

Nos. 20-543 & 20-544

In the Supreme Court of the United States

JANET L. YELLEN,
SECRETARY OF THE TREASURY, PETITIONER

v.

CONFEDERATED TRIBES
OF THE CHEHALIS RESERVATION, ET AL., RESPONDENTS

ALASKA NATIVE VILLAGE CORPORATION ASSOCIATION, INC., ET AL., PETITIONERS

v.

CONFEDERATED TRIBES
OF THE CHEHALIS RESERVATION, ET AL., RESPONDENTS

*ON WRITS OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT*

MOTION REGARDING ORAL ARGUMENT

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The Ute Indian Tribe of the Uintah and Ouray Reservation submits this motion seeking an order dividing oral argument at 15 minutes for each of the two counsel of record who submitted response briefs in this case; or such other order as the Court determines is appropriate. This motion is based upon the Court file and Supreme Court Rule 28(4).

The Ute Indian Tribe requested the position of the Chehalis Tribe, which deferred taking a position until after this motion is filed.

Discussion of Facts and Law

The Ute Indian Tribe of the Uintah and Ouray Reservation (Ute Indian Tribe) filed one of the three cases in the District Court which were consolidated, and which are now before this Court on writs of certiorari.

The merits briefs in this case focus on two related issues. The first issue is whether every Alaska Native Corporation (ANC) qualifies as a “tribal government” as that term is defined in Title V of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), Pub. L. No. 116-136, 134 Stat. 281 (2020).

The second issue is whether every ANC qualifies as an “Indian Tribe” based application of rules of statutory interpretation to the definition of “Indian Tribe” contained in the Indian Self-Determination and Education Assistance Act of 1975 (ISDEAA), 25 U.S.C. § 5304(e).

In both this Court and the lower courts, the Ute Indian Tribe has provided briefing on both of these issues; and it has discussed that its position is that this case should have been, and now should be, decided on the first issue presented—ANCs are not tribal governments under the CARES Act. Ute Brief §I. The Ute Indian Tribe has also consistently discussed that even if the case were decided on the ISDEAA statutory interpretation issues, the result would be the same because ANCs are not “Indian Tribes” under the plain language of the ISDEAA. Ute Brief §§ II, III.

In contrast, the Confederated Tribes of the Chehalis Reservation has largely agreed with the ANCs and the Secretary that this case should be turned into a question of statutory interpretation of the ISDEAA. *E.g.*, Chehalis Brief at i (Question Presented). In its merits brief to this Court, the Chehalis Tribe does not provide any briefing on whether ANCs are tribal governments as that term is used in the CARES Act. *Id.* at §§II, III. In fact, the Chehalis Tribe frames the question presented to attempt to exclude the question of whether ANCs are tribal governments under Title V of the CARES Act.

Given this, the Ute Indian Tribe’s position is that it should provide oral argument in this case. It is the only Respondent that has briefed both of the issues presented. The Ute Indian Tribe does not believe that the Chehalis Tribe can or would effectively present argument on the issue briefed by the Ute Indian Tribe,

because, inter alia, the Chehalis Tribe wants to have the case decided on the sole issue that they chose to brief.

Prior to filing this motion, the Ute Indian Tribe sought the agreement of attorneys for the Chehalis Tribe. The Ute Indian Tribe understands that splitting oral argument time poses particular difficulties in remote hearings, but the Ute Indian Tribe wanted to give the Chehalis Tribe the opportunity to present the argument on their preferred issue, while also giving the Ute Indian Tribe the opportunity to present argument on the issue that Chehalis chose not to brief.

Those attorneys responded that they will take a position only after this motion is filed. Nevertheless, the Ute Indian Tribe continues to believe that argument time should be split, so that both Respondents can provide argument.

Respectfully submitted March 31, 2021

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