

IN THE SUPREME COURT OF THE UNITED STATES

No. 18-389

PARKER DRILLING MANAGEMENT SERVICES, LTD., PETITIONER

v.

BRIAN NEWTON

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 this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case supporting petitioner and requests that the United States be allowed ten minutes of argument time. Petitioner has consented to an allocation of ten minutes of his argument time to the United States.

This case concerns the choice-of-law provisions of the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331 et seq. As relevant here, OCSLA extends "[t]he Constitution and laws * * * of the United States" to the Outer Continental Shelf (OCS) "to the same extent as if the [OCS] were an area of exclusive Federal jurisdiction located within a State." 43 U.S.C. 1333(a)(1). OCSLA

then provides that “[t]o the extent that they are applicable and not inconsistent with” federal law, “the civil and criminal laws of each adjacent State * * * are declared to be the law of the United States for that portion of the” OCS “which would be within the area of the State if its boundaries were extended seaward to the outer margin of the [OCS].” 43 U.S.C. 1333(a)(2)(A). The question presented is whether, under OCSLA, California law prescribing minimum-wage and overtime-pay requirements is incorporated as federal law to govern employment on a drilling platform attached to the OCS off the coast of California.

The United States has a substantial interest in the resolution of the question presented. OCSLA places the OCS within the exclusive jurisdiction and control of the United States, 43 U.S.C. 1332(1), and directs that all “applicable laws shall be administered and enforced by the appropriate officers and courts of the United States,” 43 U.S.C. 1333(a)(2)(A). In light of its interest in the case, the United States has filed a brief as amicus curiae supporting petitioner. That brief contends that OCSLA does not incorporate California wage-and-hour law as federal law. The brief contends that California wage-and-hour law is not “applicable” under OCSLA, ibid., because the federal Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. 201 et seq., addresses respondent’s claims without leaving any gap to fill. The brief also contends that California wage-and-hour law is “inconsistent

with" federal law, 43 U.S.C. 1333(a)(2)(A), because adopting state law would effectively revise standards prescribed by federal law.

The United States has participated in oral argument as amicus curiae in previous cases before this Court involving OCSLA or the FLSA. See, e.g., Integrity Staffing Solutions, Inc. v. Busk, 135 S. Ct. 513 (2014) (FLSA); Sandifer v. United States Steel Corp., 571 U.S. 220 (2014) (FLSA); Shell Oil Co. v. Iowa Dep't of Revenue, 488 U.S. 19 (1988) (OCSLA); see also Pacific Operators Offshore, LLP v. Valladolid, 565 U.S. 207 (2012) (OCSLA case with the government participating as respondent). The United States' participation in oral argument would provide the Court with the federal perspective on the question presented, and the government respectfully submits that division of the argument time would materially assist the Court in its consideration of this case.

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General
Counsel of Record

MARCH 2019