a substantial interest in the resolution of that question. The Bureau of Consumer Financial Protection, the Federal Trade Commission, and other federal agencies share responsibility for enforcement of the FDCPA. 15 U.S.C. 1692l(a) and (b). Private suits under Section 1692k alleging violations of the FDCPA supplement those enforcement efforts.

The United States has previously presented oral argument as amicus curiae on questions concerning the interpretation and application of the FDCPA. See, e.g., Obduskey v. McCarthy &

Holthus LLP, 139 S. Ct. 1029 (2019); Midland Funding, LLC v. Johnson, 137 S. Ct. 1407 (2017); Sheriff v. Gillie, 136 S. Ct. 1594 (2016); Marx v. General Revenue Corp., 568 U.S. 371 (2013); Jerman v. Carlisle, McNellie, Rini, Kramer & Ulrich LPA, 559 U.S. 573 (2010). In this case, the United States has filed a brief as amicus curiae in this Court supporting respondents, contending that the FDCPA cannot fairly be construed to identify the plaintiff's actual or constructive discovery of a violation as the event that triggers the Act's one-year limitations period. The United States has further contended that petitioner has identified no valid basis for excusing his noncompliance with the FDCPA's filing deadline in this case. In light of the substantial federal interest in the scope of the FDCPA, the government's participation in oral argument could materially assist the Court in its consideration of this case.

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General
Counsel of Record

JULY 2019