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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

LAMIE *v.* UNITED STATES TRUSTEE

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

No. 02–693. Argued November 10, 2003—Decided January 26, 2004

Before 1994, §330(a) of the Bankruptcy Code authorized a court to "award to a trustee, *to* an examiner, *to* a professional person employed under section 327 . . . , *or to the debtor's attorney*" "(1) reasonable compensation for . . . services rendered by such trustee, examiner, professional person, or attorney . . . ." (Emphasis added to highlight text later deleted.) In 1994 Congress amended the Code with a reform Act. The Act altered §330(a) by deleting "or to the debtor's attorney" from what was §330(a) and is now §330(a)(1). This change created apparent legislative drafting error in the current section. The section is left with a missing "or" that infects its grammar. And its inclusion of "attorney" in what was §330(a)(1) and is now §330(a)(1)(A) defeats the neat parallelism that otherwise marks the relationship between current §§330(a)(1) ("trustee, . . . examiner, [or] professional person") and 330(a)(1)(A) ("trustee, examiner, professional person, or attorney"). In this case, petitioner filed an application with the Bankruptcy Court seeking attorney's fees under §330(a)(1) for the time he spent working on a behalf of a debtor in a chapter 7 proceeding. The Government objected to the application. It argued that §330(a) makes no provision for the estate to compensate an attorney who is not employed by the estate trustee and approved by the court under §327. Petitioner admitted he was not employed by the trustee and approved by the court under §327, but nonetheless contended §330(a) authorized a fee award to him because he was a debtor's attorney. In denying petitioner's application, the Bankruptcy Court, District Court, and Fourth Circuit all held that in a chapter 7 proceeding §330(a)(1) does not authorize payment of attorney's fees unless the attorney has been appointed under §327.

Held: Under the Code's plain language, §330(a)(1) does not authorize

compensation awards to debtors' attorneys from estate funds, unless they are employed as authorized by §327. If the attorney is to be paid from estate funds under §330(a)(1) in a chapter 7 case, he must be employed by the trustee and approved by the court. Pp. 5–15.

(a) Petitioner argues that this Court must look to legislative history to determine Congress' intent because the existing statutory text is ambiguous in light of its predecessor. He claims that subsection (A)'s "attorney" is facially irreconcilable with the section's first part since the two parts' lists were previously parallel. He claims also that only a drafting error can explain the missing conjunction "or" between "an examiner" and "a professional person" since the text was previously grammatically correct. The starting point in discerning congressional intent, however, is the existing statutory text, *Hughes Aircraft Co.* v. *Jacobson,* 525 U. S. 432, and not predecessor statutes. So this Court begins with the present statute. Pp. 5–6.

(b) That the present statute is awkward, and even ungrammatical, does not make it ambiguous on the point at issue. A debtor's attorney not engaged under §327 does not fall within the eligible class of persons that the first part of §330(a)(1) authorizes to receive compensation: trustees, examiners, and §327 professional persons. Subsection (A) allows compensation for services rendered by four types of persons (the same three plus attorneys), but unless an applicant is in one of the classes named in the first part, the kind of service rendered is irrelevant. The missing "or" does not change this conclusion. Numerous federal statutes inadvertently lack a conjunction, but are read for their plain meaning. Here, the missing "or" neither alters the text's substance nor obscures its meaning. Subsection (A)'s nonparalleled fourth category also does not cloud the statute's meaning. "Attorney" can be straightforwardly read to refer to those attorneys who qualify as §327 professional persons. Likewise, neighboring §331, which permits both debtors' attorneys and §327 professional persons to receive interim compensation, most straightforwardly refers to §327 debtors' attorneys. This reading may make "attorney" in §330(a)(1)(A) surplusage, but surplusage does not always produce ambiguity. When there are two ways to read the text—either attorney is surplusage, which makes the text plain, or attorney is nonsurplusage, which makes the text ambiguous—applying a rule against surplusage is inappropriate. Pp. 6–9.

(c) The plain meaning that §330(a)(1) sets forth does not lead to absurd results. Petitioner's arguments—that this Court's interpretation will lead to a departure from the principle of prompt and effectual administration of bankruptcy law and attributes to Congress an intent to eliminate compensation essential to debtors' receipt of legal services—overstate §330(a)(1)'s effect. Compensation remains avail-

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able through various permitted means. Compensation for debtors' attorneys in chapter 12 and 13 bankruptcies, for example, is not much disturbed by §330 as a whole. Moreover, compensation for debtors' attorneys in chapter 7 proceedings is not altogether prohibited. Sections 327 and 330, taken together, allow chapter 7 trustees to engage attorneys, including debtors' counsel, and allow courts to award them fees. Section §327's limitation on a debtor's incurring debts for professional services without the trustee's approval also advances the trustee's responsibility for preserving the chapter 7 estate. Add to this the apparent sound functioning of the bankruptcy system in the Fifth and Eleventh Circuits, which have both adopted the plain meaning approach, and petitioner's arguments become unconvincing. And §330(a)(1) does not prevent a debtor from engaging in the common practice of paying counsel compensation in advance to ensure that a bankruptcy filing is in order. Pp. 9–11.

(d) With a plain, nonabsurd meaning in view, this Court will not read "attorney" in §330(a)(1)(A) to refer to "debtors' attorneys," in effect enlarging the statute's scope. See *Iselin* v. *United States,* 270 U. S. 245, 251. This Court's unwillingness to soften the import of Congress' chosen words even if it believes the words lead to a harsh outcome is longstanding. P. 11.

(e) Though it is unnecessary to rely on the 1994 Act's legislative history, it is instructive to note that the history creates more confusion than clarity about the congressional intent. History and policy considerations lend support both to petitioner's interpretation and to the holding reached here. This uncertainty illustrates the difficulty of relying on legislative history and the advantage of resting on the statutory text. Pp. 12–14.

290 F. 3d 739, affirmed.

KENNEDY, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, SOUTER, THOMAS, GINSBURG, and BREYER, JJ., joined, and in which SCALIA, J., joined except for Part III. STEVENS, J., filed an opinion concurring in the judgment, in which SOUTER and BREYER, JJ., joined.