

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

_____)	
THE PLS.COM, LLC,)	
)	
Plaintiff-Appellant,)	No. 21-55164
)	
v.)	On appeal from the United States
)	District Court for the Central District
)	of California (Hon. John W.
)	Holcomb)
THE NATIONAL ASSOCIATION)	
OF REALTORS, et al.,)	
)	
Defendants-Appellees.)	
_____)	

**MOTION OF THE UNITED STATES FOR LEAVE TO PARTICIPATE IN
ORAL ARGUMENT AS AMICUS CURIAE IN SUPPORT OF NEITHER
PARTY**

Pursuant to Federal Rule of Appellate Procedure 29(a)(8), the United States respectfully moves for leave to participate as amicus curiae in the oral argument of this case, scheduled for January 14, 2022. The Court currently has allocated fifteen (15) minutes of argument time to each side. The United States respectfully requests five (5) minutes of time in addition to the time allocated to the parties.

On June 2, 2021, the United States filed an amicus brief in this case supporting neither party. *See* Dkt. 34, Brief For The United States Of America As Amicus Curiae In Support Of Neither Party (U.S. Am. Br.). That brief took no position on the merits of The PLS.Com’s antitrust claim, but urged this Court to correct three apparent legal errors committed by the district court: (1) the district court’s holding that a private antitrust plaintiff cannot allege harm to competition without alleging immediate harm to downstream, end-user consumers; (2) the court’s indications that alleging anticompetitive effects required PLS.Com to allege increased prices or reduced output; and (3) the court’s holding that PLS.Com had to define the relevant market as two-sided under *Ohio v. American Express Co.*, 138 S. Ct. 2274 (2018), and also allege separate injuries to “participants on both sides of the market.” *See id.*

The United States believes that government participation at oral argument would be helpful to the Court. The United States enforces the federal antitrust laws, both criminally and civilly, and has a significant interest and expertise in

both the substantive and procedural aspects of those laws. This interest includes the application of the antitrust laws to the real-estate industry. *See* U.S. Am. Br. 1. Participation at oral argument also would enable the United States to explain how the legal errors below “could adversely affect antitrust enforcement well beyond the instant context.” *Id.* at 2.

Counsel for Plaintiff-Appellant informs the United States that it does not oppose this motion. Counsel for Defendants-Appellees informs the United States that they do not oppose this motion if Defendants-Appellees are granted five (5) additional minutes of argument time.

The United States thus respectfully requests that it be granted leave to participate at oral argument with an allotment of five (5) minutes of time in addition to the time allocated to the parties.

November 29, 2021

Respectfully submitted,

/s/ Steven J. Mintz

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CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2021, I electronically filed the foregoing Motion of the United States for Leave to Participate in Oral Argument as Amicus Curiae in Support of Neither Party with the Clerk of the Court of the United States Court of Appeals for the Ninth Circuit by using the CM/ECF System.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Steven J. Mintz

Steven J. Mintz
Attorney