

IN THE SUPREME COURT OF THE UNITED STATES

No. 22-1079

TRUCK INSURANCE EXCHANGE, PETITIONER

v.

KAISER GYPSUM COMPANY, INC., ET AL.

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

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

Pursuant to Rules 21, 28.4, and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States as amicus curiae supporting petitioner, respectfully moves that the United States be granted leave to participate in the oral argument in this case, and that the time be allotted as follows: 20 minutes for petitioner, 10 minutes for the United States, and 30 minutes for respondents. Petitioner consents to this motion.

The question presented in this case is whether an insurer with financial responsibility for a bankruptcy claim is a "party

in interest" under 11 U.S.C. 1109(b) that may object to a Chapter 11 plan of reorganization. That question turns on who qualifies under Section 1109(b) as a "party in interest" that may "be heard on any issue" in a Chapter 11 bankruptcy case. 11 U.S.C. 1109(b).

The United States is the Nation's largest creditor and is affected by what issues may be raised in Chapter 11 proceedings and by whom. In addition, Congress has charged United States Trustees with supervising the administration of bankruptcy cases, see 28 U.S.C. 581-589a, and has authorized the Trustees to appear and "be heard on any issue" in such cases. 11 U.S.C. 307. Congress has additionally authorized certain other governmental agencies to "be heard on" "any issue" in bankruptcy cases implicating their areas of responsibility. 11 U.S.C. 557(e)(2), 762(b), 784, 1109(a), 1164. Congress has also authorized the Department of Justice "to attend to the interests of the United States" in any "suit pending in a [federal] court," 28 U.S.C. 517, including in bankruptcy cases in which the government participates on issues for which the United States is a "party in interest," 11 U.S.C. 1109(b). The United States therefore has a substantial interest in the question presented.

In this case, the United States initially participated in the bankruptcy court as a creditor holding environmental claims against the debtors that, before the district court considered the case, the debtors settled. See Pet. App. 44a-45a, 49a. The United

States also separately sought to participate in the case before the bankruptcy court to object to the debtors' first and second proposed reorganization plans on the ground that those plans lacked any appropriate procedures to minimize fraud and abuse involving asbestos personal-injury claims. See Bankr. Ct. Doc. 1364, at 1-2, 5 (Dec. 5, 2018); cf. Bankr. Ct. Doc. 1150 (Sept. 13, 2018) (asserting interest regarding secondary-payer obligations under Medicare); C.A. App. 3765-3766 (asbestos trust's Medicare reporting obligations). The bankruptcy court determined that the government was an environmental creditor but not a "party in interest" with standing to object to the plans by "arguing matters related to asbestos claims." Bankr. Ct. Doc. 1785, at 29, 31-32 (Sept. 9, 2019). The United States did not make additional filings in the case and thus did not take a position in the courts below regarding the debtors' third proposed reorganization plan now at issue, Pet. App. 160a-301a, which treats insured and uninsured asbestos claims differently and provides anti-fraud protections only for uninsured claims. See U.S. Amicus Br. 7-8.*

The United States has participated in oral argument as amicus curiae in previous cases involving interpretation of the Bankruptcy Code. E.g., Lac du Flambeau Band of Lake Superior Chippewa Indians v. Coughlin, 599 U.S. 382 (2023) (No. 22-227); MOAC Mall

* The United States did not participate as a party (or an amicus curiae) in this case either before the district court or the court of appeals.

Holdings LLC v. Transform Holdco LLC, 598 U.S. 288 (2023) (No. 21-1270); Bartenwerfer v. Buckley, 598 U.S. 69 (2023) (No. 21-908); City of Chicago v. Fulton, 592 U.S. 154 (2021) (No. 19-357); Mission Prod. Holdings, Inc. v. Tempnology, LLC, 139 S. Ct. 1652 (2019) (No. 17-1657); Lamar, Archer & Cofrin, LLP v. Appling, 584 U.S. 709 (2018) (No. 16-1215); U.S. Bank N.A. v. Village at Lakeridge, LLC, 583 U.S. 387 (2018) (No. 15-1509); Czyzewski v. Jevic Holding Corp., 580 U.S. 451 (2017) (No. 15-649); Husky Int'l Elecs., Inc. v. Ritz, 578 U.S. 355 (2016) (No. 15-145); Baker Botts L.L.P. v. ASARCO LLC, 576 U.S. 121 (2015) (No. 14-103). Oral presentation of the views of the United States is therefore likely to be of material assistance to the Court.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

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