

IN THE SUPREME COURT OF THE UNITED STATES

No. 22-842

NATIONAL RIFLE ASSOCIATION OF AMERICA, PETITIONER

v.

MARIA T. VULLO

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND 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 for leave to participate in the oral argument in this case as amicus curiae and for divided argument, and respectfully requests that the United States be allowed ten minutes of argument time. Petitioner has consented to this motion and agreed to cede ten minutes of argument time to the United States. Accordingly, if this motion were granted, the argument time would be divided as follows: 20 minutes for petitioner, 10 minutes for the United States, and 30 minutes for respondent.

This case presents the question whether petitioner has plausibly alleged that respondent, the former Superintendent of the New York State Department of Financial Services, violated the

First Amendment by coercing insurance companies and financial institutions to terminate their business relationships with petitioner in order to stifle its political advocacy. The United States has filed a brief as amicus curiae supporting neither party and urging vacatur and remand. The brief argues that government officials violate the First Amendment if they use threats of adverse government action to compel private parties to suppress protected speech. The brief further argues that, in this case, petitioner has plausibly alleged that respondent violated the First Amendment when, in private meetings, she threatened to take unrelated enforcement action against an insurance company unless it stopped doing business with petitioner. At the same time, the brief contends that some of petitioner's arguments would extend the relevant First Amendment principles too far and threaten to chill legitimate government speech.

The United States has a substantial interest in the Court's resolution of the question presented because the First Amendment analysis that the Court adopts in this case may have ramifications for federal agencies and officials. Indeed, although the two cases arise from very different facts, the legal principles that govern here are similar to those that govern in Murthy v. Missouri, cert. granted, No. 23-411 (oral argument scheduled for Mar. 18, 2024), which involves claims against federal officials and is scheduled to be argued on the same day as this case. More broadly, this case implicates the federal government's interest in the

interpretation and application of the legal principles that distinguish between proper governmental efforts to inform, persuade, or exhort and improper attempts to suppress speech.

The United States has frequently participated in oral argument as amicus curiae in cases involving the interpretation and application of the First Amendment, including the government-speech doctrine. See, e.g., NetChoice, L.L.C. v. Paxton, cert. granted, No. 22-555 (oral argument scheduled for Feb. 26, 2024); Moody v. NetChoice, L.L.C., cert. granted, No. 22-277 (oral argument scheduled for Feb. 26, 2024); 303 Creative LLC v. Elenis, 600 U.S. 570 (2023); Shurtleff v. City of Boston, 142 S. Ct. 1583 (2022); City of Austin v. Reagan Nat'l Adver. of Austin, LLC, 142 S. Ct. 1464 (2022); Houston Cmty. Coll. Sys. v. Wilson, 142 S. Ct. 1253 (2022). The United States' participation in oral argument thus could materially assist the Court in its consideration of this case.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

FEBRUARY 2024