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November 9, 2023

Scott S. Harris
Clerk of the Court
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

Re: *Amazon.com, Inc. v. Miller*, No. 23-424



Dear Mr. Harris:

I write on behalf of petitioners in response to respondents' request for an extension of time to respond to the petition for certiorari. Although petitioners have no objection to a 20-day extension through December 12, 2023, petitioners respectfully oppose a 30-day extension, which would significantly delay the Court's resolution of this case.

As the petition explains, this case presents an important federal question on which the circuits are in recognized conflict. That question is whether 9 U.S.C. 1, which exempts from the Federal Arbitration Act (FAA) "contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce," applies to drivers who make local deliveries of goods previously shipped from other states. The Court has already agreed to resolve another circuit split over the proper scope of the FAA's Section 1 exemption in *Bissonnette v. LePage Bakeries Park St., LLC*, No. 23-51, 2023 WL 6319660 (Sept. 29, 2023). The question in that case, however, is whether a class of workers must work in the transportation industry to fall within the exemption. Although both cases concern the proper interpretation of the same statutory provision and of this Court's decision in *Southwest Airlines Co. v. Saxon*, 596 U.S. 450 (2022), the two circuit splits are distinct. Resolving the split in *Bissonnette* will not automatically resolve the split here. The petition therefore argues that the Court should grant certiorari to decide this case alongside *Bissonnette*. Pet. 27-28.

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Scott S. Harris
November 9, 2023
Page 2

If the Court does agree to hear this case, all would benefit from allowing this case to be decided this Term. The parties to this case, as well as parties to many other cases implicating the same circuit split, need certainty over the proper forum for their dispute, whether that is litigation or arbitration. See Pet. 24-27. And given the pendency of another case presenting a distinct question about the same statutory language, the Court may wish to preserve its ability to consider both cases during the same Term.

To preserve this Court's ability to do so, petitioners filed their petition for a writ of certiorari on October 19, 2023—six weeks ahead of the November 30, 2023 due date for the petition under the normal 90-day deadline. But unless petitioners waive the 14-day waiting period for distribution, the 30-day extension that respondents request would schedule the petition for distribution on January 10, 2024 for consideration at the Court's February 16, 2024 conference. Such a schedule would leave insufficient time for the Court to hear this case in the current Term, should it choose to do so.

For these reasons, petitioners respectfully ask that the Court limit respondents' extension to 20 days—to December 12, 2023—to ensure distribution of the certiorari-stage filings no later than the Court's January 12 conference.

Sincerely,

/s/ Michael E. Kenneally
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Counsel of Record for Petitioners

cc: See Attached Service List

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