

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 FOR PROFESSORS AND SCHOLARS
OF LINGUISTICS AND LAW AS AMICI CURIAE
IN SUPPORT OF RESPONDENT**

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TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	iii
INTEREST OF AMICI CURIAE	1
SUMMARY OF ARGUMENT	1
ARGUMENT.....	3
I. The Ordinary Meaning Of Section 1 Generically Exempts Employment Contracts of Classes of Workers.....	4
A. Section 1’s Exemption Expresses a Generic Meaning	5
B. Predicates Applied Generically Like “Engaged in . . . Interstate Commerce” Regularly Do Not Apply to Every Class Member	6
II. Statutory Context Supports Construing “Other” Potential Exempted Classes As Well-Established, Intermediate-Level Classes Like “Truck Driver”	10
A. Section 1’s Listed Exemptions Are Well-Established, Intermediate-Level Classes	10
B. In Context, “Any Other Class” En- compasses Similar Well-Established, Intermediate-Level Classes	14
C. “Truck Driver” Is a Similar Well- Established, Intermediate-Level Class.....	16

TABLE OF CONTENTS—Continued

	Page
III. Truck Drivers Are a Class of Workers Engaged in Interstate Commerce, within the Meaning of Section 1	22
A. Section 1’s Exemption Applies Generically to Classes Whose Members Have a Propensity to Engage in Interstate Commerce.....	22
B. Applying Section 1’s Exemption to the Class of Truck Drivers Follows this Court’s Precedents.....	26
CONCLUSION	31

TABLE OF AUTHORITIES

CASES	Page(s)
<i>Ali v. Federal Bureau of Prisons</i> , 552 U.S. 214 (2008).....	27
<i>Allied-Bruce Terminix Cos., Inc. v. Dobson et al.</i> , 513 U.S. 265 (1995).....	4
<i>Bissonnette v. LePage Bakeries Park St., LLC</i> , 601 U.S. 246 (2024).....	6, 26
<i>Circuit City Stores, Inc. v. Adams</i> , 532 U.S. 105 (2001).....	4, 6, 25, 27
<i>Gulf Oil Corp. v. Copp Paving Co., Inc.</i> , 419 U.S. 186 (1974).....	3
<i>Southwest Airlines Co. v. Saxon</i> , 596 U.S. 450 (2022).....	3, 6, 8, 22, 26-28
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<i>Wallace v. Grubhub Holdings, Inc.</i> , 970 F.3d 798 (7th Cir. 2020).....	25
STATUTES AND REGULATIONS	
9 U.S.C. § 1	1, 3-6, 8-10, 14-16, 19-23, 25-30
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Act of Feb. 12, 1925, ch. 213, 43 Stat. 883 (1925).....	3
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Ariel Cohen, <i>Generics, Frequency Adverbs, and Probability</i> , 22 Ling. & Phil. 221 (1999)	7
Franklin Snow, <i>Among the Railroads: Service to Twin Cities Improved Train Sheds Heavy Holiday Travel</i> , Christian Sci. Monitor, Jan. 4, 1924	13
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TABLE OF AUTHORITIES—Continued

	Page(s)
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John F. Manning, <i>The Absurdity Doctrine</i> , 116 Harv. L. Rev. 2387 (2003)	30
John F. Manning, <i>The New Purposivism</i> , 2011 Sup. Ct. Rev. 113 (2012)	2, 14, 22, 28
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Michael Henry Tessler & Noah D. Goodman, <i>The Language of Generalization</i> , 126 Psychol. Rev. 395 (2019)	7, 8, 24
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TABLE OF AUTHORITIES—Continued

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INTEREST OF AMICI CURIAE

Amici are professors and scholars of law and linguistics with expertise in linguistic theory and empirical linguistics.¹ The analysis in this amicus brief is grounded in decades of research in linguistics on generic language and category membership, such as *The Generic Book* (Gregory N. Carlson & Francis Jeffry Pelletier eds., 1995).

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SUMMARY OF ARGUMENT

The Federal Arbitration Act of 1925, codified at 9 U.S.C. § 1 *et seq.* (“FAA”), makes certain agreements to arbitrate valid and enforceable. But the statute explicitly 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. In this case, this Court will decide whether this text’s ordinary meaning encompasses a driver who transports goods on a leg of an interstate journey on

¹ No counsel for a party authored this brief in whole or in part, and no person or entity other than *amici*, their academic institutions, and their counsel made a monetary contribution to fund the preparation or submission of this brief. The brief reflects only the views of *amici*, not those of their academic institutions.

“delivery trucks” from “a warehouse” to customers, despite never personally driving across state lines himself. Pet. App. 39a.

As a matter of linguistics, the answer is yes. The statute’s exemption expresses a *generic* meaning about classes of workers. As linguistics research shows, such generically applied predicates regularly do not characterize all members of the class: “Mosquitoes carry malaria,” even if *most* mosquitoes never carry malaria. As a class, “railroad employees are engaged in interstate commerce,” even if some train conductors only work on an intrastate line.

In the abstract, the phrase “any other class of workers . . . engaged in interstate commerce” is underspecified. The statute’s explicit exemptions—seamen and railroad employees—provide context. These terms identify well-established and *intermediate-level* categories, rather than subordinate categories (*e.g.*, interstate railroad employees) or superordinate ones (*e.g.*, transportation workers). As textualists have observed, an “interpreter must take seriously the signals that Congress sends through the level of generality reflected in its choice of words.”² In this context, “any other class of workers” contemplates similar well-established and intermediate-level classes engaged in interstate commerce, such as truck drivers.

The statute’s predicate “engaged in interstate commerce” applies (generically) to the class of truck drivers, similar to the enumerated classes of railroad employees and seamen. Whether a class is “engaged in interstate commerce” is informed by “the actual work that the members of the class, as a whole, typically

² John F. Manning, *The New Purposivism*, 2011 Sup. Ct. Rev. 113, 116 (2012).

carry out.” *Southwest Airlines Co. v. Saxon*, 596 U.S. 450, 456 (2022). Seamen and railroad employees are archetypal classes with potential to participate in “activities within the flow of interstate commerce,” *Gulf Oil Corp. v. Copp Paving Co., Inc.*, 419 U.S. 186, 195 (1974)—even if some individuals in those classes do not engage in interstate commerce. Truck drivers encompass another paradigmatic class that engages in interstate commerce. All three classes (generically) engage in interstate commerce and are therefore exempt from the statute’s coverage.

ARGUMENT

In 1925, Congress enacted The United States Arbitration Act, commonly known as the Federal Arbitration Act. Act of Feb. 12, 1925, ch. 213, 43 Stat. 883. Its first section stated that “nothing herein contained shall apply to contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce.” Its second section provided for the validity of arbitration agreements in other contracts “involving commerce.” In 1947, Congress codified and enacted that text into positive law, repealing the 1925 Act. *See* Act of July 30, 1947, ch. 392, 61 Stat. 669.

The 1947 codification emphasized in a section title that the law’s first section, 9 U.S.C. § 1, contained “EXCEPTIONS TO OPERATION OF [THE] TITLE.” In 2022, an amendment ended mandatory arbitration for cases involving sexual assault and harassment. Pub. L. No. 117-90, 136 Stat. 26 (2022). But over the statute’s one-hundred year history, the core text of section 1’s exemption remained the same:

[N]othing herein contained shall apply to contracts of employment of seamen, railroad

employees, or any other class of workers engaged in foreign or interstate commerce.

9 U.S.C. § 1.

Section 1’s exceptions to the title’s operation are significant, particularly as this Court has construed section 2 to reach broadly, “to the limits of Congress’ Commerce Clause power.” *See Allied-Bruce Terminix Cos., Inc. v. Dobson et al.*, 513 U.S. 265, 270 (1995). Since *Circuit City Stores, Inc. v. Adams*, 532 U.S. 105 (2001), this Court has interpreted section 1 based on its ordinary meaning and rejected arguments, supported by legislative history, that the original 1925 exemption responded to specific unions (*e.g.*, the Seamen’s Union) that sought exemption of employment contracts generally. *See id.* at 128 (Stevens, J., dissenting) (pointing to the legislative history to conclude that section 1 was intended to exempt *all* employment contracts). This brief assumes this same starting point, “that words generally should be interpreted as taking their ordinary . . . meaning . . . at the time Congress enacted the statute.” *New Prime Inc. v. Oliveira*, 586 U.S. 105, 113 (2019) (citation omitted). We draw from the field of linguistics to inform the ordinary meaning of section 1’s text.

I. THE ORDINARY MEANING OF SECTION 1 GENERALLY EXEMPTS EMPLOYMENT CONTRACTS OF CLASSES OF WORKERS

The language of section 1’s exemption expresses what linguists would call a *generic* application of a predicate. The predicate (“engaged in . . . interstate commerce”) is applied to general classes (*e.g.*, railroad employees), not particular individuals (*e.g.*, a specific railroad employee who personally traverses state lines). Such generically applied predicates need not

apply to all, or even to many, class members. “Ravens are black” is a true statement even as albino ravens exist. And “mosquitoes carry malaria” even as *most* mosquitoes do not carry malaria.

Understanding that section 1 generically applies a predicate to a class further clarifies the operation of its *class-based* exemption. The exemption includes an individual worker who does not personally engage in interstate commerce but *is* part of a class that does. Conversely, the exemption does not include a worker who personally engages in interstate commerce but is not part of a class that does. A train conductor who serves only an intrastate line falls within section 1’s exemption as a member of the class of railroad employees, but a restaurant chef who regularly serves out-of-state patrons—because his restaurant sits on the border of two states—does not.

A. Section 1’s Exemption Expresses a Generic Meaning

English has various means to express generic statements, including *bare plural* noun phrases (e.g., “Dogs bark”) and *overtly class-denoting* (equivalently, kind-denoting) noun phrases (e.g., “This class of mammal barks”). Gregory Carlson, *A Unified Analysis of the English Bare Plural, Linguistics and Philosophy*, 1 Ling. & Phil. 413, 434-435 (1977). Section 1 uses both types of generic language, coordinated in one list. In context, the first two list items, “seamen” and “railroad employees,” are generic bare plurals that refer to their respective classes in the abstract; to say “railroad employees engage in interstate commerce” is like saying “dogs bark.” The third item, “any other class of workers,” is overtly class-denoting. It identifies that other classes of workers engage in interstate commerce, as we might note that other classes of mammals

(e.g., wolves) bark. In context, the predicate “engaged in interstate commerce” applies generically to each item in the list.

Section 1 conveys that the exempted classes of workers are:

- (A) (the class of) seamen, because as a class, seamen engage in interstate commerce;
- (B) (the class of) railroad employees, because as a class, railroad employees engage in interstate commerce; and
- (C) all other classes of workers engaged in interstate commerce.

This Court has consistently given section 1 this type of generic interpretation. It has observed that, in context, “seamen” and “railroad employees” are used as “specific *categories* of workers,” *Circuit City*, 532 U.S. at 114 (emphasis added); *accord Saxon*, 596 U.S. at 458; *Bissonnette v. LePage Bakeries Park St., LLC*, 601 U.S. 246, 252 (2024). And in evaluating other potential classes, this Court has emphasized “the actual work that the members of the class, as a whole, typically carry out,” and “not what [the particular employer] does generally.” *Saxon*, 596 U.S. at 456 (concluding that “airplane cargo loaders” is a qualifying class under section 1’s exemption).

**B. Predicates Applied Generically Like
“Engaged in . . . Interstate Commerce”
Regularly Do Not Apply to Every Class
Member**

Generic language in English has received rich scholarly treatment, spanning linguistics, cognitive and developmental psychology, and philosophy of language. *See generally The Generic Book* (Gregory N.

Carlson & Francis Jeffry Pelletier eds., 1995). Generics are complex and there is ongoing debate about aspects of their interpretation. Scholars disagree, for example, about the role of “normality” assumptions. *Dogs have four legs* strikes an ordinary speaker of English as being intuitively true. This cannot be because *all* dogs have four legs; some dogs sadly have fewer. Some scholars suggest that this ordinary intuition is shaped by the fact that we “normally” expect dogs to have four legs. Yet counterexamples abound: *Mosquitoes carry malaria* is intuitively true despite the fact that mosquitoes don’t “normally” carry malaria. (Only a small minority of mosquitoes will ever carry the disease).

Despite such theoretical disagreements about certain aspects of generic interpretation, scholars recognize that in determining whether a predicate applies generically to a class, the predicate holding universally (or even to a majority of class members) is neither necessary nor sufficient.

First, consider sufficiency. In a famous example from linguistics, consider if every Supreme Court justice happened to have an even social security number. This universal fact would not justify the generic conclusion that “Supreme Court Justices have even social security numbers.” See Michael Henry Tessler & Noah D. Goodman, *The Language of Generalization*, 126 Psychol. Rev. 395, 396, 400 (2019); see also Ariel Cohen, *Generics, Frequency Adverbs, and Probability*, 22 Ling. & Phil. 221, 225 (1999) (for the original example).³

³ Though universal predication is not sufficient to justify a generic statement, some generics *do* describe universal facts, such as “Triangles have exactly three sides.” We return to this observation in Section III.A *infra*.

Turning to section 1's exemption, that every employee of a class is literally "engaged in interstate commerce" in the sense of facilitating goods across state lines is not sufficient to conclude that the predicate applies generically to the class. Consider the twin towns of Texarkana, on the border of Texas and Arkansas. A number of businesses sit on this border. For every business there that delivers goods or provides out-of-shop services, its employees are personally engaged in interstate commerce, in even the narrow sense of personally facilitating goods or services across state borders. But this fact would be insufficient to conclude that (as a class) the employees of such a business are (generically) engaged in interstate commerce.

Next consider necessity. Linguistics has identified many examples that illustrate that generic statements hold even when some individual members lack the property. Our linguistic practices suggest that generics reflect more than simple prevalence or probabilities. We would assent to the statement that "Robins lay eggs," but not to "Robins are female." "Yet in each case, only 50% of the category has the property (*i.e.*, only the females lay eggs)." Tessler & Goodman, *supra*, at 396. Some generic statements register as true even if very few members exhibit the property: "Mosquitoes carry malaria"; "sharks attack swimmers"; or "raw eggs carry salmonella."

Turning to section 1, this Court's precedents observe that section 1 of the FAA emphasizes "the actual work that the members of the class, as a whole, typically carry out," and "not what [the particular employer] does generally." *Saxon*, 596 U.S. at 456. Linguistic theories of generics support this emphasis on the class. Even if an individual member of a class is not

personally engaged in interstate commerce, that does not imply that the predicate fails to apply to the class.

Consider the class of “railroad employees,” a class the statute recognizes as “engaged in interstate commerce.” 9 U.S.C. § 1. This predicate applies generically to the class, notwithstanding *many* examples of intrastate railroad employees who simply move people from one part of a state to another (within Texas, Virginia, or Iowa).⁴ The statute would similarly recognize as part of the “seamen” class a seaman who only moves freight on legs within one state, such as an intra-Hawaiian freighter.⁵ The same is true of airline pilots. Most engage in interstate commerce by traveling interstate, but some do not.⁶ That some train conductors, barge captains, or airline pilots only work within a single state does not undermine the conclusion that each worker is part of a class that (generically) engages in interstate commerce.

⁴ See, e.g., Moscow, Camden & San Augustine Railroad MCSA #548, Union Pacific, <https://www.up.com/shipping/short-line/lines/mcsa> [<https://perma.cc/QM5H-DJHW>]; The Shenandoah Valley Railroad, Shenandoah Valley Railroad, LLC, <http://www.svrr-llc.com/> [<https://perma.cc/P82U-4QXV>]; Iowa Northern Railway Co., Iowa Dep’t Transp., <https://iowadot.gov/media/1960/download?inline> [<https://perma.cc/F2F3-5XEX>].

⁵ See, e.g., Young Brothers Profile, FOSS Maritime, <https://foss-maritime.com/projects/young-brothers-profile/> [<https://perma.cc/J4UW-HJ7D>].

⁶ See, e.g., Routes and Destinations, Grant Aviation, <https://www.flygrant.com/routes-and-destinations/> [<https://perma.cc/ZAP3-RQ4G>].

II. STATUTORY CONTEXT SUPPORTS CONSTRUING “OTHER” POTENTIAL EXEMPTED CLASSES AS WELL-ESTABLISHED, INTERMEDIATE-LEVEL CLASSES LIKE “TRUCK DRIVER”

Section 1’s phrase “any other class of workers” is underspecified without considering context. The ultimate question in this case is whether Angelo Brock is part of any class that is “engaged in interstate commerce,” within the exemption’s meaning. But a preliminary question is what kinds of classes *could* satisfy this predicate.

The statutory context informs this preliminary question. First, the listed exempt classes (seamen and railroad employees) are what linguists call “well-established kinds.” Moreover, they specify an intermediate level of abstraction in between larger “superordinate” classes (*e.g.*, transportation workers) and more granular “subordinate” classes (*e.g.*, interstate railroad employees). This context favors interpreting putative “other class[es]” as similar well-established, intermediate-level classes. In the context of “seamen” and “railroad employees,” a more appropriate putative “other class[]” is a similar, well-established, intermediate-level category like “truck drivers,” not a (subordinate) category like “long-haul truck drivers” or a (superordinate) category like “transportation workers.”

A. Section 1’s Listed Exemptions Are Well-Established, Intermediate-Level Classes

English grammar distinguishes between what theorists call “well-established classes” (equivalently, “well-established kinds”) and their less established counterparts. Manfred Krifka, Francis Jeffry Pelletier, Gregory N. Carlson, Alice ter Meulen, Godehard Link, & Gennaro Chierchia, *Genericity: An Introduction*, in

The Generic Book 11 (Gregory N. Carlson & Francis Jeffrey Pelletier eds., 1995).

There are linguistic diagnostics to help identify well-established classes. For example, linguists have observed that it is possible to formulate generic statements about well-established classes—but not about less-established classes—with definite singular noun phrases. *Id.* This distinction is illustrated in examples (1) and (2) below. In (1), observe that both the bare plural noun phrase “Coke bottles” and the definite singular noun phrase “the Coke bottle” can be used to formulate a generic statement about Coke bottles, indicating that *Coke bottle* is a well-established class. However, in (2), observe that only the bare plural noun phrase “green bottles” can be used to formulate a generic statement about green bottles, whereas the definite singular noun phrase “the green bottle” is most naturally interpreted as referring to a particular bottle (indicating that *green bottle* is not a well-established class).

The ‘definite singular’ diagnostic for well-established classes:

(1) *Coke bottle* (well-established class):

Bare plural (BP): Coke bottles have narrow necks.

(generic reading)

Definite singular (DS): The Coke bottle has a narrow neck.

(generic reading possible → “Coke bottle” as a well-established class)

(2) *Green bottle* (not a well-established class):

Bare plural (BP): Green bottles have narrow necks.

(generic reading)

Definite singular (DS): The green bottle has a narrow neck.

(generic reading not possible → “green bottle” as not a well-established class)

Again, the key lesson is that only for a well-established class (e.g., “Coke bottle”) can the definite singular be used to formulate a generic statement. Thus, use of the definite singular to formulate a generic statement about a class—intuitively or in naturally occurring language—would constitute evidence that the class is well-established.

The definite singular construction is readily employed to refer to the well-established classes of *seamen* and *railroad employees* in generic contexts, as illustrated by the following ordinary-language examples:

Attention has been directed in many countries to the disadvantages under which merchant seamen suffer in regard to educational facilities. **The seaman** is entirely cut off from lectures, classes, and even from correspondence tuition, such as are available for workers on shore.⁷

Passes always have been considered as part of **the railroad employee’s** wages. Several years ago, when salaries of railroad men were

⁷ *Seek to Educate Merchant Seamen: Commission Finds that Placing of Libraries on Ships Has Been Helpful*, N.Y. Times, Aug. 12, 1923, at 19 (emphasis added).

lower than those received by workers in other industries, there was a sufficient reason for pointing out to the rail-workers that the passes were a part of their renumeration.⁸

[I]n picketing a ship **the seaman** appears to be a proper candidate for a shining halo One explaining reason is that **the seaman** is a good Union man: he really believes in giving full support to embattled brothers. This attitude may well spring from the broad character of the work undertaken by those who go to sea⁹

Textualists seek to understand how “the ordinary English speaker . . . would understand the words of a statute,” Barrett, *Congressional Insiders and Outsiders*, 84 U. Chi. L. Rev. 2193, 2194 (2017), or how the “reasonable person” uses words. John F. Manning, *What Divides Textualists from Purposivists*, 106 Colum. L. Rev. 70, 70 (2006). Naturally occurring language can be a useful guide, and here such examples suggest that *seaman* and *railroad employee* have been well-established classes in ordinary English since Congress enacted the FAA in 1925.

Seamen and *railroad employees*, in addition to being well-established classes, reside at an intermediate level of abstraction between larger “superordinate” classes (e.g., transportation workers) and more granular “subordinate” classes (e.g., intrastate railroad employees). The lines between these levels of abstraction are

⁸ Franklin Snow, *Among the Railroads: Service to Twin Cities Improved Train Sheds Heavy Holiday Travel*, *Christian Sci. Monitor*, Jan. 4, 1924, at 6 (emphasis added).

⁹ Rev. Dennis J. Comey, S.J., *Some Advice on Picketing*, *Cath. Standard & Times*, Mar. 9, 1956, at 7 (emphasis added).

heavily dependent on context and are thus difficult to state precisely. However, there is an operable distinction within section 1's context.

Note first that *seamen* and *railroad employees* are classes of workers that can be characterized by a mode of transportation (*i.e.*, by boat or by rail) that the workers facilitate. The term "transportation worker" leaves the mode of transport unspecified and thus denotes a class that is superordinate to both of the named classes. In context, such a superordinate class is clearly an inappropriate candidate for "any other class," since it encompasses the two explicitly listed classes, rendering that language superfluous.

By contrast, subordinate classes in this context are characterized by the mode of transport of the corresponding intermediate-level term, as well as additional defining feature(s). *River pilots* and *suburban rail employees* are examples of classes that are subordinate to *seamen* and *railroad employees*, respectively: these subordinate classes identify the intermediate-level term's mode of transportation plus a specific kind of area (rivers, suburbs) over which that transportation takes place.

**B. In Context, "Any Other Class"
Encompasses Similar Well-Established,
Intermediate-Level Classes**

Amici's analysis follows this Court's precedent of interpreting the phrase "any other class" in the context of the preceding named classes "seamen" and "railroad employees." More broadly, it coheres with the textualist principle that interpretation should "take seriously the signals that Congress sends through the level of generality reflected in its choice of words." *Manning*, *supra* note 2, at 116. The linguistic analysis in the

preceding section suggests that these other classes contemplated by section 1 are well-established and specify a particular intermediate level of abstraction. In this section, we demonstrate the implications of this contextual restriction for the interpretation.

Consider, for example, why our analysis rules out as a putative “any other class” the following class: “airline pilots who fly across multiple states.” This class is ill-suited to section 1 on two counts: it is not well-established and it is demonstrably more specific than the named classes of “seamen” and “railroad employees.” To illustrate that this class is not well-established, compare the two sentences in (3) below. Of the two sentences, only sentence (3)(i) (featuring the definite singular noun phrase “the airline pilot”) readily refers to a class of worker in the abstract. (Airline pilots have begun to leave the town). By contrast, with sentence (3)(ii) (featuring the definite singular noun phrase “the airline pilot who flies across multiple states”), we are inclined to interpret its subject as referring to a specific individual worker. (3)(ii) thus describes an event we might encounter in a work of science fiction: an individual person has begun to disappear.

(3)

i. Since the airline declared bankruptcy, **the airline pilot** has started to disappear from this town.

ii. Since the airline declared bankruptcy, **the airline pilot who flies across multiple states** has started to disappear from this town.

The above test helps to illustrate that the class of “airline pilots who fly across multiple states” is less established than the class of “airline pilots.” For the

purposes of section 1, “airline pilots who fly across multiple states” also denotes an inappropriately subordinate class: if someone is an airline pilot who flies across multiple states, that individual is also an airline pilot. “Airline pilots who fly across multiple states” is thus unsuitable in the context of section 1 for similar reasons that “river pilots” or “suburban railroad employees” would be: the category is characterized by a mode of transportation plus a location (or span of locations) over which the work activity transpires.

The class of “long-haul truckers” or “long-distance delivery drivers” would similarly fail as a putative class within the context of section 1. Though arguably well-established, those classes—similar to our negative cases above—are characterized by a mode of transportation (*i.e.*, by freight truck) *plus* a distance traveled by the members of the class.

Members of these aforementioned classes may well qualify for the exemption. However, they would qualify by virtue of their membership in an appropriate class that meets our criteria of being sufficiently well established and at a suitable level of abstraction. For example, a worker who we might describe as a “railroad employee who works in multiple states” qualifies for the exemption because she is a “railroad employee.”

C. “Truck Driver” Is a Similar Well-Established, Intermediate-Level Class

The class of “truck driver” is well-established today and has been throughout section 1’s history, as evidenced by ordinary language examples in which the definite singular noun phrase “the truck driver” refers generically to the class of truck drivers in the abstract.

Consider the following generic usages of the definite singular (“the truck driver”) from 1925:

Bear in mind the slogan adopted by the National Association of Truck Drivers and Head Hunters at their annual convention, “**The Truck Driver** Is Always Right.”¹⁰

The truck driver is sometimes considered a lowly person and not to be given particular thought in the general scheme of things. He is a part of the machinery, one of the necessary extras of the truck itself, like the hydraulic hoist or the super-power carbureter. But there are some producers who think differently.¹¹

We also observe that the bare plural noun phrase “truck drivers” was used to establish generic reference to the class in 1925:

Certainly it is true that it would seem to be as important that **truck drivers** should be handled as expertly as a fleet owner would desire his service manager to handle the trucks.¹²

The following 2025 example uses the definite singular noun phrase “the truck driver” and the bare plural noun phrase “truck drivers” interchangeably for class-level reference.

¹⁰ H.I. Phillips, *The Once Over, 1925 Rules for Pedestrians—Obey Them and Relieve the Truck Driver’s Mind*, Bos. Daily Globe, July 2, 1925, at 16 (emphasis added).

¹¹ *The Useful Truck Driver*, 27 Cement, Mill & Quarry, July 20, 1925, at 44 (emphasis added).

¹² *Nipping the Strain Out of a Store’s Truck Delivery Department*, 16 The Motor Truck; the National Authority of Power Haulage, at 47 (1925) (emphasis added).

The truck driver is the unseen link that connects all aspects of the supply chain, working long hours to keep the economy moving . . . Furthermore, the pressures that **truck drivers** face extend beyond just their working hours.¹³

From the first half of the 20th century through the present day, the bare plural noun phrase “truck drivers” and the definite singular noun phrase “the truck driver” have been just two means of making generic reference to the class of truck drivers in the abstract. Sometimes other phrases, like “the trucker,” refer generically to the same class. For instance, a news article from 1941 was titled, *Don’t Cuss The Truck Driver: Hard to Pass—Yes. But He’ll Never Pass You If You Need Help. He’s Equipped for Trouble*.¹⁴ This title uses “the [t]ruck [d]river” generically and the body of the article uses “the trucker” to refer generically to the same abstract class:

Next to putting out fires in other people’s cars, first aid is one of their major activities on the highway and thousands of truckers have taken either the standard or advanced Red Cross courses . . . Such deeds are building up a conviction among travelers that **the**

¹³ *Truck Drivers: The Unsung Heroes and Backbone of our Economy*, Double D Distribution (April 24, 2025), <https://doubledistribution.com/truck-drivers-the-unsung-heroes-and-backbone-of-our-economy/> [<https://perma.cc/QF4M-7MDT>] (emphasis added).

¹⁴ Paul W. Kearney, *Don’t Cuss The Truck Driver: Hard to Pass—Yes. But He’ll Never Pass You If You Need Help. He’s Equipped for Trouble*, L.A. Times, Sep. 14, 1941, at 6 (emphasis added).

trucker is one fellow on the highway who is always willing and able to help in a pinch.¹⁵

This same article goes on to use yet another linguistic device—the definite plural noun phrase “the truck drivers”—in a similarly generic manner:

The result is an increasing lore of good deeds done by **the truckers**—the most important of which, incidentally, is their own safe-driving records. . . . These records pile up despite increasing traffic and pressure of defense demands, for **the truckers** are playing a vital role in the “Battle of Production,” working side by side with the rails and the ships to keep raw materials and finished goods on the move. . . . [F]rom coast to coast over a veritable spider-web of highways, caravans of trucks purr relentlessly, night and day, with the things to keep the wheels of the defense industries turning. Despite all this bustle and pressure, however, **the truckers** still find time to lend a hand to a motorist in distress . . . [.]¹⁶

These examples illustrate how truck drivers have been a well-established class from 1925 to today, one that has been referred to generically with phrases like “the truck driver,” “truck drivers,” “the trucker,” and “the truckers.”

Truck drivers, in addition to being a long well-established class, constitute a suitable *intermediate-level class* for the purposes of section 1. The class of truck drivers clearly is neither superordinate nor

¹⁵ *Id.* (emphasis added).

¹⁶ *Id.* (emphasis added).

subordinate to the named classes in the statute. Moreover, the “truck driver” class is characterized by a mode of transport (*i.e.*, freight truck) that members of the class facilitate. In this sense, the class is at a similar level of abstraction as the named classes in context.

This property of section 1 is by no means unordinary. In several ordinary language examples—both historical and contemporaneous—“truck drivers” are mentioned as a class alongside one of section 1’s named classes. We start with examples—one from 1934 and one from 2025—in which “truck drivers” co-occurs in a list construction alongside “seamen”:

Seven classes of union workers are now on strike in San Francisco and its suburbs. These are the longshoremen, **seamen**, **truck drivers**, wholesale butchers, taxicab drivers, and bartenders.¹⁷

For employees with no fixed worksite, e.g., construction workers, transportation workers (e.g., **truck drivers**, seamen, pilots), salespersons, etc., the “worksite” is the site to which they are assigned as their home base¹⁸

We see similar co-occurrences of “truck drivers” alongside “railroad employees” in both historical and

¹⁷ *N. CALIFORNIA NEAR COMPLETE STRIKE TIEUP: Truck Drivers and Butchers Out*, Chi. Daily Trib., July 13, 1934, at 1 (emphasis added).

¹⁸ The Essential Guide to Effective and Flexible Workplaces, WORKFLEX (2012), <https://www.familiesandwork.org/wp-content/uploads/2025/05/Workflex.pdf> [<https://perma.cc/S75F-EJ83>] (emphasis added).

modern ordinary U.S. English. Consider examples from 1918 and 2021:

Among the evil consequences of the strike, should it occur, would be the delaying to some extent of Government war work in Boston and vicinity, owing to the inability of the employees to get to aid from their places of work, as well as **railroad employees, truck drivers**, etc., and the difficulty of men drafted reaching camps.¹⁹

More than 40 percent of U.S. residents currently live in counties with unhealthy levels of smog and/or soot. Moreover, this air pollution is particularly prevalent among communities of color and low-income communities. Freeways and freight hubs are disproportionately located where these people live, so residents are immersed in it, facing the most direct and constant onslaught. The pollution also harms those who work in and alongside these trucks, such as **truck drivers, railroad employees**, and longshoremen.²⁰

Here we have articulated the analysis in terminology from the field of linguistics: In the context of section 1, “any other class” plainly contemplates classes at a similar level of abstraction to the listed ones (*e.g.*,

¹⁹ *Threatened Strike of Boston Car Men*, Sacred Heart Rev., March 2, 1918, at 4, <https://newspapers.bc.edu/?a=d&d=BOSTONSH19180302-01.1.3> [<https://perma.cc/D2RA-NU59>] (emphasis added).

²⁰ Amanda Eaken, Natural Resources Defense Counsel, *Getting to Zero Now*, Aug. 23, 2021, <https://www.nrdc.org/bio/amanda-eaken/getting-zero-now> [<https://perma.cc/FMF5-E8LU>] (emphasis added).

railroad employee), rather than subordinate classes (e.g., interstate railroad employee). But this analysis also follows from the legal tradition of context-sensitive textualism. As textualist scholars have long observed, interpretation can easily turn on judicial choices about the level of generality, and Congress's chosen words provide critical context to identify the appropriate level of generality that Congress intended to communicate.²¹ Section 1 exempts "railroad employees," not "interstate railroad employees" or even "long-distance railroad employees." Congress' choice about the level of generality, through the categories "seamen" and "railroad employees," provides the context to resolve the appropriate level of generality of other potential classes.

"Truck driver" has long been a well-established class, at an intermediate level of generality similar to that of "seamen" and "railroad employees," and naturally fits with those well-established classes within section 1's exemption.

III. TRUCK DRIVERS ARE A CLASS OF WORKERS ENGAGED IN INTERSTATE COMMERCE, WITHIN THE MEANING OF SECTION 1

A. Section 1's Exemption Applies Generically to Classes Whose Members Have a Propensity to Engage in Interstate Commerce

In construing the word "engaged" in section 1 of the FAA, *Saxon* emphasized that courts should look to "the actual work that the members of the class, as a whole, typically carry out." 596 U.S. at 456. As a class, seamen, railroad workers, and truck drivers engage in

²¹ Manning, *supra* note 2, at 116.

interstate commerce—notwithstanding examples of individuals in those classes who do not.

Conversely, an individual worker who incidentally engages in interstate commerce does not qualify for the exemption if she is not part of an exempted class; a waiter who works on a state border may be engaged in interstate commerce, but waiters *as a class* do not engage in interstate commerce. A tour guide who happens to work as a “Four Corners” tour guide, at the intersection of four American states, personally engages in interstate commerce, but the broader and more well-established class of which he is a member (tour guide) does not generically engage in interstate commerce for the purposes of section 1.²²

The analysis presented in the remainder of this subsection helps to explain these contrasts. Recall that for a predicate to hold generically of a class, it is neither necessary nor sufficient that the predicate holds individually of every member of that class. This suggests that a class that meets the section 1 exemption may contain individual members who are

²² This brief’s analysis does not take a position on the general meaning of “engaged in interstate commerce.” For this reason, the analysis does not purport to offer guidance on the interpretation of a hypothetical exemption that reads: “nothing herein shall apply to any class of workers engaged in interstate commerce.” Such an exemption may well apply to, for example, “Four Corners” tour guides. We restrict our attention to the phrase “engaged in . . . interstate commerce” as it appears in the context of section 1, *i.e.*, following the named classes of “seamen” and “railroad employees.” Moreover, and as discussed in Section III.B *infra*, our analysis also does not require this Court to determine the exact boundaries of “engaged in . . . interstate commerce” in the context of section 1, though our analysis explains why the exemption does not reach, for example, “Four Corners” tour guides or restaurant waiters who work near a state line.

not personally “engaged . . . in interstate commerce.” (Indeed, this is the case for both “seamen” and “railroad employees”). For generic predication, there must be a non-accidental relation between the members of the class and the predicate. This explains why “universal predication” on its own is not sufficient to make a generic statement true.

Consider again examples like “Supreme Court Justices have even numbers,” which is false even if all nine members of the class happened to have an even social security number. As previous scholarship has noted, people tend to “strongly believe there is no causal relation between the evenness of one’s social security number and selection for the Supreme Court and, thus, would assign a roughly 50% subjective probability to the next justice having an even social security number.” Tessler & Goodman, *supra* at 400. Most of us believe, in other words, that Supreme Court justices are only capable of receiving an even social security number through random chance (just like the rest of us). The *propensity* to receive an even social security number thus does not meaningfully distinguish Supreme Court justices from Americans writ large or from other classes of working professionals (even if the actual proportion of justices with even social security numbers happens, by random chance, to be 100 percent).

“Triangles have exactly three sides” is another case in which the predicate applies universally to members of the class. This sentence, however, is clearly true. One distinguishing feature of this sentence is that triangles by definition are three-sided. Suppose you’re told by a blind date to meet at a triangle-shaped table in a restaurant. Even without seeing the specific table in advance, you can be sure that the triangle will have

three sides. Moreover, this propensity to be three-sided clearly distinguishes triangles from other paradigmatic two-dimensional shapes.

Similarly, we noted that, “mosquitoes carry malaria” is true even though the vast majority of those insects will never carry the disease. Despite the fact that the predicate “carry malaria” holds for just a small proportion of class members, mosquitoes’ *propensity* to carry malaria distinguishes them from other related classes. Unlike the accidental relation between Supreme Court justices and even social security numbers, there is a substantive causal relation between the biology of the insects and their ability to carry malaria.

These observations regarding relative propensity help, by way of example, to explain the intuitive contrasts discussed above. The propensity to be “engaged in . . . interstate commerce” clearly distinguishes seamen and railroad employees within the American workforce writ large, in the sense that the flow of goods across state borders is an essential component of “interstate commerce” and the activities performed by these classes of workers uniquely enable that flow. And as this Court noted in *Circuit City*, “transportation workers and their necessary role in the free flow of goods explains the linkage to the two specific, enumerated types of workers [of seamen and railroad employees].” 532 U.S. at 121. In this sense, and as the Seventh Circuit noted in *Wallace v. GrubHub Holdings, Inc.*, 970 F.3d 798 (7th Cir. 2020), “seamen and railroad employees” are “occupations . . . centered on the transport of goods in interstate or foreign commerce.” *Id.* at 802.

Intuitively, however, the scope of section 1’s exemption is not limitless. This is because not all classes of workers demonstrate sufficient propensity

in context. Tour guides may happen to be personally engaged in interstate commerce so long as they perform the duties of their job on or near a state line. This is an implausible “propensity” standard for the purposes of section 1, because virtually *every* job is such that it *could* be performed on or near a state line. Section 1’s exemption, so construed, would thus fail to meaningfully distinguish among classes of workers.

B. Applying Section 1’s Exemption to the Class of Truck Drivers Follows this Court’s Precedents

In *New Prime*, this Court held that a truck driver (Oliveira) “qualified” for section 1’s exemption, as a member of a class “engaged in . . . interstate commerce.” 586 U.S. at 121. To be sure, Oliveira’s employer was an interstate trucking company, *id.* at 108, and *New Prime* did not need to clarify whether Oliveira’s qualification stemmed from his membership in the class of “truck drivers” or the subordinate class of “interstate truck drivers.” As Part II explained, the former category is the more appropriate class contemplated by section 1’s “any other class” language, in context. The statute does not contemplate subordinate categories like “interstate railroad employees” or “seamen who traverse state lines.” “Truck driver,” not “interstate truck driver” is the appropriate category for cases like Oliveira’s.

Section 1’s language focuses on the work of the employee, not the nature or industry of the employer. *Bissonnette*, 601 U.S. at 247, 254. What matters is “the actual work that the members of the class, as a whole, typically carry out.” *Saxon*, 596 U.S. at 456 (emphasis added). A train driver who only drives in Virginia, a pilot who only flies in Alaska, a seaman who only docks in the Hawaiian islands, and a truck driver who only

carries cargo over the “last mile” in Colorado all qualify for the same reason: These transportation workers are each part of *a class* whose work is engaged in interstate commerce, in the sense relevant to section 1.

This linguistic analysis of this amici brief also clarifies the role of linguistic canons, like *ejusdem generis*, in this line of cases. This Court has, since *Circuit City*, contended with the question of how statutory context informs the interpretation of “any other class engaged in . . . interstate commerce” under section 1.

This Court has employed the *ejusdem generis* canon, which prescribes that if a “general or collective term” is the final item in a list of more specific terms, the scope of that general term should be restricted by virtue of its “common attribute[s]” with the specific terms. *Ali v. Federal Bureau of Prisons*, 552 U.S. 214, 225 (2008). It has also rejected other applications of the canon, including ones by both parties in *Saxon*. In that case, the petitioner, Southwest Airlines, claimed that “seamen”—on its view, a narrow category of worker—serves to restrict both “railroad employee” and “other class[es]” such that those latter two terms (in context) refer to classes of workers who perform their job aboard a vehicle that crosses state lines. This Court rejected this analysis on the grounds that “[*ejusdem generis* neither demands nor permits that we limit a broadly worded catchall phrase based on an attribute that inheres in only one of the list’s preceding specific terms.” *Saxon*, 596 U.S. at 462. This Court also rejected the respondent Saxon’s attempted usage of *ejusdem generis* to derive a more capacious reading of “any other class,” finding that the argument of *Saxon* was “unavailing because it proceeds from the flawed

premise that ‘seamen’ and ‘railroad employees’ are both industrywide categories.” *Id.* at 460.

Our analysis of “any other class” is distinct from these prior attempts to construe section 1. It proceeds from the observation that a textualist “interpreter must take seriously the signals that Congress sends through the level of generality reflected in its choice of words.” Manning, *supra* note 2, at 116. The specific list items of “seamen” and “railroad employee” denote well-established, intermediate-level classes characterized by a mode of transportation and work that facilitates that mode of transportation. From there, the application of *ejusdem generis* is straightforward: In context, the general term “any other class . . . engaged in interstate commerce” shares these attributes in common with the specific named terms. The class of truck drivers is a suitable “other class” in this context, as it is both well-established and intermediate-level in the sense of denoting workers who facilitate a specific mode of transportation (*i.e.*, via a commercial truck).

What exactly it means to “facilitate” a mode of transportation is a question that this Court need not answer to decide this case. Workers such as airline customer service representatives may “facilitate” air transportation in one sense; but if that term is construed more narrowly, such workers may not be exempt. But it is easy to accept that a truck driver facilitates transportation by truck. In the context of section 1, a truck driver who performs his work within a single state is not analogous to an airline customer service representative; he is analogous to an airline pilot (or a mariner, or a train conductor) who happens to perform his duties without crossing state lines. Under section 1, the cases of the intrastate railroad driver and intrastate barge captain are easy cases; so

too is the case of the intrastate truck driver. As such, this Court should have no difficulty finding that Brock is squarely within the section 1’s exemption.

Our analysis does not require a resolution to the questions of what precisely it means to be “engaged in . . . interstate commerce” or whether an individual last-mile truck driver who only drives within one state is personally “engaged in interstate commerce,” within the context of section 1.

Petitioners and various amici claim that the work performed by Brock and his co-workers—locally delivering goods that have traveled in interstate commerce, but neither transporting the goods across state borders nor interacting with vehicles that cross borders—is too far removed from the flow of goods across state lines to qualify as “interstate commerce” for the purposes of the statute. *See, e.g.*, Pet. App. 25; Petrs. Br. 21-22; Brief for Amazon.com, Inc. as Amicus Curiae Supporting Petitioners 9; Brief for Amici Curiae Independent Bakers Association and American Bakers Association in Support of Petitioners 19. But truck drivers—as a class—are engaged in “interstate commerce” on any plausible narrow reading of that term. That last-mile truck drivers are part of the class of truck drivers is sufficient to resolve the question presented, as the class of truck drivers is clearly engaged in interstate commerce in the context of section 1.

Moreover, we note that this brief’s linguistic analysis does not require a fact-intensive inquiry into an individual worker’s day-to-day activities, such as whether the section 1 exemption includes a truck driver whose trips occur mostly, but not exclusively, within Virginia or a restaurant delivery driver who works on a state border. Nor does it require fact-

intensive inquiry into the history of the goods or people transported, such as whether the exemption covers a bus driver who personally drives only an in-state leg of a longer multi-state bus journey.

Instead, our analysis rests on the following two questions: (1) What is the section 1 class to which the worker belongs; and (2) is being “engaged . . . in interstate commerce” a generic property of that class, in the context of section 1?

This analysis also avoids unnecessary and challenging debates about the level of class generality. For example, erroneous focus on where a worker (or class of workers) happens to perform their work would lead to questions like: What about tour guides who give tours of state borders? As textualists have observed, “[b]ecause absurdity arises from the problem of statutory generality, judges will face many fewer occasions for even considering absurdity if they focus on the way people use language in context.” John F. Manning, *The Absurdity Doctrine*, 116 Harv. L. Rev. 2387, 2459 (2003). Here, the context is clear: Section 1 contemplates intermediate-level categories of similar abstraction to the listed categories. Recognizing this feature avoids the arcane debates that would inevitably arise from an inappropriate focus on subordinate categories.

Given transportation’s evolution, applying section 1’s exemption to modern circumstances may lead to hard cases. But this is not one of them. Brock is part of the class of “truck drivers,” and from 1925 to today, “truck drivers” is a well-established class of transportation workers that, like the class of seamen and the class of railroad employees, is (generically) engaged in interstate commerce.

CONCLUSION

The judgment of the court of appeals should be affirmed by this Court.

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