IN THE SUPREME COURT OF THE UNITED STATES

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No. 19-416

NESTLÉ USA, INC., PETITIONER

v.

JOHN DOE I, ET AL.

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No. 19-453

CARGILL, INC., PETITIONER

v.

JOHN DOE I, ET AL.

_____

ON WRITS 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

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Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Acting Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae supporting petitioners and requests that the United States be allowed ten minutes of argument time. The Court consolidated these cases and allotted a total of one hour for oral argument. Petitioners have agreed to cede ten

minutes of their consolidated argument time to the United States, and therefore consent to this motion.

This case concerns the Alien Tort Statute (ATS), 28 U.S.C. 1350, which provides that "[t]he district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States," and permits courts to recognize a narrow subset of common-law causes of action for violations of international law. The questions presented are whether domestic corporations are subject to liability in a common-law action under the ATS and whether respondents have pleaded a plausible claim of domestic aiding and abetting under the ATS.

At the Court's invitation, the United States filed a brief as amicus curiae addressing those questions. That brief, supporting petitioners, contends that the ATS does not authorize the imposition of liability on domestic corporations. It further contends that respondents' aiding-and-abetting claims are not cognizable under the ATS and, to the extent they are cognizable, are nevertheless impermissibly extraterritorial.

The United States has a substantial interest in the resolution of the questions presented. The ATS involves the interpretation of international law and accordingly has implications for the Nation's foreign relations, and the presumption against extraterritoriality governs the scope of a host of federal

statutes. The United States has previously presented oral argument as a party or amicus curiae in other cases involving both the ATS and the presumption against extraterritoriality. See, e.g., WesternGeco LLC v. ION Geophysical Corp., 138 S. Ct. 2129 (2018); Jesner v. Arab Bank, PLC, 138 S. Ct. 1386 (2018); RJR Nabisco, Inc. v. European Cmty., 136 S. Ct. 2090 (2016); Kiobel v. Royal Dutch Petroleum Co., 569 U.S. 108 (2013); Morrison v. National Australia Bank Ltd., 561 U.S. 247 (2010); Sosa v. Alvarez-Machain, 542 U.S. 692 (2004). The United States' participation in oral argument in this case could therefore materially assist the Court.

Respectfully submitted.

JEFFREY B. WALL
Acting Solicitor General

SEPTEMBER 2020