

**In the Supreme Court of the United States**

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CHARLES T. JOHNSON, PETITIONER

*v.*

JENNA DICKENSON, RESPONDENT

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*ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT*

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**SUPPLEMENTAL BRIEF**

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March 28, 2023

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## SUPPLEMENTAL BRIEF

Since Mr. Johnson filed his reply brief, his petition was distributed for conference on March 17, 2023, but then rescheduled. Mr. Johnson suspects that is so his petition can be considered alongside the petition in *Carson v. Hyland*, No. 22-634, which presents the same question about the lawfulness of service awards. A brief in opposition was filed in that case on March 10, and a reply on March 28. Pursuant to Supreme Court Rule 15, Mr. Johnson submits this short supplement to explain why this Court should grant his petition and not *Carson*.

First, Mr. Johnson's petition provides a much cleaner vehicle to address the question presented. The class settlement he negotiated provides real monetary relief to absent class members, and the service award he negotiated is typical and modest. If he cannot receive a service award, then no one can, which is exactly the issue posed by the question presented. By contrast, the 10 class representatives in *Carson* negotiated a *cy pres* settlement, taking \$15,000 each while the absent class members received no monetary recovery. If this Court were to hold that *cy pres* settlements are always or often unlawful—a question posed by a related petition accompanying *Carson*, see *Yeatman v. Hyland*, No. 22-566—there would be no need to address the propriety of the service awards for the *Carson* respondents. A softer version of the same vehicle problem is that class representatives who negotiated money for themselves but not for the class may be less ideally situated to defend the propriety of their awards, even if such awards are not categorically unlawful. That too would provide grounds for the Court to avoid resolving the split in authority.

Second, the Court can take Mr. Johnson's petition without concern that ongoing district court proceedings

will interrupt the case or produce piecemeal litigation. All district court proceedings in his case are stayed pending resolution by this Court. That will remain true whether the Court grants his petition or grants *Carson* instead and holds Mr. Johnson's petition. With district court proceedings on ice either way, the Court should take the superior vehicle to answer the question presented. Mr. Johnson's petition is that vehicle.

Respectfully submitted,

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