No. 24-935

In the
Supreme Court of the United States

FLOWERS FOODS, INC., ET AL.,
Petitioners,

v.

ANGELO BROCK.,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

BRIEF OF THE STATES OF MISSOURI, ARKANSAS, TEXAS, MONTANA, AND ALASKA AS AMICUS CURIAE IN SUPPORT OF PETITIONERS

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INTEREST OF *AMICUS CURIAE* & SUMMARY OF ARGUMENT

The States of Missouri, Alaska, Arkansas, Montana, and Texas, along with thirty-five of their sister States and the District of Columbia, have adopted the Uniform Arbitration Act.[1] The UAA seeks to provide uniformity of arbitration law between all of its enacting States. *See* Mo. Rev. Stat. § 435.450 (1956 Act); *also* Tenn. Code Ann. § 29-5-330 (2000 Act). To that end, the laws of *Amici* States generally provide that arbitration agreements are "valid, enforceable and irrevocable" except when law or equity allows for revocation. Mo. Rev. Stat. § 435.350.

The UAA works hand-in-hand with the Federal Arbitration Act. Congress intended for the FAA to remedy the general "hostility of American courts to the enforcement of arbitration agreements." *Cir. City Stores, Inc. v. Adams*, 532 U.S. 105, 111 (2001). It does so by promoting a "liberal federal policy favoring arbitration agreements." *Moses H. Cone Mem'l Hosp. v. Mercury Const. Corp.*, 460 U.S. 1, 24 (1983). To achieve this policy, the act provides that such agreements are "valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract." 9 U.S.C. § 2. This liberal federal policy favoring arbitration requires any exceptions to be narrowly construed. *Cir. City*, 532 U.S. at 113–14.

This case threatens to upend that paradigm. The Tenth Circuit adopted a rule that would exempt any worker from arbitration who handles goods that

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[1] *Arbitration Act*, Uniform Law Commission https://www.uniformlaws.org/committees/community-home?communitykey=a0ad71d6-085f-4648-857a-e9e893ae2736 (last accessed Dec. 1, 2025).

previously passed through interstate commerce. Pet.App.26a-27a. That holding disregards this Court's instruction that any worker exempted from the FAA's reach "must at least play a direct and necessary role in the free flow of goods across borders." *Sw. Airlines Co. v. Saxon*, 596 U.S. 450, 455 (2022) (internal quotation marks omitted).

Failure to enforce this Court's precedents threatens to harm the businesses and States that rely on arbitration agreements to facilitate economic activity. Businesses would be required to fundamentally restructure their operations and spend increased time and money litigating in state court whether they can enforce their bargained-for arbitration agreements. The States will similarly suffer from decreased uniformity in an area of law where the vast majority have sought it. The Court should avoid those harms, reject the Tenth Circuit's approach, and reverse.

ARGUMENT

I. Brock does not play a direct and necessary role in interstate or foreign commerce.

The Tenth Circuit erred by exempting Brock from the FAA. The court found the agreement exempt from the FAA under the exemption for "contracts of employment . . . of workers engaged in foreign or interstate commerce." 9 U.S.C. § 1. This catchall provision exempts "only contracts of employment of transportation workers." *Cir. City*, 532 U.S. at 119. "A transportation worker need not work in the transportation industry," *Bissonnette v. LePage Bakeries Park St., LLC*, 601 U.S. 246, 256 (2024), but "any such [exempted] worker must at least play a direct and necessary role in the free flow of goods across borders." *Saxon*, 596 U.S. 450, 458 (2022) (internal quotation marks omitted). To determine whether this is the case, this Court must first "defin[e] the relevant class of workers" and then "determine whether that class of workers is engaged in foreign or interstate commerce." *Id.* at 455 (internal quotation marks omitted).

The parties below agreed that the relevant class of workers are those "who deliver Flowers goods in trucks to their customers, by loading and unloading Flowers' bakery products." Pet.App.11a. The only issue is whether this class "is engaged in foreign or interstate commerce." *Saxon*, 596 U.S. at 455. It is not.

Crucially, the relevant class of workers' labor has no connection with interstate commerce. When Brock places an order, Flowers manufacturers the product and ships it on its own trucks to its own warehouse in Denver. Pet.App.4a-5a. Brock then goes to Flowers' warehouse, "loads the products onto his vehicle, and delivers the products to the various stores

that serve as his end customers." Pet.App.5a. Brock's participation was fully intrastate, never coming in contact with the products until after they had been placed in the Denver warehouse. *See* Pet.App.4a-5a.

This is not "a direct and necessary role in the free flow of goods across borders." *Saxon*, 596 U.S.at 458 (internal quotation marks omitted). Brock engages in two distinct transactions: purchasing items from Flowers, in interstate commerce, and then reselling the items to his own customers, in intrastate commerce. The end customers who receive Flowers' products do not contract with Flowers directly, but instead contract with Brock to buy the products he purchased from Flowers. Pet.App.4a-5a.

Importantly, the mere fact that the items Brock distributes were once in interstate commerce does not turn purely intrastate commerce into interstate commerce. *See, e.g.*, *Wallace v. Grubhub Holdings, Inc.*, 970 F.3d 798, 802 (7th Cir. 2020) (Barrett, J.) ("[T]o 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."). Such an approach would exempt a vast swath of workers from the FAA's coverage, as *many* goods handled by workers have passed through interstate commerce at some point.[2] But this Court rejected such a "limitless" approach in *Bissonnette*, insisting that "any exempt worker 'must at least play a direct and necessary role in the free flow of goods across borders.'" 601 U.S.

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[2] *Moving Goods in the United States*, Bureau of Transportation Statistics, https://data.bts.gov/stories/s/Moving-Goods-in-the-United-States/bcyt-rqmu/#:~:text=Shipments%20by%20St ate-,Freight%20Movement,dollars%20of%20freight%20moved %20annually (last accessed Dec. 1, 2025) ("approximately 20.2 billion tons … of freight moved annually.").

at 256 (internal quotation marks and citation omitted) (quoting *Saxon*, 596 U.S. at 458).

Notably, that test applies differently in this case than in *Saxon*. There, Saxon directly loaded and unloaded items from the planes—the vehicles directly engaged in foreign and interstate commerce. 596 U.S. at 454. The answer to whether this constituted a "direct and necessary role in the free flow of goods across borders" was an easy yes. *Id.* at 458, 462-63; *see Baltimore & O. S. W. R. Co. v. Burtch*, 263 U.S. 540, 544 (1924). But here, Brock's involvement is considerably more removed. He does not load or unload the products from the trucks that bring them to Colorado from other States. Pet.App.5a. Brock comes the next day and takes the items from the warehouse and puts them on his own trucks to deliver to his customers—never leaving Colorado. Pet.App.4a-5a. Unlike Saxon, Brock does not directly interact with the items as they go through interstate or foreign commerce. *Compare* Pet.App.5a *with* 596 U.S. at 453. This case thus warrants a different result than *Saxon*.

Because the dispute here arises out of Brock's purely intrastate conduct—his delivery of Flowers' products—it is not exempt from FAA preemption under § 1. The parties agreed *ex ante* that any dispute would be resolved through arbitration. Pet.App.5a-6a. The FAA respects this decision and requires the courts to defer to this decision. This Court should reverse.

II. An expansive reading of Section 1 harms businesses and the States.

The Tenth Circuit's expansive reading of § 1 would exempt millions of valid arbitration agreements from the FAA's protection. Despite widespread adoption of the Uniform Arbitration Act, many States

have differing attitudes towards arbitration agreements—ranging from neutrality to outright hostility. This policy patchwork threatens to harm business and States that rely on the FAA and its preemptive effect. This Court should reverse the decision below to avoid these harms and promote uniformity of law throughout the country.

A. Businesses

Businesses rely on uniform arbitration rules across States. "The point of affording parties discretion in designing arbitration processes is to allow for efficient, streamlined procedures tailored to the type of dispute." *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333, 344 (2011). When parties agree to resolve their disputes through arbitration, the FAA's "principal purpose" is to "ensur[e] that private arbitration agreements are enforced according to their terms." *Volt Info. Scis., Inc. v. Bd. of Trustees of Leland Stanford Junior Univ.*, 489 U.S. 468, 478 (1989). Put simply, the FAA ensures that when a company negotiates for an arbitration clause the courts will give the benefit of that bargain.

Under the Tenth Circuit's reasoning, businesses would no longer reap this benefit in large swaths of contracts. Every contract for employment that has the most tenuous relationship with interstate commerce would be unable to enforce their agreement to utilize the "lower costs, greater efficiency and speed, and the ability to choose expert adjudicators to resolve specialized disputes" that arbitration provides. *Stolt-Nielsen S.A. v. AnimalFeeds Int'l Corp.*, 559 U.S. 662, 685 (2010). A pizza delivery driver will be exempt under § 1 because the ingredients that made the pizza were once involved in interstate commerce. So would an employee at a sandwich store who

assembles the product using materials that once travelled through interstate commerce. This absurdity would wreak havoc and nullify millions of otherwise binding arbitration agreements.

To avoid this, businesses would have to limit their operations to States that have favorable policies towards arbitration agreements. This prevents them from operating in places of major economic activity such as New York and California.[3] Businesses should not be required to fundamentally restructure their operations to have courts enforce their employment contracts according to their terms. Business who relied on the FAA should not be punished.

B. The States

The States similarly benefit from the liberal federal policy favoring arbitration. Whether a state court will recognize the validity of an arbitration clause depends in part on the State's policy regarding arbitration. Despite widespread adoption of the UAA, some states still regularly find arbitration clauses unenforceable as contrary to public policy or unconscionable. *See generally Concepcion*, 563 U.S. at 340-41 (collecting cases where California courts had "frequently" found arbitration agreements unconscionable).

Without the FAA's preemptive effect, whether an arbitration agreement is enforceable depends entirely on a State's contract law. Despite the UAA's general policy favoring arbitration, this preference is subject to state common law rules on contract formation. *See* Mo. Rev. Stat. § 435.350. If not precluded

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[3] *Arbitration Act*, Uniform Law Commission, https://www.uniformlaws.org/committees/community-home?communitykey=a0ad71d6-085f-4648-857a-e9e893ae2736 (last accessed Dec. 1, 2025).

by the FAA, state courts will be flooded with litigation over the enforceability of arbitration agreements. Aside from undermining judicial economy, it would go against the core purpose of arbitration: efficient resolution of disputes.

Nor is there any guarantee that a State's policy on arbitration would be dispositive. Even if the contracting parties agree to apply the law of a given State, many state courts will refuse to honor this choice of law if their own policy is against arbitration. *Cf. Belt Power, LLC v. Reed*, 840 S.E.2d 765, 770-71 (Ga. Ct. App. 2020). This will result in forum shopping, with plaintiffs seeking out state courts that are hostile to arbitration, harming the States' ability to have disputes from within their borders decided according to their law.

The States who enacted the UAA did so to further uniformity of law across the nation. "[T]he underlying purpose of all uniform laws" is "to eliminate uncertainty and provide plain and certain" "controlling rules of law." *State ex rel. Tri-City Constr. Co. v. Marsh*, 668 S.W.2d 148, 151 (Mo. Ct. App. 1984). Especially in areas such as arbitration, the benefits of uniform state laws are obvious. The FAA and UAA work in tandem to provide clear rules across the nation to the benefits of employees and employers. Without this uniformity, States will face increased litigation and see their policy choices in favor of arbitration undermined. A narrow construction of § 1 is necessary to maintain this balance.

CONCLUSION

The decision below misapplies this Court's precedent to extend § 1's exemption beyond its intended scope. Under this rule businesses suffer from the uncertainty of whether their bargained-for agreements will be honored and will have to restructure large portions of their operations. And the States will suffer from increased litigation over the enforceability of arbitration agreements, resulting in a patchwork that is antithetical to the purpose of adopting a uniform law on arbitration. This Court should reverse.

Respectfully submitted,

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