No. 24-935

In the Supreme Court of the United States

FLOWERS FOODS, INC., ET AL., PETITIONERS

v.

ANGELO BROCK

On Writ Of Certiorari
To The United States Court Of Appeals
For The Tenth Circuit

BRIEF FOR AMAZON.COM, INC. AS AMICUS CURIAE SUPPORTING PETITIONERS

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INTEREST OF AMICUS CURIAE[1]

Affiliates of amicus curiae Amazon.com, Inc. offer products for sale through websites, applications, and physical retail locations. To help customers receive purchases quickly and conveniently, an Amazon subsidiary, Amazon Logistics, Inc., contracts with independent providers of transportation services, including local delivery services that characteristically take place wholly within a state.

Some of these transportation arrangements are with individual, independent-contractor "Delivery Partners" through the Amazon Flex program. Other arrangements include companies that specialize in local package delivery, like Amazon's "Delivery Service Partners." When delivering goods to Amazon customers, the drivers often pick up those goods from a nearby warehouse facility—including, in many regions, warehouses specially designed for the fast, same-day delivery of locally stocked items. In addition, Amazon Flex Delivery Partners sometimes pick up and deliver food or other items stocked at nearby grocery stores like Whole Foods Market. Goods in these deliveries may cross state lines before arriving at the pickup location. When they do, the goods are transported in, and unloaded from, the interstate vehicles by several separate classes of workers—including local-haul truck drivers and warehouse workers. All of this happens before the local drivers pick up the

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[1] In accordance with this Court's Rule 37.6, amicus states that no counsel for a party authored this brief in whole or in part, and no entity or person, aside from amicus or its counsel, made a monetary contribution intended to fund the preparation or submission of this brief.

goods and load them into personal vehicles, vans, or other vehicles for local delivery.

The contractual relationships between Amazon Logistics and its various transportation providers often include arbitration agreements. Some local delivery drivers have contended, however, that their arbitration agreements are exempt from the Federal Arbitration Act (FAA), 9 U.S.C. 1 *et seq.*, because some of the goods they deliver locally, wholly within a single state, were shipped into that state from elsewhere. Numerous courts have addressed that question, with differing conclusions. Compare *Rittmann* v. *Amazon.com, Inc.*, 971 F.3d 904 (9th Cir. 2020), cert. denied, 141 S. Ct. 1374 (2021), *Waithaka* v. *Amazon.com, Inc.*, 966 F.3d 10 (1st Cir. 2020), cert. denied, 141 S. Ct. 2794 (2021), and *Miller* v. *Amazon.com, Inc.*, No. 21-36048, 2023 WL 5665771 (9th Cir. Sept. 1, 2023), cert. denied, 144 S. Ct. 1402 (2024), with *Walker* v. *Amazon Logistics, Inc.*, No. 25-cv-1840, 2025 WL 2933896 (N.D. Ohio Oct. 15, 2025).

Amazon thus has a strong interest in, and significant experience litigating, the potential application of the FAA's interstate-transportation exemption to workers who deliver goods locally and neither transport the goods across borders nor interact with vehicles that cross borders. Amazon previously filed amicus briefs on this topic in *Southwest Airlines Co.* v. *Saxon*, 596 U.S. 450 (2022), and *Bissonnette* v. *LePage Bakeries Park St., LLC*, 601 U.S. 246 (2024).

INTRODUCTION AND SUMMARY OF ARGUMENT

The text of the FAA's interstate-transportation exemption focuses on the work performed by the potentially exempt class of workers—not the business of the company that contracts with them. The Court has highlighted that foundational point twice in the past few years. *Bissonnette* v. *LePage Bakeries Park St., LLC*, 601 U.S. 246, 253-255 (2024); *Sw. Airlines Co.* v. *Saxon*, 596 U.S. 450, 456 (2022). The point is equally important here, and it shows that the "continuous interstate journey" standard favored by the Tenth Circuit and respondent cannot be right.

Indeed, the courts that have adopted respondent's view of the FAA exemption have done so on the mistaken belief that the broader business of the hiring company is what matters. For that reason, they fixate on the company's objectives, like moving the goods across state lines or completing transactions with customers in different states. But neither the transit history of the delivered goods nor the geographic scope of the company's transactions affects what Mr. Brock and similar delivery drivers actually do. Moreover, by specifically naming seamen and railroad employees as exempt classes of transportation workers, Congress provided further clues that respondent's interpretation of the FAA exemption must be wrong. When the FAA was enacted, it was common for companies to arrange for transportation across land to ensure that the goods reach their ultimate intended destination beyond the maritime shipping port or the railroad's train station. But those later steps in the transporta-

tion were not the work of seamen or railroad employees. They were separate categories of transportation, as this Court's cases have repeatedly recognized.

With no firm support in the text of the FAA or this Court's FAA precedents, respondent invokes cases addressing a hodgepodge of differently worded statutes and distinct questions—such as whether the Constitution's Commerce Clause permits states to impose certain burdens on interstate commerce. These cases do not help answer the question before the Court in this case, which turns on what the FAA says.

The FAA does not adopt respondent's "continuous interstate journey" standard. And that is fortunate. The courts that have adopted that standard for the FAA have seen endless litigation and generated a massive body of decisions that reach arbitrary and inconsistent results. Congress designed a much simpler inquiry for the FAA exemption, and it is the inquiry this Court has identified: Does the relevant class of workers actively and directly engage in the transportation of goods across national or state borders, like seamen and railroad employees? See *Bissonnette*, 601 U.S. at 252-253, 256; *Saxon*, 596 U.S. at 458. For local delivery drivers like Mr. Brock, who neither transport goods across borders nor interact with the vehicles and distinct classes of workers that actually do, the answer to that question is no.

ARGUMENT

I. Text and precedent foreclose stretching the FAA exemption to intrastate deliveries of goods that separate classes of workers transported across state lines.

A. The exemption centers on the work performed by the class of workers.

This Court has already pinpointed the focus of the statutory language at the center of this case: the work performed by the relevant class of workers. The FAA exempts "contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce." 9 U.S.C. 1. This language "refers to 'workers' who are 'engaged' in commerce." *Bissonnette* v. *LePage Bakeries Park St., LLC*, 601 U.S. 246, 253 (2024) (citation omitted). "The word 'workers' directs the interpreter's attention to 'the *performance* of work.'" *Sw. Airlines Co.* v. *Saxon*, 596 U.S. 450, 456 (2022) (quoting *New Prime Inc.* v. *Oliveira*, 586 U.S. 105, 116). And "the word 'engaged' * * * similarly emphasizes the actual work that the members of the class, as a whole, typically carry out." *Ibid.*

Because of this phrasing, the Court rejected the *Saxon* plaintiff's argument that the exemption turns on the business of the *employer* (or putative employer).[2] Ms. Saxon argued that her arbitration

[2] In many wage-and-hour disputes, including this case, the parties disagree over whether they had an employer/employee relationship or an independent-contractor relationship. Given this frequent source of disagreement, this brief generally refers to the "putative employer" unless the relevant parties agree that

agreement was exempt from the FAA because she carried out the customary work of Southwest Airlines, her employer. 596 U.S. at 455, 460. The Court disagreed. It ruled that the exemption's applicability turns on "what she does at Southwest, not what Southwest does generally." *Id.* at 456.

In *Bissonnette*, the Court reaffirmed this worker-centered analysis. There, it was the defendant seeking to apply the exemption based on the putative employer's business—specifically, on whether it was "a company in the transportation industry." 601 U.S. at 252. Citing *Saxon*, this Court again rejected the employer-centered view of the statute. The statutory language "says nothing to direct courts to consider the industry of a worker's employer." *Id.* at 253-254. Rather, the classes of workers subject to the exemption—seamen, railroad employees, and classes of workers falling within the residual clause—"are connected by what they do, not for whom they do it." *Id.* at 255.

Saxon and *Bissonnette* also identify the kind of work that a class of workers must perform to trigger the exemption. The workers must be "actively engaged in transportation of goods across borders via the channels of foreign or interstate commerce." *Bissonnette*, 601 U.S. at 256 (citation, quotation marks, and ellipsis omitted). They "must at least play a direct and necessary role in the free flow of goods across borders." *Ibid.* (citation and quotation marks omitted). These requirements guard against an inappropriately "sweeping, open-ended construction" of the exemption

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an employment relationship exists. Cf. *New Prime*, 586 U.S. at 113-115.

and limit the FAA carveout "to its appropriately 'narrow' scope." *Ibid.* (citation omitted).

B. Focusing on the goods' prior transit or the putative employer's transactions wrongly diverts the analysis from the workers' activities.

1. In the decision below, the Tenth Circuit departed from the worker-centered analysis that the statutory text and this Court's precedents demand. Relying on pre-*Saxon* decisions from the First and Ninth Circuits, the Tenth Circuit framed the issue as an issue about "last-mile delivery drivers," a category it defined as "drivers who make the last intrastate leg of an interstate delivery route." Pet. App. 13a.

This framing is improper. It led the Tenth Circuit (and the First and Ninth Circuits before it) to concentrate on the broader business activities of the putative employer, which is responsible for the "interstate delivery route," rather than the activities of the relevant class of workers. The Tenth Circuit likened Mr. Brock to "Amazon delivery drivers" in circumstances where "Amazon orchestrated the interstate movement of the goods, and Amazon arranged, as part of the purchase, for the goods' delivery directly to the customer." Pet. App. 17a-18a (discussing *Waithaka* v. *Amazon.com, Inc.*, 966 F.3d 10 (1st Cir. 2020), cert. denied, 141 S. Ct. 2794 (2021)). The Tenth Circuit also compared the transactions between Flowers Foods and its supposed "true customers," *id.* at 27a-28a, to "transactions between Amazon and [its] customer[s]," which "do not conclude until the packages reach their intended destinations." *Id.* at 15a (discussing *Rittmann* v. *Ama-*

zon.com, Inc., 971 F.3d 904 (9th Cir. 2020), cert. denied, 141 S. Ct. 1374 (2021)). Having thus compared Flowers Foods to Amazon, the Tenth Circuit decided that both companies' coordination of "a continuous interstate journey" for the goods sufficed to sweep into the exemption all workers who, like Mr. Brock, contribute to that broader business activity.

In these ways, the Tenth Circuit fixated on the transit history of the goods, before Mr. Brock had any involvement with them, and on the overarching transactions between the putative employer and its customers. That sort of employer-centered and transaction-centered analysis flouts the statutory language and this Court's precedents.

2. First, nothing in the statute supports focusing on the transit history of the *goods*. It is irrelevant whether other classes of workers, like long-haul truckers, transported Flowers products across state lines into Colorado so local drivers like Mr. Brock could obtain and deliver them. The exemption turns on the local drivers' role, if any, "in the free flow of goods across borders." *Bissonnette*, 601 U.S. at 256 (quoting *Saxon*, 596 U.S. at 458) (quotation marks omitted). Mr. Brock must belong to a class of workers "engaged in transportation of [the] goods across borders." *Ibid.* (quoting *Saxon*, 596 U.S. at 458) (quotation marks omitted). Put another way, "to fall within the exemption, the workers must be connected not simply to the goods, but to the act of moving those goods across state or national borders." *Wallace* v. *Grubhub Holdings, Inc.*, 970 F.3d 798, 802 (7th Cir. 2020) (Barrett, J.).

That makes sense. Regardless of whether Mr. Brock delivers bread baked in Colorado or bread baked someplace else, the "provenance" of the delivered goods "does not affect [his] actual work." *Rittmann*, 971 F.3d at 926 (Bress, J., dissenting). His work is the same either way.

Pegging the exemption to the goods' travel history also turns the FAA's "narrow" exemption into one that is far more "open-ended." *Bissonnette*, 601 U.S. at 256 (citation omitted). "[V]irtually all products move in interstate commerce." *Ibid.* (citation omitted). But the *Saxon* test requires more than merely playing a role in the sale and disposition of such products—like "pet shop employees" and "grocery store clerks" who move products onto and off of shelves, bag up customers' purchases, and even wheel shopping carts out to their cars. *Ibid.* Helping interstate goods reach their ultimate destination does not make a class of workers actively engaged in those goods' transportation across borders. See *ibid.*[3]

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[3] Mr. Brock dismisses the comparison to pet shop employees and grocery store clerks by asserting that they "don't transport anything." Br. in Opp. 20. This assertion ignores that lower courts applying the test Mr. Brock favors have ruled to the contrary and have decided that moving "packages to and from storage racks" and "prepar[ing] packages for their subsequent" movement, when the class of workers never leaves the building, *does* count as transportation for purposes of the FAA exemption. *Ortiz* v. *Randstad Inhouse Servs., LLC*, 95 F.4th 1152, 1161 (9th Cir.), cert. denied, 145 S. Ct. 165 (2024); see also *Lopez* v. *Thyssenkrupp Supply Chain Servs. NA, Inc.*, No. 24-4633, 2025 WL 2427620, at *1 (9th Cir. Aug. 22, 2025) (determining that handling goods "as they went through the process of entering, temporarily occupying, and subsequently leaving the warehouse"

3. The Tenth Circuit (and the First and Ninth Circuits) tried to cabin the sweeping implications of an interstate-goods approach by injecting another consideration into the inquiry: whether the goods are already in the customer's state when the *transaction* between the putative employer and the customer takes place. See Pet. App. 26a-28a. This strategy fares no better.

To start, the emphasis on the broader business transactions still disregards the statutory text and this Court's precedent by focusing on what the employer is doing more generally, not what the class of workers does in particular. The transactions are between the putative employer and its customers, and they have no bearing on the delivery drivers' own actions. Again, this Court has squarely rejected an employer-centered analysis. *Saxon*, 596 U.S. at 456.

And it is especially inappropriate to graft a transaction-based standard onto the FAA exemption when Congress made no mention of transactions in that provision. The very next section of the statute, on the other hand, explicitly targets transactions: it extends the statute's general coverage to "any maritime transaction" or "contract evidencing a transaction involving commerce." 9 U.S.C. 2. Congress's lone use of the word "transaction" in Section 1 is in defining the phrase "maritime transaction," not the exemption for certain workers' contracts. 9 U.S.C. 1. The exemption

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triggered the exemption as "a necessary step in their ongoing interstate journey to their final destination").

never mentions transactions at all. Instead, that language focuses on what the *workers* do—whether they are "engaged in foreign or interstate commerce." *Ibid.*

The Court has repeatedly stressed that word-choice differences between the exemption in Section 1 and the general-coverage provision in Section 2 are significant. These differences in wording are presumed to convey differences in meaning. *Saxon*, 596 U.S. at 457-458 (citing Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 170 (2012)); see also *Circuit City Stores, Inc.* v. *Adams*, 532 U.S. 105, 115-116 (2001). Here, applying Section 1's exemption as though it contained transaction-focused wording like Section 2 would violate this "meaningful-variation canon" of construction. *Saxon*, 596 U.S. at 457.

4. The pre-*Saxon* cases that inspired the Tenth Circuit's ruling below simply failed to anticipate this Court's determination that the exemption turns on what the workers do, not what the putative employer does. See *Saxon*, 596 U.S. at 456. Indeed, this whole line of pre-*Saxon* cases took the opposite approach.

The very first of these cases, for example, expressly rejected the argument "that the activities of the workers themselves are the crux of the exemption, without consideration of the geographic footprint and the nature of the business for which they work." *Waithaka*, 966 F.3d at 22. The court believed, to the contrary, that "[t]he nature of the business for which a class of workers perform their activities must inform that assessment." *Ibid.* Later cases embraced that view and even described "the nature of the business" as the "critical factor" in the analysis. *Capriole* v.

Uber Techs., Inc., 7 F.4th 854, 861 (9th Cir. 2021) (citation omitted).

The approach of these courts stemmed from a mistake that this Court later identified and corrected in *Saxon*. These courts determined before *Saxon* that the exemption's two enumerated classes of workers—"seamen" and "railroad employees"—are both "defined by the nature of the business for which they work." *Waithaka*, 966 F.3d at 23; accord *Rittmann*, 971 F.3d at 917. From this premise, these courts applied the *ejusdem generis* canon and inferred that "the activities of a company are relevant in determining the applicability of the FAA exemption to other classes of workers." *Waithaka*, 966 F.3d at 23; accord *Rittmann*, 971 F.3d at 917-918. But in *Saxon*, this Court made clear that the category of "seamen" does *not* turn on the company for which the seamen perform services. In particular, the seamen category does not "include all those employed by companies engaged in maritime shipping." *Saxon*, 596 U.S. at 460. Whether an individual counts as a seaman depends not on the company for which he works, but on what he does—in particular, whether he "work[s] on board a vessel." *Ibid.* And *Saxon* further explains that courts may not infer that a characteristic of "railroad employees" that is not shared by "seamen" is carried through to workers in the residual "any other class of workers" phrase through the *ejusdem generis* canon. *Id.* at 460-461.

After *Saxon*, no one can reasonably dispute that the language of the FAA exemption obligates courts to focus on the activities of the relevant class of workers—not the activities of other, distinct groups of workers who perform other, distinct work for the same

putative employer as part of its broader business. The statute's reference to "seamen" and "railroad employees" does not suggest otherwise. The Tenth Circuit failed to take these lessons to heart. Instead, it relied on pre-*Saxon* decisions from the First and Ninth Circuits, which are incompatible with this Court's rulings. The Court should correct those legal errors.

II. The exemption's enumerated categories of "seamen" and "railroad employees" support the same conclusion.

Far from supporting the Tenth Circuit's "continuous interstate journey" theory (Pet. App. 13a), the exemption's reference to "seamen" and "railroad employees" and *ejusdem generis* canon of interpretation support the opposite interpretation. Under *ejusdem generis*, this Court has repeatedly recognized that when both of the exemption's enumerated categories of workers share a commonality, the residual category shares it as well. See *Circuit City*, 532 U.S. at 114-115; *Saxon*, 596 U.S. at 460-462. Here, "seamen" and "railroad employees" both have a common characteristic that confirms that local delivery drivers like Mr. Brock perform a distinct transportation service that does not fit within the exemption's residual clause.

When the FAA was enacted in 1925, neither enumerated category reached beyond the maritime vessel or train to encompass workers who complete a final segment of transportation in distinct vehicles over land. The separation between the water-based and rail-based transportation, on the one hand, and subsequent over-land transportation, on the other, was settled. The later transportation in distinct vehicles

was not the work of "seamen" or "railroad employees." And that is true even though one might describe such transportation as the "last mile" of a continuous interstate journey of goods or passengers previously transported across borders by sea or rail. Accordingly, it would stretch the exemption's residual category too far to hold that delivery drivers like Mr. Brock fit within the exemption because they contribute to the supposedly continuous interstate journey of the goods.

A. This Court has explained that when the FAA was enacted in 1925, the ordinary meaning of "seamen" encompassed "only those who work on board a vessel." *Saxon*, 596 U.S. at 460; see also *Cassil* v. *U.S. Emergency Fleet Corp.*, 289 F. 774, 775-776 (9th Cir. 1923). The word "vessel" was a well-understood term within maritime law. It referred to watercraft capable of being used as a means of transportation on water. *Stewart* v. *Dutra Constr. Co.*, 543 U.S. 481, 489-491 (2005). As a result, the category of "seamen" worked on the water and did "not include land-based workers." *McDermott Int'l, Inc.* v. *Wilander*, 498 U.S. 337, 348 (1991).

True, the year after the FAA's passage, this Court slightly stretched the Jones Act's definition of "seamen" to encompass longshoremen, even though they are stationed in port and not aboard the vessel. See *Int'l Stevedoring Co.* v. *Haverty*, 272 U.S. 50, 52 (1926). The Court recognized that this classification of longshoremen extended "seamen" beyond how the word was "commonly used," but found the extension justified by the remedial purposes of the Jones Act. *Ibid.* Still, the Court's decision was controversial.

Just a few months later, Congress passed the Longshore and Harbor Workers' Compensation Act (LHWCA), 33 U.S.C. 901 *et seq.*, which clarified that land-based workers like longshoremen do not count as seamen even though they work within the maritime industry. See *Wilander*, 498 U.S. at 346-348.

For present purposes, however, the key point is that over-land transportation workers were never classified *either* in the narrower category of seamen (covered by the Jones Act) or in the wider category of longshoremen (covered by the LHWCA). On the contrary, this Court has acknowledged that "employees such as truckdrivers, whose responsibility on the waterfront is essentially to pick up or deliver cargo unloaded from or destined from maritime transportation[,] are not covered" by the LHWCA and thus do not qualify even as longshoremen. *Ne. Marine Terminal Co.* v. *Caputo*, 432 U.S. 249, 267 (1977). It follows with even greater force that such truckdrivers are not in the more circumscribed category of seamen. The truckdrivers work on land and are at least one full step removed from the vessels that cross state and national boundaries. They therefore do not count as seamen—even when they regularly pick up and deliver goods that have just moved across the water across state or national borders and are on a continuous interstate journey to their intended recipient.

B. Nor would such over-land transportation workers count as "railroad employees." Even under a broad reading, that phrase refers only to rail transportation workers. Cf. *Saxon*, 596 U.S. at 460. And in some contexts, railroad employees were understood even more narrowly than that, as a restricted subset

of the workers who provide transportation services over the rails. For example, in *Wells Fargo & Co.* v. *Taylor*, 254 U.S. 175, 186-188 (1920), this Court distinguished between employees of railroad companies and employees of express companies. Even though the latter group offered fast delivery of goods that they carried with them aboard the railroad companies' trains, they were not railroad employees.

But even assuming that the FAA's reference to "railroad employees" extends to *all* workers engaged in transportation *on* a railroad (whether or not employed by the railroad company), the term does not extend still further. In particular, it does not reach workers who continue the transportation beyond the railroad.

The Court recognized as much in *ICC* v. *Detroit, Grand Haven & Milwaukee Railway Co.*, 167 U.S. 633 (1897). That case arose under the Interstate Commerce Act and addressed a railroad company that arranged to have its customers' goods carted from the train station in Grand Rapids, Michigan, to the goods' ultimate destinations at houses and business places within the city. *Id.* at 640-641. The Interstate Commerce Commission had treated the over-land cartage as a continuation of the rail transportation and ordered the railroad to likewise treat the cartage as such when charging its customers. *Id.* at 643. This Court, however, disagreed with the Commission and instead agreed with the intermediate appellate court "that the railway transportation ends when the goods reach the terminus or station and are there unshipped, and that anything the company does afterwards, in the way of land transportation, is a new and distinct service." *Id.*

at 643-644. By the start of the twentieth century, the law had long treated the "delivery of goods" as "a separate and distinct business from that of the railway carriage." *Ibid.*

The Court reached a similar conclusion a few years later in *New York ex rel. Pennsylvania Railroad Co.* v. *Knight*, 192 U.S. 21 (1904). The issue there was a state's authority to tax a local horsedrawn cab service that a railroad offered to bring its passengers—many of whom had just arrived by rail from other states—to their hotels, homes, or other ultimate destinations in New York City. *Id.* at 25. The railroad insisted that its local cab service was immune from state tax, as part of "a continuous interstate transportation" that began on the railway, because a passenger arriving from out of state did not "fully complete his journey" until he was "delivered at his temporary or permanent stopping place in the city." *Id.* at 26. But citing *Detroit, Grand Haven, & Milwaukee Railway*, as well as other decisions, the Court recognized the "separation in fact" between the cab "transportation service wholly within the state" and the railway transportation service "between the states." *Id.* at 27-28. The Court therefore rejected the railroad's argument that the local cabs were "engaged in interstate commerce" just like the train. *Id.* at 28; see also *In re Right of Railroad Companies to Exchange Free Transportation with Local Transfer and Baggage Express Companies*, 12 I.C.C. Rep. 40, 42 (1907) (determining that a transfer company's transportation of railroad passengers across Chicago by omnibus and wagon did not make the company a common carrier by rail under the Interstate Commerce Act).

C. As these examples highlight, when the FAA was enacted in 1925, it had long been common to supplement the work of seamen and railroad employees with drivers of carts, wagons, cabs, and other overland vehicles. Such transportation even had a name. It was described as "drayage." See *Black's Law Dictionary* 397 (2d ed. 1910). But as the cases just discussed make clear, this precursor of today's "last-mile" delivery was not the work of seamen or railroad employees. The law treated it as a separate transportation service, even when coordinated by a maritime shipping company or railroad company to help its customers plan a broader continuous interstate journey.

Respondents do not argue otherwise. Instead, they contend that seamen and railroad employees could qualify as seamen and railroad employees even if their stint aboard the vessel or railway was "an intrastate leg of an interstate journey," like a pilot of a ship. Br. in Opp. 18. That contention, however, does not help answer the question presented here. Mr. Brock does not hop into the cab of a tractor trailer and finish the drive to that vehicle's ultimate destination. Rather, he picks up products from a warehouse, after they have already been unloaded from the interstate vehicles by Flowers through other workers. Pet. 9-10. The question before the Court therefore addresses workers who, like Mr. Brock, do not even "interact with vehicles that cross borders." Pet. i. Respondents' analogies to ship pilots or railroad employees who work on the border-crossing vehicles within the boundaries of a single state are off point.

In construing the FAA exemption's residual clause, the Court should recognize the same separation between local delivery and long-distance foreign and interstate transportation that was already established by 1925. After goods are transported across state lines and unloaded from the trains, vessels, airplanes, trucks, or other vehicles that took them over the border, workers engaged in further in-state transportation of those goods across land in different, intrastate vehicles are not engaged in interstate commerce for purposes of 9 U.S.C. 1, see *Lopez* v. *Cintas Corp.*, 47 F.4th 428, 433 (5th Cir. 2022)—just as they are not seamen or railroad employees, even if the goods were previously transported by a vessel or train.

III. Respondent's non-FAA cases are not valid guides for construing the FAA here.

Rather than emphasize this Court's FAA precedents, respondents stake much of their argument on non-FAA cases. Br. in Opp. 17-18. Contrary to respondents' portrayal, however, these cases do not illuminate the meaning of 9 U.S.C. 1. They addressed different issues under different principles and standards.

A. Respondents cite two cases on the Commerce Clause's limits on state and local regulation. *Rearick* v. *Pennsylvania*, 203 U.S. 507, 512-513 (1906); *Rhodes* v. *Iowa*, 170 U.S. 412, 414 (1898). At the time, the Commerce Clause barred state laws "that placed an impermissible burden on interstate commerce." *Tennessee Wine & Spirits Retailers Ass'n* v. *Thomas*, 588 U.S. 504, 523 (2019) (citation omitted).

In *Rearick*, for example, a company in one state contracted with customers in a second state through

its agent in that state, who then delivered the company's goods "for the purpose of fulfilling the contracts." 203 U.S. at 511-512. The question was whether soliciting and fulfilling these *contracts* between the out-of-state company and the in-state customers were part of interstate commerce such that the activity should be free from burdens imposed by the customers' home state. See *id.* at 513.

The *Rhodes* decision, meanwhile, grew out of the "original-package doctrine," which generally immunized "goods shipped in interstate commerce" from state regulation "while in their original package." *Tennessee Wine*, 588 U.S. at 523 (citation omitted). The precise question before the Court was whether a federal statute, the Wilson Act, authorized state regulation of alcohol shipments from another state, and that question turned on when the alcohol made its "arrival" within the state within the meaning of that particular statute. *Id.* at 525; *Rhodes*, 170 U.S. at 414, 419-426.

Neither case is on point here. Nothing in this case turns on the proper balance between the federal government's interest in promoting interstate commerce and states' interest in local regulation under our federalist system of government. So the precise line that the Commerce Clause (or the Wilson Act) drew to balance those competing interests for particular transactions or shipments is not germane to the question here: how to classify the activity of in-state delivery, considered in its own right rather than in connection with the employer's business, given the unique design of the FAA.

B. Respondents also cite a Sherman Antitrust Act case, *Binderup* v. *Pathe Exchange Inc.*, 263 U.S. 291, 309 (1923). The question there was similarly transaction-focused: whether "transactions" between New York film distributors and a Nebraska movie theater were "matters of interstate commerce" subject to the statute. *Id.* at 301, 309. As in *Rearick*, the Court answered yes: the "contracts were between residents of different states" and required transporting the films from New York to Nebraska. *Id.* at 309. The Court stressed that the distributors' "business" was "clearly interstate." *Ibid.* And the transfer of the films to another entity for local delivery did not "put an end to the interstate character of the transaction." *Ibid.*

But again, the test for 9 U.S.C. 1 does not look to a company's "business," "transactions," or "contracts." See Section I, *supra*. It asks whether a specific class of workers is engaged in foreign or interstate commerce in the way that seamen and railroad employees are. *Binderup* does not address that sort of worker-centered question.

The Court's Sherman Act jurisprudence is also an unsound source of guidance for the FAA exemption for a second reason. The Sherman Act requires only that the regulated conduct have an "effect upon commerce among the states." *Swift & Co.* v. *United States*, 196 U.S. 375, 397 (1905). The Court has said that in the Sherman Act, "Congress wanted to go to the utmost extent of its Constitutional power" under the Commerce Clause. *United States* v. *Am. Bldg. Maint. Indus.*, 422 U.S. 271, 278 (1975) (citation omitted). But the Court has said just the opposite about the FAA

exemption. The exemption does *not* reach "to the full extent of [Congress's] commerce power." *Circuit City*, 532 U.S. at 114.

C. Respondents cite three cases involving liability for injured railroad workers. See *Phila. & Reading Ry. Co.* v. *Hancock*, 253 U.S. 284 (1920); *Seaboard Air Line Ry.* v. *Moore*, 228 U.S. 433 (1913) *Delk* v. *St. Louis & S.F. R.R. Co.*, 220 U.S. 580 (1911). These cases, too, are off point and improper guides for the FAA exemption.

Two of these cases apply the Court's test under the Federal Employers' Liability Act (FELA). This Court decided early on that FELA must be "construed liberally to fulfill the purposes for which it was enacted." *Jamison* v. *Encarnacion*, 281 U.S. 635, 640 (1930); see also *Shanks* v. *Del., Lackawanna & W. R.R. Co.*, 239 U.S. 556, 558 (1916). FELA features "broad language," which the Court has "construed even more broadly," recognizing that FELA is a "broad remedial statute." *Atchison, Topeka & Santa Fe Ry. Co.* v. *Buell*, 480 U.S. 557, 561-562 (1987). The Court has held, for example, that *cooking meals* for railroad repairmen counted as interstate commerce in FELA's sense because it was "so closely related to such commerce as to be in practice and in legal contemplation a part of it." *Phila., Balt. & Wash. R.R. Co.* v. *Smith*, 250 U.S. 101, 102-104 (1919). This line of cases is no reliable benchmark for the FAA exemption, which must be confined "to its appropriately 'narrow' scope." *Bissonnette*, 601 U.S. at 256 (citation omitted).[4]

[4] The FELA test was also notoriously unpredictable and difficult to apply. After several decades, the FELA jurisprudence was

In both language and structure, FELA differs significantly from the FAA. Under FELA, the individual employee's activities are analyzed in relation to the activities of the railroad. See 45 U.S.C. 51 (1926). So the Court has applied FELA by asking, "Is the work in question a part of the interstate commerce in which the *carrier* is engaged?" *Pedersen* v. *Del., Lackawanna & W. R.R. Co.*, 229 U.S. 146, 152 (1913) (emphasis added). Compared to the FAA exemption, then, FELA is "oriented more around the work of the 'common carrier.'" *Rittmann*, 971 F.3d at 931 (Bress, J., dissenting). The FAA exemption, on the other hand, turns on the activities of the workers and not the activities of their putative employer. See Section I.A, *supra*.

Given this structural difference between the two statutes, it is unsurprising that respondent's FELA cases relied heavily on the *railroad's* intended destination for the goods that the *railroad* was transporting. *Hancock*, 253 U.S. at 285 (focusing on the "ultimate destination of some of [the] train cars"); *Seaboard*, 228 U.S. at 435 (focusing on the destinations of two cars in the "freight train in question"). Under 9 U.S.C. 1, however, the test is whether the specific activities of the relevant class of workers make them directly and actively engaged in the transportation of goods across borders. *Bissonnette*, 601 U.S. at 256; *Saxon*, 596 U.S. at 456-458. The putative employer's business objectives do not dictate how the class of

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"replete with decisions drawing very fine distinctions in determining whether an employee was engaged in interstate commerce within the contemplation of the Act." *S. Pac. Co.* v. *Gileo*, 351 U.S. 493, 497 (1956). In 1939, Congress amended FELA "to cure the evils of hypertechnical distinctions which had developed in over 30 years of FELA litigation." *Id.* at 499.

workers should be classified. See *Saxon*, 596 U.S. at 460.

The other statute in respondent's railroad-injury cases, the Safety Appliance Act, also contains materially different language. That statute asked whether the railroad's train had "any car used in moving interstate traffic" that lacked prescribed safety-related equipment. Act of Mar. 2, 1893, ch. 196, § 2, 27 Stat. 531, 531. So the question in *Delk* was whether the relevant train "car" was, "at the time of the injury in question, and within the meaning of the act, engaged in interstate commerce." 220 U.S. at 584. That inquiry too fails to cast light on whether Mr. Brock's "class of workers" is engaged in interstate commerce within the meaning of 9 U.S.C. 1. That question is addressed by this Court's FAA precedents, not a cherrypicked assemblage of cases on other issues.

IV. Respondent's position is unworkable and leads to arbitrary results.

Like the Tenth Circuit, respondent seeks to extend the residual clause to workers who "transport goods that are on a continuous journey from one state to a final destination in another." Br. in Opp. 19. Congress did not adopt that standard for 9 U.S.C. 1, and for good reason. The lower courts that have adopted that standard for FAA cases have struggled mightily to apply it to the endless factual variations presented by modern commerce, transportation, and logistics. And often the results of this litigation make no sense. All this litigation over whether a case should be in litigation at all is antithetical to the FAA's basic aims and underscores the flaws in respondent's vision of the statute.

A. To start, courts have failed to identify any workable standard for determining when an "interstate journey" ends—or at least pauses long enough to no longer count as "continuous."

Some courts applying the "continuous interstate journey" standard have held, for example, that the interstate journey ends when an in-state location (like a Walmart store) acquires goods from other states and then sells and delivers them to in-state customers. Delivering goods to those customers, on this view, does not trigger the FAA exemption. *E.g.*, *Shugars* v. *Walmart Inc.*, No. 24-cv-2765, 2025 WL 786348, at *3 (N.D. Cal. Mar. 12, 2025).

Other courts, however, have favored a different view. They have ruled that a stop at an in-state location before an in-state sale does *not* interrupt the continuous interstate journey. The interstate journey continues, and local deliveries implicate the FAA exemption, because the goods were "inevitably destined from the outset of the interstate journey" for delivery to the company's customers in that state and did not come to a "*permanent* rest" at the in-state stopping point. *Shanley* v. *Tracy Logistics LLC*, No. 24-cv-1011, 2025 WL 19012, at *7 (E.D. Cal. Jan. 2, 2025) (quoting *Carmona* v. *Domino's Pizza, LLC*, 73 F.4th 1135, 1138 (9th Cir. 2023), cert. denied, 144 S. Ct. 1391 (2024)). Under that approach, the goods must be "transformed" into new products—in the way that food ingredients are transformed into "meals" at a restaurant—to break the continuity of the interstate journey. *Carmona*, 73 F.4th at 1138. This wholly atextual "transformation" standard of continuity only

compounds the uncertainty. See, *e.g.*, *Garate* v. *Lincare, Inc.*, No. 24-cv-768, 2024 WL 4140608, at *4 (S.D. Cal. Sept. 10, 2024) (holding that testing, inspecting, and configuring medical equipment does not break the continuity of the interstate journey).

Nor is it clear where to draw the line at the *start* of an interstate journey. Some courts have held, for example, that simply organizing, packaging, or otherwise processing goods for shipment out of state is enough to trigger the exemption because that work is a necessary step for the interstate journey. *E.g.*, *Ortiz*, 95 F.4th at 1162; *Mitchell* v. *Lineage Logistics Servs. LLC*, 769 F. Supp. 3d 1132, 1142 (E.D. Cal. 2025). But other courts have held that packaging and preparing goods for shipment does *not* trigger the exemption. *E.g.*, *Lopez* v. *Nordstrom, Inc.*, No. 23-cv-2183, 2024 WL 3464170, at *3 (C.D. Cal. Feb. 12, 2024).

B. Often this litigation under the "continuous interstate journey" standard generates arbitrary and absurd results. Again, the FAA exemption is designed to differentiate between classes of workers based on the nature of their own activities and whether those activities resemble the work of seamen and railroad employees. By straying from that focus, courts have instead differentiated between classes of workers, who perform fundamentally the same tasks, based on the structure of the business for which they perform the work.

Consider, for example, customers who order goods from Amazon.com to be delivered to their homes. Amazon arranges for storage of goods at various facilities across the country, including warehouses known as

fulfillment centers. Often these warehouses are in the same state as the customers ordering the goods stored within them, but sometimes the goods are in a fulfillment center in a different state than the customer. Either way, after a customer orders an item, Amazon arranges for its packaging, labeling, and transportation to sortation centers in the customer's state, plus subsequent transportation from the in-state sortation centers to an in-state delivery station. When an Amazon Flex Delivery Partner picks up a group of packages at the in-state delivery station—so that he or she can deliver each package to its customer—it is entirely irrelevant whether the package moved from an out-of-state fulfillment center to an in-state sortation center or from an in-state fulfillment center to an in-state sortation center. That transportation happened several steps, several different vehicles, and several classes of workers earlier. The local delivery work is the same regardless of the package's place of origin.

Under a "continuous interstate journey" standard, however, the location of the original warehouse at the time the customer clicks "Buy Now" may make all the difference. If the customer's item is in the same state as the customer, the Delivery Partner's in-state delivery should not trigger the exemption. If the item is in a different state, it might.

Not only that, a "continuous interstate journey" standard might even draw a distinction based on whether the item was ordered from Amazon.com or from Walmart.com. In the Ninth Circuit's view, "Amazon packages do not 'come to rest[]' at Amazon warehouses," and "[t]he interstate transactions between Amazon and the customer do not conclude until the

packages reach their intended destinations." *Rittmann*, 971 F.3d at 916. On that view, Amazon Flex Delivery Partners have FAA-exempt arbitration agreements. But courts applying the same Ninth Circuit precedent have somehow reached the opposite conclusion for "Walmart Spark" drivers, who make local deliveries of items purchased from Walmart's website, because those purchases are fulfilled from brick-and-mortar Walmart stores. *Shugars*, 2025 WL 786348, at *4 (collecting cases). According to these courts, the goods are in a "continuous" flow of interstate commerce when bought through Amazon's website, but not when bought through Walmart's. *Ibid.* (citation omitted). That result is untenable because in both scenarios, the local delivery work is fundamentally the same in its relationship to interstate commerce. The main difference is simply the structure of the relevant business operations.

At the same time, a continuous interstate journey standard would entail that Amazon Flex Delivery Partners do not perform exemption-triggering work when, for example, they pick up and deliver groceries from Whole Foods Market. When goods arrive from out of state at an in-state grocery store, courts conclude that "the interstate movement [has] terminated," so the subsequent local delivery is intrastate work for purposes of 9 U.S.C. 1. *Immediato* v. *Postmates, Inc.*, 54 F.4th 67, 78 (1st Cir. 2022). But again, such distinctions depend on the nature of what Amazon and its affiliates are doing, not what the Amazon Flex Delivery Partner does. The actual work of Delivery Partners is fundamentally the same—regardless of whether their car contains packages or produce.

C. As these disputes illustrate, incorporating a "continuous interstate journey" standard into the FAA undermines the statute's objectives. Because the standard has no footing "in the text of § 1 or [this Court's] precedents," *Bissonnette*, 601 U.S. at 254, courts are trying to figure out through case-by-case litigation where each interstate journey begins and ends—for all of the endless varieties of transportation and logistics arrangements that exist in today's economy.

The FAA was not written to require extensive threshold litigation over whether the statute applies at all. On the contrary, the statute aims "to move the parties to an arbitrable dispute out of court and into arbitration as quickly and easily as possible." *Moses H. Cone Mem'l Hosp.* v. *Mercury Constr. Corp.*, 460 U.S. 1, 22 (1983). For this reason, the Court has consistently rejected interpretations of 9 U.S.C. 1 that introduce "complexity and uncertainty * * * into the enforceability of arbitration agreements," thereby "breeding litigation from a statute that seeks to avoid it." *Circuit City*, 532 U.S. at 123 (citation omitted). Under a "continuous interstate journey" standard, however, "[e]xtensive discovery might be necessary to explore the internal structure * * * of a company before deciding a simple motion to compel arbitration." *Bissonnette*, 601 U.S. at 254.

It is far better to stick with the Court's prior interpretation of the statute. The guiding consideration is what the relevant class of workers is doing, not what the business is doing. When workers neither transport goods across state lines nor interact with the vehicles that do so, they have no direct and active

role in the cross-border transportation within the meaning of 9 U.S.C. 1. See *Saxon*, 596 U.S. at 458; *Bissonnette*, 601 U.S. at 256. The Court should embrace that principle and bring clarity, not confusion, to this important issue.

CONCLUSION

The judgment of the court of appeals should be reversed.

Respectfully submitted,

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