

# United States Trustee v. John Q. Hammons Fall 2006, LLC: Congressional Intent in Determining Remedies for Violations of the Bankruptcy Clause Uniformity Requirement

June 26, 2024

On June 14, 2024, the Supreme Court issued a 6-3 decision in *United States Trustee v. John Q. Hammons Fall 2006, LLC* that specified the appropriate remedy for individuals affected by the Court’s 2022 ruling in *Siegel v. Fitzgerald*. In *Siegel*, the Court had held that the [Bankruptcy Judgeship Act of 2017](#) violated the uniformity requirement of the Constitution’s [Bankruptcy Clause](#) by requiring higher disbursement fees to be imposed under certain circumstances on certain debtors in judicial districts administered by the Department of Justice (DOJ) [United States Trustee](#) (UST) than in judicial districts administered by the Federal Judiciary’s [Bankruptcy Administrator](#) (BA). The named plaintiff here, John Q. Hammons Fall 2006, LLC, [paid](#) approximately \$2.5 million more in bankruptcy court fees by filing in a judicial district administered by the UST rather than in a BA district. In a decision written by Justice Jackson, the Court held that the appropriate remedy for the disparity in fees under the 2017 statute is to [require](#) “prospective parity,” that is, uniformity in future cases. Justice Gorsuch, joined by Justices Thomas and Barrett, [argued](#) in dissent that “a refund is the traditional remedy for unlawfully imposed fees” and that the Court [should not base](#) its decision regarding the appropriate remedy solely on what the Court believed Congress would want.

Because the Court focused on Congress’s intent in holding that prospective parity is the appropriate remedy for this violation of the Bankruptcy Clause’s uniformity requirement, this case may be of interest to Congress when drafting legislation and, in particular, when considering whether to legislate any specific remedial relief. Additional information on the [Bankruptcy Clause](#), the [uniformity requirement](#), and [Hammons](#) is available at the [Constitution Annotated online](#).

## The Constitution’s Uniformity Requirements

[Article I, Section 8, Clause 4](#), of the Constitution provides that Congress shall have power “[t]o establish . . . *uniform Laws* on the subject of Bankruptcies throughout the United States.” In 88 out of 94 federal judicial districts, bankruptcy cases are administered under the UST program, which is funded through fees

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LSB11184

paid by debtors who file cases under [Chapter 11](#) of the Bankruptcy Code. In the other six federal judicial districts, bankruptcy cases are administered through the BA program, which is funded through the Judiciary's general budget. To ensure that fees charged by the UST and BA programs are uniform, Congress provided in the [Federal Courts Improvement Act of 2000](#) for the Judicial Conference of the United States to have debtors in BA jurisdictions pay fees equal to those imposed in the UST jurisdictions.

Congress modified the UST fee structure in the [Bankruptcy Judgeship Act of 2017](#) (found at [28 U.S.C. § 1930\(a\)\(6\)\(B\)](#)). The BA program, however, did not implement the new fee structure coincident with its implementation by the UST program. As a result, the fees in BA districts were lower than the fees in UST districts. In the [Bankruptcy Administration Improvement Act of 2020](#), Congress addressed the disparity by requiring the Judicial Conference to conform the fees paid in the BA districts to those paid in the UST districts. In 2022, the Supreme Court held in [Siegel v. Fitzgerald](#) that the [Bankruptcy Judgeship Act of 2017](#) violated the constitutional requirement of uniformity by allowing the UST and BA jurisdictions to implement the new fees differently. The Court did not address the appropriate remedy for debtors in UST districts who had been charged the higher fees, but [remanded](#) the case for further consideration.

## The *Hammons* Case

[Hammons](#) concerned the appropriate remedy for a UST debtor—in this case, Hammons—that had paid fees in excess of what it would have paid had it filed in a BA district. The United States Court of Appeals for the [Tenth Circuit](#) had held that Hammons should receive a refund of the excess amount it had paid. The UST [challenged](#) the Tenth Circuit's judgment, arguing that a plaintiff who establishes a constitutional uniformity violation is [not automatically entitled](#) to retrospective relief. Rather, the UST [argued](#) that prospective relief, which would require only that all debtors uniformly pay the higher fees going forward, would implement Congress's intended result in increasing the fees under the Bankruptcy Judgeship Act. Alternatively, the UST [argued](#) that, if retrospective relief is required, the appropriate remedy would be collection of additional fees from debtors in BA districts rather than refunds to debtors in UST districts.

In its June 14, 2024, opinion, the Supreme Court [reversed](#) the Tenth Circuit and [held](#) that “prospective parity”—uniform fees going forward—is the appropriate remedy for the violation of the Bankruptcy Clause's uniformity requirement. In reaching its judgment for the UST, the Court stressed that the constitutional violation was not that the UST fees paid by Hammons were too high, only that there was a [disparity](#) between the UST and BA fees. The Court further observed that the disparity between the BA and UST fees [had been](#) “short lived and small.”

[Identifying](#) legislative intent as the “touchstone for any decision about remedy,” the Court examined the UST fee structure, observing that Congress had intended for the UST to raise fees so that the program would be self-funded. Consequently, the Court [reasoned](#), granting Hammons's request for a refund would “significantly undermine Congress's goal of keeping the U.S. Trustee Program self-funded.” The Court further noted that there would be practical problems in providing for refunds because many of the debtors [had been](#) “liquidated or otherwise ceased to exist.” Turning to the alternative relief suggested by the UST—that the BA fees be retroactively increased—the Court observed that, when Congress had required the Judicial Conference to conform the BA fees to the UST fees, it [had specified](#) that the fees be equalized only on a prospective basis. Like the problems posed by refunding UST fees, the Court noted that retroactively collecting BA fees also [presented](#) problems, as “[t]he Government would be forced to extract fees from funds that might already be disbursed, inevitably prompting additional litigation and even the unwinding of closed cases.” In light of these concerns, the Court [concluded](#) that “Congress would have wanted to impose equal fees in all districts going forward.” The Court, however, [cautioned](#) against using congressional intent as an “entirely unchecked guide” when determining remedies for constitutional violations, [noting](#) the role of “due process and other constitutional protections” in making such decisions.

Justice Gorsuch wrote in dissent, joined by Justices Thomas and Barrett, that Hammons was entitled to a refund because it had [made](#) \$2.5 million in overpayments to the UST that [were](#) “exacted in violation of the Bankruptcy Clause.” Among other things, Justice Gorsuch [disputed](#) that the Court’s “only proper role is to speculate about—and then give effect to—the course of action Congress would have taken to address the constitutional injury its fee regime imposed if it had been warned in advance.” While noting that an argument could be made that refunds, rather than prospective parity, better reflected congressional intent, Justice Gorsuch stated that the Court should have [applied](#) “[t]raditional remedial principles” to Hammons’s case and that, for centuries, the appropriate remedy for erroneous duties and taxes has been refunds.

## Considerations for Congress

Congress may find [Hammons](#) of interest when drafting legislation where remedial considerations might come into play. While the majority and the dissent disagreed as to the degree to which congressional intent should inform determinations of the appropriate remedy for a violation of the [Bankruptcy Clause’s uniformity requirement](#), they also reached different conclusions as to what Congress would have intended with respect to the appropriate relief.

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