

FILED UNDER SEAL

IN THE SUPREME COURT OF THE UNITED STATES

No. 17-1272

HENRY SCHEIN, INC., ET AL., PETITIONERS

v.

ARCHER AND WHITE SALES, INC.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

MOTION FOR LEAVE TO FILE UNDER SEAL
VOLUME TWO OF THE JOINT APPENDIX

Pursuant to Rule 21 of the Rules of this Court, petitioners respectfully move for leave to file under seal Volume 2 of the parties' joint appendix, submitted concurrently with this motion.* Respondent Archer and White Sales, Inc. consents to this motion.

1. This case arises from a lawsuit filed by respondent in 2012 against petitioners in the United States District Court for the Eastern District of Texas. Petitioners moved to compel arbitration of respondent's claims. The district court and the court of appeals denied petitioners' motions to compel on the basis that

* Petitioners incorporate by reference the corporate disclosure statement filed in the Brief for the Petitioners, filed concurrently with this motion.

petitioners' claim for arbitrability was "wholly groundless." Petitioners contend that the Federal Arbitration Act does not permit a court to decline to enforce an agreement delegating questions of arbitrability to an arbitrator if the court concludes the claim of arbitrability is "wholly groundless."

The record in this case includes the second amended complaint filed by respondent. The second amended complaint contains information that petitioners contend is of a highly confidential nature, including competitively sensitive business, research and development, financial, sales information, and trade secrets, that if disclosed to other parties in the field at issue would reveal technical or business advantages. The second amended complaint was maintained under seal in the proceedings in the district court and subsequently in the court of appeals.

2. In conjunction with the filing of petitioners' brief, petitioners have filed a two-volume joint appendix. Volume 1 of the joint appendix includes the relevant docket entries and other items designated by the parties. Volume 2 of the joint appendix includes the second amended complaint. Petitioners move for leave to file Volume 2 of the joint appendix under seal to protect the competitively sensitive information contained in the second amended complaint.

Respectfully submitted.



KANNON K. SHANMUGAM

Counsel of Record

WILLIAMS & CONNOLLY LLP

725 Twelfth Street, N.W.

Washington, DC 20005

(202) 434-5000

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