No. 24-

IN THE

Supreme Court of the United States

MINISO DEPOT CA, INC., USA MINISO DEPOT, INC. AND LIN LI,

Petitioners,

v.

YONGTONG LIU,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE CALIFORNIA COURT OF APPEAL

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

The Federal Arbitration Act (FAA) reflects "a liberal federal policy favoring arbitration agreements." *CompuCredit Corp. v. Greenwood*, 565 U.S. 95, 98 (2012) (quoting *Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 24 (1983)). Courts must "examine with care the complaints seeking to invoke their jurisdiction in order to separate arbitrable from nonarbitrable claims." *KPMG LLP v. Cocchi,* 565 U.S. 18, 19 (2011). "[I]f a dispute presents multiple claims, some arbitrable and some not, the former must be sent to arbitration even if this will lead to piecemeal litigation." *Id.*

The Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021 (EFAA) permits plaintiffs to void an arbitration agreement "with respect to a case which is filed under Federal, Tribal, or State law and relates to [a] sexual assault dispute or [a] sexual harassment dispute." 9 U.S.C. § 402(a).

The question presented is:

Should claims within the scope of an arbitration agreement that are *unrelated* to sexual assault or sexual harassment continue to be arbitrated under the FAA?

CORPORATE DISCLOSURE STATEMENT

The parent company of Miniso Depot CA, Inc. is USA Miniso Depot, Inc., a non-public U.S. entity. The parent company of USA Miniso Depot, Inc. is Miniso Investment Hong Kong Limited, a non-public Hong Kong entity. No publicly held company owns 10% or more of the stock in Miniso Depot CA, Inc. or USA Miniso Depot, Inc.[1]

[1] Petitioners' corporate disclosure statement has been updated to reflect that "USA Miniso Depot, Inc." is the correct name for the entity previously identified as "Miniso Depot, Inc." in petitioners' March 10, 2025 application for an extension of time within which to file the petition for a writ of certiorari.

RELATED PROCEEDINGS

Liu v. Miniso Depot CA, Inc., et al., No. B338090 (Cal. Ct. App., opinion issued Oct. 7, 2024)

Liu v. Miniso Depot CA, Inc., et al., No. 23STCV24321 (Cal. Super. Ct., motion to compel arbitration denied Mar. 19, 2024)

Liu v. Miniso Depot CA, Inc., et al., No. S287882 (Cal. S. Ct., review denied Dec. 31, 2024)

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INTRODUCTION

The Federal Arbitration Act (FAA) has long required courts to enforce parties' arbitration agreements. 9 U.S.C. § 2. It commands all doubts to be resolved in favor of arbitration, even if that requires piecemeal litigation where certain claims, but not others, are arbitrable. In the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021 (EFAA), Congress amended the FAA to exempt "sexual harassment" and "sexual assault dispute[s]" from arbitration where a plaintiff prefers to litigate those claims in court. 9 U.S.C. § 402(a). A plaintiff can void an arbitration agreement "with respect to a case which is filed under Federal, Tribal, or State law and *relates to* the sexual assault dispute or the sexual harassment dispute." *Id.* (emphasis added).

The question in this case is whether a claim must be "relate[d] to" sexual assault or sexual harassment for the EFAA to permit voiding an arbitration agreement that would otherwise require that claim to be arbitrated. Under the decision below, a claim need not be related to sexual assault or harassment for the EFAA to void the arbitration agreement as to that claim. Rather, so long as a complaint contains any claim relating to sexual assault or harassment, trial courts must void the arbitration agreement as to *all* claims—even those having nothing whatsoever to do with the dispute.

The Court should grant review. While some federal and state courts have heeded the EFAA's requirement that claims must "relate[] to" a sexual harassment or sexual assault dispute before

exempting them from arbitration, 9 U.S.C. § 402(a), other courts (including in this case) have grossly misinterpreted the EFAA's plain language and turned FAA jurisprudence on its head. Without this Court's intervention, these courts' decisions will have immediate and widespread consequences for large swaths of employment-related claims across the country. Such an expansive interpretation—contrary to the EFAA's text, purpose, and legislative history—erroneously requires courts to exempt from arbitration, for example, an employee's wage-and-hour claims (as long as that employee brings an unrelated sexual harassment claim); an employee's breach of contract claim (as long as that employee also brings an unrelated sexual harassment claim); a slip-and-fall negligence claim (as long as the employee tacks on vague allegations of sexual harassment); or sexual harassment claims too old to invoke the EFAA (as long as another, wholly unrelated sexual harassment claim is more recent).

These extreme results are untenable for employers; they rest on an impermissibly broad reading of the EFAA; and they are inconsistent with the FAA's policy in favor of arbitration.

The petition should be granted.

OPINIONS AND ORDERS BELOW

The California Supreme Court's order denying Miniso's petition for review is unreported and reproduced at Pet. App. 34a. The California Court of Appeal's opinion is reported at 105 Cal. App. 5th 791 (2024) and reproduced at Pet. App. 1a-25a. The Los

Angeles Superior Court's order denying petitioners' motion to compel arbitration is unreported and reproduced at Pet. App. 26a-33a.

JURISDICTION

The California Court of Appeal issued its opinion on October 7, 2024. The California Supreme Court denied Miniso's timely petition for review on December 31, 2024. Pet. App. 34a. Subsequently, Justice Kagan extended the time for filing a petition for a writ of certiorari to May 30, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

STATUTORY PROVISIONS INVOLVED

9 U.S.C. § 402 provides, in relevant part:

> (a) Notwithstanding any other provision of this title, at the election of [a] person alleging conduct constituting a sexual harassment dispute … no predispute arbitration agreement or predispute joint-action waiver shall be valid or enforceable with respect to a case which is filed under Federal, Tribal, or State law and relates to … the sexual harassment dispute.
>
> (b) An issue as to whether this chapter applies with respect to a dispute shall be determined under Federal law. The applicability of this chapter to an agreement to arbitrate and the validity and enforceability of an agreement to which this chapter applies shall be determined by a court, rather than an arbitrator[.]

9 U.S.C. § 401(4) provides, in relevant part:

> The term "sexual harassment dispute" means a dispute relating to conduct that is alleged to constitute sexual harassment under applicable Federal, Tribal, or State law.

STATEMENT OF THE CASE

Congress passes the Federal Arbitration Act to require enforcement of arbitration agreements

Congress enacted the FAA as "a response to judicial hostility to arbitration." *CompuCredit Corp. v. Greenwood*, 565 U.S. 95, 97 (2012). The law provides that "[a] written provision in … a contract evidencing a transaction involving commerce to settle by arbitration a controversy thereafter arising out of such contract or transaction … shall be valid, irrevocable, and enforceable," unless one of certain limited exceptions applies. 9 U.S.C. § 2. This provision reflects "a liberal federal policy favoring arbitration agreements." *CompuCredit*, 565 U.S. at 98 (quoting *Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 24 (1983)). The FAA "requires federal courts to place arbitration agreements upon the same footing as other contracts," *GE Energy Power Conversion France SAS, Corp. v. Outokumpu Stainless USA, LLC*, 590 U.S. 432, 437 (2020) (cleaned up), and "requires courts to enforce agreements to arbitrate … unless the FAA's mandate has been 'overridden by a contrary congressional command.'" *CompuCredit*, 565 U.S. at 98.

As this Court has recognized, "the informality of arbitral proceedings is itself desirable, reducing the cost and increasing the speed of dispute resolution." *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333, 345 (2011). That includes disputes in the employment setting, where many employers and employees now agree to settle disputes in arbitration as an alternative to the lengthier, more costly court system. Morgan Forsey & Brett Young, *Class Action Year in Review: Labor & Employment,* Nat'l L. Rev. (Mar. 20, 2024), https://tinyurl.com/d9ty123.

Congress exempts sexual assault and harassment disputes from arbitration

In 2022, Congress amended the FAA by passing the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021 (EFAA), Pub. L. No. 117-90, 136 Stat. 26 (Mar. 3, 2022), which added two new FAA provisions codified at 9 U.S.C. §§ 401-402. The EFAA responded to concerns about mandatory arbitration of claims of sexual harassment in the workplace by permitting claimants to avoid arbitrating such claims. H.R. Rep. No. 117-234, at 10-11 (2022) (House Judiciary Committee report). Specifically, new § 402(a) provides:

> Notwithstanding any other provision of this title, at the election of [a] person alleging conduct constituting a sexual harassment dispute … no predispute arbitration agreement or predispute joint-action waiver shall be valid or enforceable with respect to a case which is filed under Federal, Tribal, or State

> law *and relates to* … the sexual harassment dispute.

(Emphasis added.) *See also* Pub. L. No. 117-90, § 2, 136 Stat. 26, 27 (adding the EFAA to § 2's exceptions). Similarly, § 401(4) defines a sexual harassment dispute as "a dispute *relating to* conduct that is alleged to constitute sexual harassment under applicable Federal, Tribal, or State law." (emphasis added.)[2]

The EFAA only "appl[ies] with respect to" a "dispute or claim that arises or accrues on or after the date of [its] enactment." Pub. L. No. 117-90, § 3, 136 Stat. 28. "An issue as to whether [the EFAA] applies with respect to a dispute shall be determined under Federal law" by a judge, rather than an arbitrator. 9 U.S.C. § 402(b).

Liu sues Miniso for various employment claims, including two sexual harassment claims

Petitioners Miniso Depot CA, Inc., USA Miniso Depot, Inc., and Lin Li (collectively, Miniso) own and operate a chain of retail stores selling goods such as toys, collectables, stationery, cosmetics, and household items. Pet. App. 3a. Respondent Yongtong Liu worked for Miniso as a human resources professional

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[2] Sections 401 and 402 contain parallel provisions regarding a "sexual assault dispute," defined in § 401(3) as "a dispute involving a nonconsensual sexual act or sexual contact, as such terms are defined in section 2246 of title 18 or similar applicable Tribal or State law, including when the victim lacks capacity to consent." Because there is no dispute that Liu's lawsuit does not relate to a "sexual assault dispute," Miniso focuses on the "sexual harassment dispute" provisions.

for approximately two years before resigning in June 2023. Pet. App. 3a, 6a.

At the outset of her employment, Liu signed an agreement that required her to resolve "any and all disputes, claims, or causes of action … arising from or relating to [her] employment, or the termination of [her] employment" through "final, binding, and confidential arbitration." Pet. App. 7a. The parties also agreed that "any dispute relating to the interpretation, applicability, validity, or enforceability of [the agreement] … shall be governed by the [FAA]." Pet. App. 7a (alterations in original). When Liu decided to sue Miniso, however, she ignored her arbitration agreement and sued in Los Angeles Superior Court. Pet. App. 2a-3a.

Liu's complaint includes 15 causes of action, leading with a series of wage-and-hour claims. Court of Appeal Appendix ("C.A. App.") 15; *see also* Pet. App. 6a. The wage-and-hour claims allege that, about nine months after Miniso hired Liu as a human resources administrator, Miniso changed her job title "and, although her duties 'remained generally the same,' she was classified as exempt from various wage and hour requirements imposed by the [California] Labor Code, Industrial Welfare Commission Wage Orders, and regulations." Pet. App. 4a. Liu alleges that this resulted in violations of California labor laws, including failure to provide overtime compensation and failure to provide adequate rest and/or meal breaks. Pet. App. 4a.

Liu's complaint also includes a variety of allegations regarding adverse employment actions she

experienced after complaining about alleged unlawful business practices. Miniso asked Liu, "in her position in human resources, to participate in practices which she considered to be illegal, including failing to pay female employees 'equally or comparably to male counterparts,' 'hir[ing] only young Korean employees,' and falsifying 'immigration-related documents' to facilitate Miniso hiring Chinese individuals who could not legally work in the United States." Pet. App. 5a. Liu experienced retaliation "after she refused to participate in [these] various practices." Pet. App. 5a. "As a result of the retaliation and working long hours, for which she was not paid, and the demand that she engage in conduct that she believed violated the law," her health deteriorated, and she resigned in June 2023. Pet. App. 5a-6a; *see also* Pet. App. 6a (retaliation and constructive termination claims).

Separately, the complaint also alleges Miniso and their agents harassed Liu and others based on their sex and/or sexual orientation. The complaint alleges Liu was "subjected to unwelcome, severe and pervasive sexual harassment," "sexual orientation/gender harassment," and "sexual harassment/gender discrimination," including unwelcome comments about her appearance. Pet. App. 4a; *see also* Pet. App. 6a (harassment and discrimination claims). The complaint also alleges a general culture of unwelcome harassment and "ridicule[]" against women and LGBT+ employees, including Liu. C.A. App. 21-22.

The California courts refuse to enforce the parties' arbitration agreement with respect to any of Liu's claims

Miniso filed a motion to compel arbitration of Liu's claims pursuant to the parties' arbitration agreement. Pet. App. 6a-7a. The parties disputed whether Liu could opt out of the arbitration agreement under the EFAA. Miniso contended that (1) the EFAA did not apply because Liu failed to state a claim for harassment and so effectively had no harassment claim; and (2) even if the EFAA applied to Liu's sexual harassment claims, it did not apply to her other claims and so the other claims should be arbitrated. Pet. App. 7a-8a. Liu contended she could opt out of the arbitration agreement altogether as to all claims because she had stated at least one claim for harassment. Pet. App. 8a.

The trial court denied Miniso's motion to compel arbitration. The court found "the existence of a valid arbitration agreement." Pet. App. 29a. Yet, it concluded that the EFAA barred compelling arbitration of any of her claims—including claims unrelated to sexual harassment—because Liu had stated a claim for sexual harassment. Pet. App. 8a-9a.

Miniso appealed, challenging the trial court's determination that Liu could void the parties' arbitration agreement even as to claims unrelated to sexual harassment. Pet. App. 10a-11a. The California Court of Appeal affirmed. The court acknowledged that its analysis was governed by the FAA, which the EFAA amended and which generally requires courts to enforce all arbitration agreements. Pet. App. 12a-13a.

Nonetheless, the court held that "[u]nder the EFAA, when a plaintiff's lawsuit contains at least one claim that fits within the scope of the act, the arbitration agreement is unenforceable as to all claims asserted in the lawsuit." Pet. App. 10a-11a. The court reasoned that because § 402 of the EFAA allows a plaintiff to void an arbitration agreement with respect to a "*case*" that "relates to … the sexual harassment dispute," the EFAA "clear[ly]" permitted voiding an arbitration agreement with respect to the entire "action." Pet. App. 15a.

This view, the court reasoned, was consistent with a previous California appellate decision. Pet. App. 19a. The court acknowledged contrary federal authority holding that a plaintiff cannot void an arbitration agreement as to "wage and hour claims" that "d[o] not relate in any way to [a] sexual harassment dispute." Pet. App. 21a (quoting *Mera v. SA Hospitality Grp., LLC*, 675 F. Supp. 3d 442, 448 (S.D.N.Y. 2023)). But the court found that decision "unpersuasive." Pet. App. 21a.

The court acknowledged that its expansive view of the EFAA might raise "question[s]" as to whether a plaintiff could avoid arbitrating "class or … representative claims" that have nothing to do with an individual's own sexual harassment claims in the same lawsuit. Pet. App. 21a n.8; *see also* Pet. App. 20a-21a. However, the court believed its interpretation was sensible because it "avoids the potential for inefficiency in having separate proceedings in court and an arbitration forum, and the related additional burden placed on the parties of having to litigate claims in both a court proceeding and an arbitration." Pet. App.

18a-19a. The court dismissed as "inapplicable" this Court's precedent holding that under the FAA, "if a dispute presents multiple claims, some arbitrable and some not, the former must be sent to arbitration even if this will lead to piecemeal litigation." Pet. App. 23a (quoting *KPMG LLP v. Cocchi,* 565 U.S. 18, 19 (2011)).

The California Supreme Court denied Miniso's petition for review. Pet. App. 34a.

REASONS FOR GRANTING THE WRIT

For decades, this Court's precedent has required courts to "examine with care the complaints seeking to invoke their jurisdiction in order to separate arbitrable from nonarbitrable claims." *KPMG*, 565 U.S. at 19. "[I]f a dispute presents multiple claims, some arbitrable and some not, the former must be sent to arbitration even if this will lead to piecemeal litigation." *Id.* (citing *Dean Witter Reynolds Inc. v. Byrd,* 470 U.S. 213, 217 (1985)). But under the decision below, and the decisions of other courts adopting its rule, trial courts across the country are voiding arbitration agreements as to potentially thousands of claims that have no relation whatsoever to the types of sexual assault or sexual harassment disputes Congress targeted by enacting the EFAA. The Court should grant certiorari to address the proper interpretation of the EFAA.

There is a split of authority over whether the EFAA permits such drastic curtailing of arbitration for claims ranging from wage-and-hour to stock-option disputes, so long as the plaintiff also alleges

sexual harassment against at least one defendant. Conflict exists even among federal and state courts within the same jurisdiction, increasing the odds of forum-shopping to obtain a favorable result.

The decision below and courts following the same approach are wrong: The text and history of the EFAA confirm that only claims related to an alleged sexual harassment or sexual assault dispute can evade arbitration. This Court's guidance on this question is important given the potentially dramatic consequences for arbitration agreements nationwide. And this case is an excellent vehicle to address the question.

I. Lower Courts Are Divided On The Question Presented.

Courts across the country need this Court's guidance. A clear and recognizable split has already emerged regarding the scope of the EFAA's voiding provision, leaving litigants' ability to enforce their arbitration agreements subject to the whims of geography and forum shopping.

Under the more expansive interpretation of the statute, including in the decision below, once the EFAA's bar on arbitration of sexual harassment or sexual assault disputes "is properly invoked and applies, the pre-arbitration agreement is invalid and unenforceable with respect to the *entire …. legal proceeding*." *Diaz-Roa v. Hermes L., P.C.*, 757 F. Supp. 3d 498, 532 (S.D.N.Y. 2024) (emphasis added), *appeal*

filed, No. 24-3223 (2d Cir. Dec. 12, 2024).[3] These courts refuse to "subject the remaining claims to an analysis of whether they are sufficiently related to the sexual harassment claim, factually or legally, to be covered by the EFAA." *Bray v. Rhythm Mgmt. Grp., LLC*, No. 23-CV-3142, 2024 WL 4278989, at *8 (D. Md. Sept. 24, 2024). According to these courts, requiring a relatedness analysis for each claim "would require courts to carve up every case to which the EFAA applies by reaching judgment—with respect to each claim—on whether the claim relates to the sexual harassment or sexual assault dispute." *Diaz-Roa*, 757 F. Supp. 3d at 532 n.9.

Other courts have taken a more restrictive approach that adheres to *Dean Witter* and *KPMG*, holding that "when a litigant files a case with multiple claims, the EFAA invalidates the otherwise enforceable arbitration agreement *only as to the claims that*

[3] *See also Bruce v. Adams & Reese, LLP*, No. 24-CV-00875, 2025 WL 611071, at *14 (M.D. Tenn. Feb. 25, 2025) (collecting cases), *appeal filed*, No. 25-5210 (6th Cir. Mar. 13, 2025); *Puris v. TikTok Inc.*, No. 24CV944, 2025 WL 343905, at *6 (S.D.N.Y. Jan. 30, 2025), *appeal filed*, No. 25-322 (2d Cir. Feb. 12, 2025); *Gill v. US Data Mgmt., LLC*, No. 24-CV-05255, 2024 WL 5402494, at *2 (C.D. Cal. Dec. 2, 2024); Pet. App. 10a-11a; *Clay v. FGO Logistics, Inc.*, 751 F. Supp. 3d 3, 19-20 (D. Conn. 2024); *Newton v. LVMH Moet Hennessy Louis Vuitton Inc.*, 746 F. Supp. 3d 135, 150 (S.D.N.Y. 2024); *Williams v. Mastronardi Produce, Ltd.*, No. 23-13302, 2024 WL 3908718, at *1 (E.D. Mich. Aug. 22, 2024); *Molchanoff v. SOLV Energy, LLC*, No. 23-CV-653, 2024 WL 899384, at *4-5 (S.D. Cal. Mar. 1, 2024); *Watson v. Blaze Media LLC*, No. 23-CV-0279, 2023 WL 5004144, at *2 (N.D. Tex. Aug. 3, 2023); *Delo v. Paul Taylor Dance Found., Inc.*, 685 F. Supp. 3d 173, 180-81 (S.D.N.Y. 2023); *Johnson v. Everyrealm, Inc.*, 657 F. Supp. 3d 535, 558 (S.D.N.Y. 2023).

are closely related to, or intertwined with, the sexual assault or sexual harassment dispute." *Bruce*, 2025 WL 611071, at *14 (emphasis added) (collecting cases). These courts have applied the EFAA to sexual harassment claims while compelling plaintiffs to arbitrate claims that "do not relate in any way to the sexual harassment dispute" covered by the EFAA. *Mera*, 675 F. Supp. 3d at 448.[4] Some courts in that line of cases have invalidated an arbitration agreement as to all claims only after determining that every claim was factually related to a covered sexual harassment dispute, on the theory that disputes "unrelated to harassment claims" would be arbitrable and not subject to the EFAA. *Zeng v. Ellenoff Grossman & Schole LLP*, No. 23-cv-10348, 2024 WL 4250387, at *3 (S.D.N.Y. Sept. 19, 2024) (holding that claims of "retaliat[ion] … for complaining about sexual harassment," "unlike wage and hour disputes" not raised, "fall under the EFAA"); *see also Turner v. Tesla, Inc.*, 686 F. Supp. 3d 917, 925-28 (N.D. Cal. 2023) (voiding arbitration agreement as to all claims "because the core of [plaintiff's] case" alleged sexual harassment and each claim was at least "[s]ubstantially [r]elated" to that dispute); *Ding v. Structure Therapeutics, Inc.*, 755 F. Supp. 3d 1200, 1218-19 (N.D. Cal. 2024) (holding that agreement was invalid "to the extent the claims relate to the EFAA-covered dispute").

[4] *See also Silverman v. DiscGenics, Inc.*, No. 22-cv-00354, 2023 WL 2480054, at *2-3 (D. Utah Mar. 13, 2023) (splitting claims between court proceedings and arbitration based on whether the disputes arose prior to EFAA's effective date).

This issue is currently pending in several federal courts of appeals, which are likely to adopt similarly divergent interpretations of the EFAA. This includes appeals from *Diaz-Roa*, 757 F. Supp. 3d at 532; *Puris*, 2025 WL 343905, at *6; and *Bruce*, 2025 WL 611071, at *14.

Many state courts, too, have struggled to interpret the proper scope of the EFAA. Some, including the court here, have "agree[d] with" the more expansive interpretation invalidating an arbitration agreement as to the entire action, including unrelated claims. *Ruiz v. Butts Foods, L.P.*, No. W2023-01053-COA-R3-CV, 2025 WL 1099966, at *12 (Tenn. Ct. App. Apr. 14, 2025); *see also* Pet. App. 10a-11a. By contrast, at least one New York intermediate appellate court has held "the EFAA does not permit [plaintiffs] to avoid arbitration of" claims unrelated to sexual harassment "simply by adding … EFAA-protected claims to a single complaint." *O'Sullivan v. Jacaranda Club, LLC*, 206 N.Y.S.3d 562, 563-64 (App. Div. 2024). And the Texas Court of Appeals permitted arbitration of wage claims "[u]nrelated" to sexual assault claims that a plaintiff brought in an earlier lawsuit, citing *Mera* approvingly as "support[ing] separation of" the claims under the EFAA. *Delirium TV, LLC v. Dang*, ___ S.W.3d ___, 2024 WL 1513878, at *8 (Tex. Ct. App. Apr. 9, 2024), *pet. for review filed* (Tex. Sup. Ct. Nov. 7, 2024).

This uneven landscape as to the arbitrability of employment claims—sometimes within the same jurisdiction, depending on whether a plaintiff files in state or federal court—"encourage[s] and reward[s] forum shopping." *Southland Corp. v. Keating*, 465

U.S. 1, 15 (1984); *see also* Elaine Horn, Vidya Mirmira & Jasmine Robinson, *TikTok Bias Suit Ruling Reflects New Landscape Under EFAA,* Law360 (Apr. 9, 2025), https://tinyurl.com/d5g8u1l. The Court should step in to prevent such mischief and resolve the developing conflict.

II. The Decision Below Is Wrong.

The court below, and those adopting its expansive interpretation of the EFAA, have it wrong. Under the statute's plain language, a plaintiff "alleging conduct constituting a sexual harassment dispute or sexual assault dispute" can invoke the EFAA only to the extent the plaintiff has a "case which is filed under Federal, Tribal, or State law and relates to the sexual assault dispute or the sexual harassment dispute." 9 U.S.C. § 402(a). Where, as here, the complaint includes claims unrelated to any sexual assault or sexual harassment dispute, the FAA requires a trial court to enforce the plaintiff's agreement to arbitrate those claims. *Mera*, 675 F. Supp. 3d at 447. The court below erred in holding otherwise.

A. The plain language and history of the EFAA confirm that a plaintiff may void an arbitration agreement only with respect to claims related to sexual harassment or assault.

1. In any case involving statutory interpretation, a court begins "by analyzing the statutory language, assuming that the ordinary meaning of that language accurately expresses the legislative purpose." *Hardt v. Reliance Standard Life Ins. Co.*, 560 U.S. 242, 251

(2010) (cleaned up). "To discern that ordinary meaning, those words 'must be read' and interpreted 'in their context,' not in isolation." *Sw. Airlines Co. v. Saxon*, 596 U.S. 450, 455 (2022) (quoting *Parker Drilling Mgmt. Servs., Ltd. v. Newton*, 587 U.S. 601, 608 (2019)). This means, of course, that "the words of a statute must be read … with a view to their place in the overall statutory scheme." *Parker Drilling*, 587 U.S. at 608 (quoting *Roberts v. Sea-Land Servs., Inc.*, 566 U.S. 93, 101 (2012)).

Section 402(a) provides that "at the election of the person alleging conduct constituting a sexual harassment dispute," a predispute arbitration agreement is unenforceable "with respect to a case which is filed under Federal, Tribal, or State law *and relates to* ... the sexual harassment dispute." (emphasis added.) Thus, the EFAA allows a plaintiff to elect to void her arbitration agreement "only to the extent that the case filed by such individual 'relates to' the sexual harassment dispute … in other words, only with respect to the claims in the case that relate to the sexual harassment dispute." *Mera*, 675 F. Supp. 3d at 447 (citation omitted).

This is the most natural reading that flows from Congress' requirement that a plaintiff can only exempt a "case"—that is, a controversy—that "relates to" a sexual harassment dispute. "Case" frequently delineates only a specific claim. For instance, the term "case" in the case-or-controversy requirement of Article III of the United States Constitution requires a court to engage in a *claim-by-claim* analysis. As this Court has explained, "a plaintiff must demonstrate standing"—that is, must demonstrate a "case or

controversy"—"for each claim he seeks to press and for each form of relief that is sought." *Town of Chester v. Laroe Estates, Inc.*, 581 U.S. 433, 438-39 (2017) (quoting *Davis v. Fed. Election Comm'n*, 554 U.S. 724, 734 (2008)). The California Court of Appeal's own sources confirm that "case" is a "general term" that can refer to a cause of action. *Case*, Black's Law Dictionary (6th ed. 1990) (defining "case" in part to mean a "cause," "controversy[] at law," or "question contested before a court of justice"); *see also Case*, Black's Law Dictionary (12th ed. 2024) (defining "case" to mean "action" but also "controversy at law or in equity"); Pet. App. 15a (citing same).

A more expansive interpretation of section 402 would contort its plain language. Rather than voiding an arbitration agreement only when a "case" "relates to" a sexual harassment dispute, that interpretation would rewrite the statute to void an agreement "with respect to" an "action"—a legal proceeding—that "allege[s]" a sexual harassment dispute. *See* Pet. App. 16a-17a. That is not the language Congress used here. By contrast, other provisions of the EFAA and the FAA—including pre-existing FAA provisions that the EFAA amended—consistently use "action" when referencing an entire legal proceeding. *See, e.g.*, 9 U.S.C. § 401(2) ("joint, class, or collective *action* in a judicial, arbitral, administrative, or other forum" (emphasis added)); *id.* § 402(a) ("collective *action*" (emphasis added)); *id.* § 208 ("Chapter 1 applies to actions and proceedings brought under this chapter"); § 307 (same); Pub. L. No. 117-90, § 2, 136 Stat. 26, 27 (amending 9 U.S.C. §§ 208 and 307). "[W]hen Congress includes particular language in one section of a statute but omits it in another," courts must

"presume[] that Congress intended a difference in meaning." *Digital Realty Trust, Inc. v. Somers*, 583 U.S. 149, 161 (2018) (quoting *Loughrin v. United States*, 573 U.S. 351, 358 (2014)).

The EFAA's "title and place in the statutory scheme" also "shed light on its text." *Dubin v. United States*, 599 U.S. 110, 121 (2023). Both confirm that the narrower reading—requiring a plaintiff to show individual controversies within the complaint each relate to a sexual harassment dispute—is correct. The EFAA describes itself as "An Act To amend title 9 of the United States Code with respect to arbitration of disputes involving sexual assault and sexual harassment." Pub. L. No. 117-90, 136 Stat. 26. It makes good sense to interpret the EFAA to do just that: amend the FAA *only* "with respect to" claims related to those disputes.

And because the FAA as a whole "seeks broadly to overcome judicial hostility to arbitration agreements," this Court has required that its statutory exceptions "be afforded a narrow construction." *Circuit City Stores, Inc. v. Adams*, 532 U.S. 105, 118 (2001) (quoting *Allied-Bruce Terminix Cos. v. Dobson*, 513 U.S. 265 (1995)). "[T]he burden is on the party opposing arbitration" to "show that Congress intended to preclude a waiver of judicial remedies." *CompuCredit*, 565 U.S. at 104 n.4 (quoting *Shearson/American Express Inc. v. McMahon,* 482 U.S. 220, 227 (1987)). And "any doubts concerning the scope of arbitrable issues should be resolved in favor of arbitration." *Moses H. Cone Memorial Hosp.*, 460 U.S. at 24-25.

These principles mandate interpreting § 402's arbitration exception to apply "only with respect to the claims in the case that relate to the sexual harassment dispute." *Mera*, 675 F. Supp. 3d at 447. Because the statutory language is "plain and unambiguous," it must be enforced "according to its terms." *Hardt*, 560 U.S. at 251; *accord Bostock v. Clayton Cnty.*, 590 U.S. 644, 673-74 (2020).

2. The EFAA's legislative history confirms the plain textual reading that the Act exempts from arbitration *only* claims that relate to sexual harassment disputes, with unrelated claims still subject to arbitration under the FAA according to the parties' agreement.

Nowhere did Congress suggest it intended the extreme result of voiding an arbitration agreement as to claims wholly unrelated to sexual harassment. Indeed, the EFAA's co-sponsors stated to the contrary: "The bill plainly reads … that only disputes that relate to sexual assault or harassment conduct can escape the forced arbitration clauses." 168 Cong. Rec. S627 (daily ed. Feb. 10, 2022) (remarks of Sen. Gillibrand); *see also* 168 Cong. Rec. S625 (daily ed. Feb. 10, 2022) (remarks of Sen. Graham) ("We do not intend to take unrelated claims out of the contract"); *Rice v. Rehner*, 463 U.S. 713, 728 (1983) (bill sponsor's "interpretation is an 'authoritative guide to the statute's construction'"); *Crosby v. Nat'l Foreign Trade Council*, 530 U.S. 363, 375 n.9 (2000) (relying on sponsor statements). Other lawmakers supporting the bill similarly emphasized that "[t]he language of th[e] bill should be narrowly interpreted," and "should not be used as a mechanism to move employment claims

that are unrelated to these important issues out of the current system." 168 Cong. Rec. S625 (daily ed. Feb. 10, 2022) (remarks of Sen. Ernst).

To be sure, at least one lawmaker expressed a desire that "negative employment action cases *related* to the sexual harassment would go to court as one case." 168 Cong. Rec. H991 (daily ed. Feb. 7, 2022) (remarks of Rep. Scott) (emphasis added). But that says nothing about employment claims *unrelated* to sexual harassment. To the extent claims unrelated to sexual harassment were discussed, one co-sponsor made clear that those would be subject to the parties' arbitration agreement: "What we are not going to do is take unrelated claims out of the arbitration contract. So if you have got an hour-and-wage dispute with the employer, you make a sexual harassment, sexual assault claim, the hour-and-wage dispute stays under arbitration unless it is related." 168 Cong. Rec. S625 (daily ed. Feb. 10, 2022) (remarks of Sen. Graham). Congress understood the broader, liberal public policy in favor of arbitration, and it sought to amend that policy only with respect to those claims that relate to a sexual harassment dispute. This reading thus aligns with the text, purpose, and history of the EFAA and the FAA scheme within which the EFAA operates. The California Court of Appeal's holding does not, and accordingly, is wrong.

B. The decision below incorrectly voided Liu's arbitration agreement for wage-and-hour and other claims unrelated to sexual harassment.

The decision below ignored the combined commands of §§ 2 and 402 of the FAA as amended by the EFAA. Under those straightforward textual provisions, the trial court should have granted Miniso's motion to compel arbitration and required Liu to arbitrate all claims unrelated to the sexual harassment dispute alleged in her complaint. In other words, the EFAA required Liu to demonstrate her claims "relate[] to," 9 U.S.C. § 402(a), i.e., have some "connection with or reference to" a sexual harassment dispute, *General Elec. Co. v. New York State Dep't of Labor*, 891 F.2d 25, 29 (2d Cir. 1989) (analyzing similar language), in order to litigate those claims in court notwithstanding her arbitration agreement. *Accord* Black's Law Dictionary, *Relate* (12th ed. 2024).

Most of Liu's claims do not relate to a sexual harassment dispute, and the courts below did not conclude otherwise. *See* Pet. App. 32a-33a; Pet. App. 17a. Just to take a few examples: Almost half of Liu's claims focus on garden-variety wage-and-hour violations resulting from Liu's misclassification as an "exempt" employee. Pet. App. 3a-4a. Additionally, her retaliation claims allege she suffered adverse employment actions for resisting discriminatory hiring and pay practices related to sex, age, and nationality, not sexual harassment. Pet. App. 4a-6a. Under the plain language of the statute, the trial court was required to examine each claim's relation to the alleged sexual harassment dispute and could exempt from

arbitration only those related claims, not the entire lawsuit. *See* 9 U.S.C. §§ 2, 402.

The court below refused to examine each claim's relation to the alleged sexual harassment dispute. It concluded that under § 402, "Liu may not be compelled to arbitrate *any* of her claims," "not merely the discrete claims" that "relate to a sexual harassment dispute." Pet. App. 17a, 19a (emphasis added). The court made at least two major errors in arriving at its conclusion.

First and foremost, the court interpreted § 402 to permit voiding an arbitration agreement with respect to an entire "action" that includes a sexual harassment dispute because Congress used the phrase "*with respect to a case*." Pet. App. 15a-16a (emphasis added). But for the reasons explained above at 17-18, this ignores alternative definitions for "case" and fails to recognize that Congress expressly used a different term ("action") elsewhere in the FAA and EFAA when referring to an entire lawsuit. There was no sound reason for the court below to equate the term "case" with the term "action" in this statutory context. Given the background principles against which the EFAA was enacted, had Congress intended to exempt an entire "action" from arbitration even where only certain claims relate to a sexual harassment dispute, Pet. App. 16a, "it would have done so in a manner less obtuse," *CompuCredit*, 565 U.S. at 103. "When [Congress] has restricted the use of arbitration in other contexts, it has done so with a clarity that far exceeds the claimed indications" in the EFAA. *Id.*

Second, though the decision below disclaimed any need to go beyond the statutory text, the court nonetheless asserted that policy reasons justified its interpretation of § 402. Pet. App. 18a-19a. Allowing a plaintiff to "opt out of arbitration for their entire" lawsuit, the court reasoned, "avoids the potential for inefficiency in having separate proceedings in court and an arbitration forum" and provides a "clear-cut rule" for determining the arbitrability of claims in cases alleging sexual harassment disputes. Pet. App. 18a-19a.

This is a policy goal that the Court has repudiated time and again when construing the FAA. Concerns about efficiency and the burdens of dual-track disputes have no place in discerning whether and to what extent an FAA provision requires a plaintiff to arbitrate her claims. This Court has "reject[ed] the suggestion that the overriding goal of the [FAA] was to promote the expeditious resolution of claims," and stated that to the extent "the language of the Act"—which includes the EFAA—is not "clear" on whether certain claims must be arbitrated, the FAA's aims "'*require*[] piecemeal resolution when necessary to give effect to an arbitration agreement.'" *Dean Witter*, 470 U.S. at 218-19, 221. However "clear-cut" the California Court of Appeal's preferred policy may be, it is not the one Congress chose in adopting the EFAA. It was error for the decision below to rely on atextual considerations repeatedly rejected by this Court. Courts are not "free to pave over bumpy statutory texts in the name of more expeditiously advancing a policy goal." *Sw. Airlines*, 596 U.S. at 463.

III. The Question Presented Is Important And Recurring.

Parties commonly rely on arbitration agreements to govern disputes in employment and other settings. It is important for this Court to provide clarity on the extent to which parties can continue to rely on those agreements in light of the EFAA. Does the EFAA disrupt employers and employees' expectations only as to their sexual harassment and sexual assault disputes and related claims? Or, as the decision below concluded, does one sexual harassment claim by one plaintiff against one defendant "permit a plaintiff to elude a binding arbitration agreement with respect to wholly unrelated claims affecting a broad group of" plaintiffs and defendants "having nothing to do with the particular sexual harassment affecting the plaintiff alone"? *Mera*, 675 F. Supp. 3d at 447.[5]

This question could arise in potentially thousands of lawsuits across the country each year. *See, e.g.*, Press Release, U.S. Equal Employment Opportunity Commission ("EEOC"), *EEOC Files Three Sexual Harassment Lawsuits* (Oct. 2024), https://tinyurl.com/t2y6d1h (reporting more than 7,700 sexual harassment charges in 2023, "the highest number in

[5] *See, e.g.*, Cal. Civ. Proc. Code § 427.10 (allowing a plaintiff to join "*any* other causes which he has either *alone* or with any coplaintiffs against any … defendants" (emphasis added)); Fed. R. Civ. P. 18(a) ("A party asserting a claim … may join, as independent or alternative claims, as many claims as it has against an opposing party.").

12 years and up nearly 25% from the previous year").[6] A definitive answer is particularly important when the more expansive interpretation of the EFAA could "invite mischief, by incenting future litigants bound by arbitration agreements to append bogus, implausible claims of sexual harassment to their viable claims, in the hope of end-running these agreements." *Yost v. Everyrealm, Inc.*, 657 F. Supp. 3d 563, 588 (S.D.N.Y. 2023) (addressing similar scenario). This Court should be the one to decide whether Congress indeed created the sea-change in arbitration law recognized by the decision below and others like it.

IV. This Case Is An Excellent Vehicle For Deciding The Question Presented.

This case is an excellent vehicle for deciding the question presented, as the issue is likely to be dispositive in this case. Liu's complaint contains wage-and-hour and other claims that indisputably are not "relate[d] to" sexual harassment, and the courts below did not hold otherwise. The EFAA's application to those unrelated claims was expressly raised, preserved, and ruled upon in both the trial court and in the published decision below.

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[6] *See also* U.S. Equal Employment Opportunity Commission ("EEOC"), Office of Enterprise Data and Analytics, *Sexual Harassment in Our Nation's Workplaces* (Apr. 2022), https://tinyurl.com/d8r2s6v (reporting the EEOC received over 27,000 charges of workplace sexual harassment between fiscal years 2018 and 2021); Cal. Civil Rights Dep't, *2022 Annual Report* at 24 (June 2024), https://tinyurl.com/i15fftb (reporting more than 7,000 employee sexual harassment allegations in "right-to-sue" complaints filed with the Department in 2022).

If this Court concludes that the EFAA does not reach those unrelated claims, then the trial court should have granted Miniso's motion and ordered Liu to arbitrate most of her claims. The Court should take up this important issue now and reverse the California Court of Appeal's decision.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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May 22, 2025