IN THE SUPREME COURT OF THE UNITED STATES

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No. 25-6

THOMAS KEATHLEY, PETITIONER

v.

BUDDY AYERS CONSTRUCTION, INC.

_____

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

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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 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. Petitioner has agreed to cede ten minutes of argument time to the United States and consents to this motion.

This case concerns the proper application of judicial estoppel to civil claims that a debtor failed to disclose in bankruptcy proceedings. When a debtor fails to comply with an obligation to

disclose to the bankruptcy court that he may be able to recover damages through a civil suit, courts have sometimes held that the debtor should be estopped from pursuing the damages claim in light of the previous implicit representation to the bankruptcy court that no such claim exists. See, e.g., Pet. App. 13a-14a. When courts apply judicial estoppel to debtors who violate disclosure requirements, they do so to protect judicial integrity, including in the bankruptcy system. See id. at 9a. United States Trustees are charged with supervising the administration of bankruptcy cases and have a strong interest in ensuring transparency and deterring violations of disclosure requirements. See 28 U.S.C. 586. In addition, the United States is the Nation's largest creditor. In that capacity, it has an interest in ensuring that debtors' estates include all available assets and that the judicial-estoppel analysis accounts for creditors' interests. The United States therefore has a substantial interest in the question presented.

Accordingly, the United States has filed a brief as amicus curiae supporting vacatur, contending that the test for judicial estoppel that the court of appeals applied is unduly narrow. In the government's view, that test fails to account for the interests of innocent creditors who may be harmed if the civil claim cannot go forward, and it allows for the application of judicial estoppel without consideration of objective evidence that may indicate that

the debtor's failure to disclose was due to an honest mistake rather than an attempt to mislead the court.

The United States has previously participated in oral argument as amicus curiae in cases involving bankruptcy-related questions. See, e.g., MOAC Mall Holdings LLC v. Transform Holdco LLC, 598 U.S. 288 (2023); Bartenwerfer v. Buckley, 598 U.S. 69 (2023); Mission Prod. Holdings, Inc. v. Tempnology, LLC, 587 U.S. 370 (2019); Lamar, Archer & Cofrin, LLP v. Appling, 584 U.S. 709 (2018). The United States also participated in oral argument as amicus curiae in the case in which this Court first elaborated on the doctrine of judicial estoppel. See New Hampshire v. Maine, 532 U.S. 742 (2001). 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

JANUARY 2026