

No. \_\_\_\_\_

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IN THE  
Supreme Court of the United States

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DOMINO'S PIZZA, LLC,  
*Applicant-Petitioner,*

v.

EDMOND CARMONA, ABRAHAM MENDOZA, AND ROGER NOGUERIA,  
on behalf of themselves and all others similarly situated

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**APPLICATION FOR EXTENSION OF TIME  
TO FILE A PETITION FOR A WRIT OF CERTIORARI**

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To the Honorable Elena Kagan,  
Associate Justice of the United States Supreme Court  
and Circuit Justice for the Ninth Circuit

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**APPLICATION FOR EXTENSION OF TIME  
TO FILE A PETITION FOR A WRIT OF CERTIORARI**

To the Honorable Elena Kagan, Associate Justice of the United States Supreme Court and Circuit Justice for the Ninth Circuit:

Applicant-Petitioner Domino's Pizza, LLC ("Domino's") respectfully requests an extension of time of thirty days within which to file a petition for a writ of certiorari. Sup. Ct. R. 13.5. The United States Court of Appeals for the Ninth Circuit issued its opinion on December 23, 2021, Ex. 1, and denied Domino's petition for rehearing on February 15, 2022, Ex. 2. Absent an extension of time, Domino's petition for a writ of certiorari from this Court will be due on May 16, 2022. *See* Sup. Ct. R. 13.1. For good cause, Domino's asks that this deadline be extended thirty days, to June 15, 2022. *See* Sup. Ct. R. 13.5.

1. Domino's intends to file a petition for a writ of certiorari seeking review of the Ninth Circuit's opinion affirming the District Court's order denying Domino's motion to compel arbitration. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1).

2. This case presents a substantial and important question of federal statutory law: Whether individuals engaged in the *intrastate* transportation of goods that overwhelmingly originate *in-state*, and that are purchased and stored *in-state* until *subsequent* purchase by *in-state* third parties, are "engaged in foreign or interstate commerce" and thus covered by the residual exemption of Section 1 of the Federal Arbitration Act ("FAA").

3. Section 1 of the FAA provides that “contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce” are exempt from the FAA’s provisions. 9 U.S.C. § 1.

4. This Court has held that Section 1 is to “be afforded a narrow construction.” *Circuit City Stores, Inc. v. Adams*, 532 U.S. 105, 118 (2001).

5. Numerous decisions of this Court have reaffirmed the principle that goods shipped from out of state leave the “stream of interstate commerce” when they “come to rest” within a state and are there “held solely for local disposition and use.” *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495, 543 (1935); see *Walling v. Jacksonville Paper Co.*, 317 U.S. 564, 570 (1943) (“goods acquired and held by a local merchant for local disposition” not “in commerce”); cf. *Phila. & Reading Ry. Co. v. Hancock*, 253 U.S. 284, 285–86 (1920) (railroad employee responsible for delivering coal engaged in interstate commerce because “[t]here was no interruption of the movement [of the coal]; it always continued towards points as originally intended”).

6. Plaintiffs are former Domino’s employees. They worked as drivers, transporting goods from a distribution center to franchised stores. The distribution center and all the franchised stores were located in California. Nearly all of the goods originated in California. And—most importantly—*none* of the goods were sent to the distribution center in response to any specific store’s order. Instead, the goods were purchased by Domino’s and “held solely for local disposition [to,] and use [by,]” the third-party franchisees. *Schechter Poultry*, 295 U.S. at 543.

7. Construing Section 1 broadly, the Ninth Circuit concluded that these workers were engaged in foreign or interstate commerce for purposes of the Section 1 exemption, and consequently affirmed the District Court’s order denying Domino’s motion to compel arbitration. This conclusion “conflicts with relevant decisions of this Court” including *Circuit City* and *Schechter Poultry*. Sup. Ct. R. 10(c). And this Court’s grant of certiorari in *Southwest Airlines Co. v. Saxon*, 21–309, shows that the scope of Section 1 is an “important” question of federal law. Sup. Ct. R. 10(a), (c).

8. To properly brief this issue in a petition for a writ of certiorari, Domino’s respectfully requests an extension of its deadline to file the petition until June 15, 2022.

9. Since the Ninth Circuit denied its petition for rehearing, Domino’s has been carefully considering whether to seek this Court’s review, and only recently decided to petition for certiorari. And Domino’s has only recently retained the assistance of undersigned counsel, Courtney Gilligan Saleski, for purposes of seeking this Court’s review.

10. The requested extension is needed for Ms. Saleski to properly familiarize herself with the pleadings, decisions below, and relevant case law, and to prepare a cogent petition for a writ of certiorari. Ms. Saleski’s numerous other obligations will make it difficult for her to accomplish these tasks by the current mid-May deadline.

11. Counsel for Domino’s has conferred with counsel for Plaintiffs, Aashish Yadvendra Desai, who has advised that he does not object to this requested 30-day extension.

12. This is Domino's first application for an extension of the deadline to file a petition for a writ of certiorari. This application is timely because it has been filed more than ten days prior to the date on which the time for filing the petition is to expire.

13. For these reasons, Domino's respectfully requests that the due date for its petition for a writ of certiorari be extended thirty days, to June 15, 2022.

Respectfully submitted,

/s/ Courtney G. Saleski

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