

IN THE SUPREME COURT OF THE UNITED STATES

No. 23-1226

McLAUGHLIN CHIROPRACTIC ASSOCIATES, INC., PETITIONER

v.

McKESSON CORPORATION, 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 and 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in the oral argument in this case as amicus curiae supporting respondents and that the United States be allowed ten minutes of argument time. Respondents have consented to this motion and agree to cede ten minutes of their argument time to the United States. Accordingly, if this motion were granted, the argument time would be divided as follows: 30 minutes for petitioner, 20 minutes for respondents, and 10 minutes for the United States.

This case concerns a provision of the Administrative Orders Review Act (Hobbs Act), ch. 1189, 64 Stat. 1129, vesting the courts of appeals with “exclusive jurisdiction * * * to determine the validity of” certain agency actions, including many final orders of the Federal Communications Commission (FCC). 28 U.S.C. 2342(1); see 47 U.S.C. 402(a). The FCC administers the Telephone Consumer Protection Act of 1991 (TCPA), Pub. L. No. 102-243, 105 Stat. 2394, which also contains a private right of action, 47 U.S.C. 227(b)(3).

The Court granted certiorari to address whether the Hobbs Act required the district court in this private TCPA suit to accept an interpretation of the TCPA set forth in an order issued during the litigation by a bureau of the FCC. The United States has a substantial interest in whether agency orders covered by the Hobbs Act’s exclusive-jurisdiction provision may be collaterally attacked in civil suits between private parties, because such attacks undermine the interests of the United States and regulated parties in conclusively determining the validity of agency actions covered by the Hobbs Act.

The United States has participated in oral argument as amicus curiae in prior cases involving the Hobbs Act, the TCPA, and related issues of administrative law. In particular, the United States participated in oral argument as amicus curiae in PDR Network, LLC v. Carlton & Harris Chiropractic, Inc., 588 U.S. 1 (2019) (No. 17-1705), in which the Court granted review of a

similar Hobbs Act question but ultimately resolved the case on alternative grounds. See id. at 8; see also, e.g., Facebook, Inc. v. Duguid, 592 U.S. 395 (2021) (No. 19-511). The United States' participation in oral argument could materially assist the Court in its consideration of this case.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

DECEMBER 2024