

IN THE SUPREME COURT OF THE UNITED STATES

No. 25-498

WINSTON R. ANDERSON, ET AL., PETITIONERS

v.

INTEL CORPORATION INVESTMENT POLICY COMMITTEE, ET AL.

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 21, 28.4, and 28.7 of the Rules 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 as amicus curiae and requests that the United States be allowed ten minutes of argument time. Respondents have consented to this motion and agreed to cede ten minutes of their argument time to the United States.

Under the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1001 et seq., fiduciaries of qualifying employee-

benefit plans must act with the "care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims." 29 U.S.C. 1104(a)(1)(B). ERISA plaintiffs sometimes attempt to infer a breach of that process-based duty by alleging that particular funds included in an ERISA plan underperformed relative to other investment options. The question presented in this case concerns the pleading standard for such claims. The United States has filed a brief as amicus in support of respondents, arguing that the court of appeals correctly held that to state a claim in such circumstances, a plaintiff must measure the fund's performance against a meaningful benchmark -- a fund that shares sufficient characteristics to provide a basis for comparison.

The United States has a substantial interest in this case. The Secretary of Labor has primary authority for administering ERISA, see 29 U.S.C. 1002(13), 1132-1138, and the question presented here can arise in both private suits and government enforcement actions. At the invitation of the Court, the United States filed a brief as amicus curiae at the petition stage in Parker-Hannifin Corp. v. Johnson, No. 24-1030 (Dec. 9, 2025), which raises the same question that is presented in this case.

The United States has previously participated in oral argument as amicus curiae in cases involving the interpretation and

application of ERISA. See, e.g., M & K Employee Solutions, LLC v. Trustees of the IAM National Pension Fund, 146 S. Ct. 1224 (2026); Cunningham v. Cornell Univ., 604 U.S. 693 (2025); Hughes v. Northwestern Univ., 595 U.S. 170 (2022); Intel Corp. Inv. Policy Comm. v. Sulyma, 589 U.S. 178 (2020); Retirement Plans Comm. of IBM v. Jander, 589 U.S. 49 (2020); Tibble v. Edison Int'l, 575 U.S. 523 (2015). The United States' participation in oral argument in this case could therefore materially assist the Court.

Respectfully submitted.

D. JOHN SAUER
Solicitor General
Counsel of Record

JULY 2026