

IN THE SUPREME COURT OF THE UNITED STATES

No. 20-334

CITY OF SAN ANTONIO, TEXAS,
ON BEHALF OF ITSELF AND ALL OTHER SIMILARLY
SITUATED TEXAS MUNICIPALITIES, PETITIONER

v.

HOTELS.COM, L.P., ET AL.

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

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

Pursuant to Rules 21, 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 petitioner and requests that the United States be allowed ten minutes of argument time. Petitioner has consented to cede ten minutes of its time to the United States.

This case concerns the scope of a district court's authority to tax appellate costs under Federal Rule of Appellate Procedure 39(e). The United States is a frequent litigant in federal court and may have certain costs taxed both for and against it in litigation, although the waiver of sovereign immunity in 28 U.S.C. 2412(a)(1) does not permit bond premiums to be taxed against the federal government. See FTC v. Kuykendall, 466 F.3d 1149, 1154-1156 (10th Cir. 2006). The government also represents -- and may indemnify -- federal officials sued in their individual capacities for actions performed in the scope of their employment. 28 C.F.R. 50.15(a) and (c). If appellate costs are incurred by or taxed against such individuals, those expenses may ultimately be borne by the United States. In both contexts, the government must litigate under the framework imposed by Rule 39. The United States therefore has a substantial interest in the Court's disposition of this case.

The United States would be able to offer the Court a distinct perspective on the litigation-cost issues implicated by this case. The United States' participation in oral argument is therefore likely to be of material assistance to the Court.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Acting Solicitor General
Counsel of Record

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