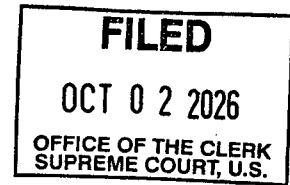


ORIGINAL

No. 26-478



**In the
Supreme Court
of the United States**

GRACIE FAYE HARRIS FINLEY,
Petitioner,

v.

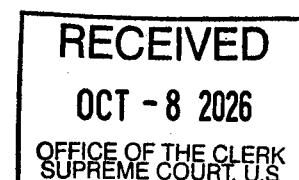
AMERICREDIT FINANCIAL SERVICES, INCORPORATED,
doing business as
GM FINANCIAL;

GULFPORT CAPITAL, L.L.C.,
doing business as
CHAMPION CHRYSLER DODGE JEEP RAM,
Respondents.

**ON PETITION FOR A
WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

PETITION FOR A WRIT OF CERTIORARI

GRACIE FAYE HARRIS FINLEY
Petitioner, Pro Se
39 Fleetwood Drive
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QUESTIONS PRESENTED

Whether, when contract formation is the threshold issue and remains specifically disputed, a court may compel arbitration based on a separately titled transaction document treated as undisputed because the challenger did not identify that document by title, or based on subsequent performance, where the challenger disputed formation of an enforceable agreement and the signatures and authorizations relied upon to establish assent.

Whether, under 9 U.S.C. § 4, a sworn denial and specific supporting evidence disputing execution, authorization, attribution, and assent require the court to resolve the making of the arbitration agreement before compelling arbitration.

PARTIES TO THE PROCEEDING

Petitioner Gracie Faye Harris Finley was the plaintiff in the district court and the appellant in the court of appeals. Respondents AmeriCredit Financial Services, Incorporated, doing business as GM Financial, and Gulfport Capital, L.L.C., doing business as Champion Chrysler Dodge Jeep Ram, were defendants in the district court and appellees in the court of appeals.

CORPORATE DISCLOSURE STATEMENT

Petitioner is an individual and is not a nongovernmental corporation. No corporate disclosure is required under Supreme Court Rule 29.6.

RELATED PROCEEDINGS

Finley v. AmeriCredit Financial Services, Inc., No. 1:25-cv-00335-LG-BWR, United States District Court for the Southern District of Mississippi. Final judgment entered December 30, 2025.

Finley v. AmeriCredit Financial Services, Incorporated, No. 26-60010, United States Court of Appeals for the Fifth Circuit. Judgment entered July 29, 2026; panel rehearing and rehearing en banc denied August 26, 2026.

Petitioner is unaware of any other proceedings directly related to this case within the meaning of Supreme Court Rule 14.1(b)(iii).

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OPINIONS BELOW

The opinion of the United States Court of Appeals for the Fifth Circuit is not designated for publication. *Finley v. AmeriCredit Financial Services, Incorporated*, No. 26-60010 (5th Cir. July 29, 2026) (per curiam). The opinion is reproduced in the Appendix at App. 1a–2a.

The order of the United States District Court for the Southern District of Mississippi granting Respondents' motions to compel arbitration and dismissing the action without prejudice is unreported. *Finley v. AmeriCredit Financial Services, Inc.*, No. 1:25-cv-00335-LG-BWR (S.D. Miss. Dec. 30, 2025). The order is reproduced in the Appendix at App. 3a–20a.

The district court entered its Final Judgment on December 30, 2025. The Final Judgment is unreported and is reproduced in the Appendix at App. 21a.

On August 26, 2026, the United States Court of Appeals for the Fifth Circuit denied Petitioner's petitions for panel rehearing and rehearing en banc. The rehearing order is unreported and is reproduced in the Appendix at App. 22a.

JURISDICTION

The United States Court of Appeals for the Fifth Circuit entered judgment on July 29, 2026. Petitioner timely filed petitions for panel rehearing and rehearing en banc. The court of appeals denied both petitions on August 26, 2026. Under Supreme Court Rules 13.1 and 13.3, the time to file this Petition runs from the denial of rehearing. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

This case principally involves 9 U.S.C. § 4, governing the judicial determination of whether the making of an arbitration agreement is in issue. This case also involves Mississippi Code Annotated § 75-12-17, governing the attribution and effect of an electronic record or electronic signature. The pertinent statutory text is reproduced in the Appendix at App. 23a–24a.

STATEMENT OF THE CASE

This case concerns the threshold judicial determination of contract formation before arbitration may be compelled under the Federal Arbitration Act.

Petitioner consistently disputed whether Respondents established the formation of an enforceable agreement. Her formation challenge included execution, authorization, authentication, attribution, consideration, definite terms, and mutual assent concerning the transaction documents and the signatures relied upon to establish an obligation to arbitrate. Respondents relied upon more than one transaction document containing arbitration language, including a Retail Installment Sale Contract and a separately titled Purchase Agreement. The district court concluded that Petitioner had challenged formation of the Retail Installment Sale Contract but had not challenged the handwritten signature attributed to her on the Purchase Agreement. On that basis, the district court held that the Purchase Agreement contained a valid arbitration agreement, compelled arbitration, and dismissed the action without prejudice. App. 3a–20a.

On appeal, the Fifth Circuit recognized Petitioner’s challenge to formation of the Retail Installment Sale Contract. It nevertheless stated that Petitioner did not dispute the district court’s determination that “the other contract, the purchase agreement—which has her physical, handwritten signature—contained a valid arbitration agreement.” The court concluded that any challenge to that determination was waived and affirmed “on that basis alone.” App. 1a–2a.

Petitioner timely sought panel rehearing and rehearing en banc, maintaining that her preserved formation challenge was not limited to one document by title and encompassed the signatures relied upon to establish assent. The court of appeals denied rehearing on August 26, 2026. App. 22a.

Petitioner’s formation challenge was not presented as an objection to the validity of an agreement whose formation she conceded. Her opening brief began: “This appeal concerns contract formation.” She asked whether arbitration could be compelled without first determining whether a valid agreement had been formed.

Petitioner specifically disputed execution and electronic authorization. She denied signing the arbitration agreement and denied authorizing electronic execution. She identified authentication evidence she had requested but had not received, including audit-trail information, timestamp logs, device and IP-address information, electronic certificates, and metadata capable of connecting the disputed electronic act to her.

The district court's own account of the complaint records Petitioner's allegation that she "never executed, authorized, or consented to any e-signature or digital-signature process" and that "[n]o verification record or IP authorization was ever produced." App. 4a-5a.

Petitioner expressly distinguished physical presence from contractual assent. Her opening brief stated that physical presence at the dealership did not substitute for proof of execution, authentication, and mutual assent. She requested reversal of the order compelling arbitration and remand "for determination of contract formation."

Thus, the issue Petitioner presented was antecedent to enforcement: whether Respondents had established an agreement attributable to Petitioner before invoking an arbitration provision contained within the disputed transaction documents. The existence of arbitration language somewhere in those documents was not the dispute. The dispute was whether the parties had actually formed an agreement containing that language.

Petitioner's formation challenge also concerned the identity of the agreement itself. She maintained that she was not presented with or provided a complete set of transaction documents at the dealership and that the complete documents later relied upon were not delivered with the vehicle. When transaction documents were later obtained, they included separate writings, including the Retail Installment Sale Contract, Purchase Agreement, and related forms.

Petitioner did not contend that the later-produced documents were irrelevant merely because they were produced later. Her point was narrower: the existence of individual writings did not, by itself, establish that each was presented to her, executed or authorized by her, or mutually assented to as part of an identifiable agreement at the time of formation.

For that reason, Petitioner repeatedly sought evidence capable of connecting the documents and purported acts of execution to her, including electronic-signature authorization and authentication records, audit information, timestamps, metadata, identity-verification information, and the complete transaction documents.

Those requests were directed to the same threshold question presented throughout the litigation: What agreement

did the parties actually form, and what evidence established Petitioner's assent to the agreement Respondents sought to enforce?

The district court recognized that the first inquiry on a motion to compel arbitration is "whether the parties entered into any arbitration agreement at all." App. 8a. It also identified mutual assent, consideration, and definite terms among the elements of contract formation under Mississippi law. App. 9a.

The court also noted the volume of Petitioner's affidavits, responses, surrebuttals, statements, motions, and exhibits. Because Respondents had not moved to strike those materials, the court stated that it reviewed and attempted to consider all of Petitioner's arguments and exhibits to the extent they pertained to arbitration. App. 7a-8a. That express review is difficult to reconcile with later treating the formation challenge as confined to whichever document title appeared in a particular passage.

In addressing Petitioner's signature challenges, the court noted Petitioner's dispute concerning electronic-signature consent and authentication, as well as her claim that her signature had been cut and pasted on some other transaction documents. App. 12a-13a.

The court nevertheless held that Petitioner "has not challenged the handwritten signature that appears on the Purchase Agreement." It therefore concluded that the Purchase Agreement contained a valid arbitration agreement. App. 13a.

As to the RISC, the court held that Petitioner had not adequately placed the authenticity of the signatures in issue and, on that basis, declined to permit arbitration-related discovery or conduct a hearing. App. 15a.

The court separately treated Petitioner's assertions concerning multiple contract versions, conflicting or altered terms, post-transaction financial adjustments, and the absence of a complete mutually executed contract as matters concerning contract validity or possible breach rather than formation of the arbitration agreement. App. 16a. It ultimately concluded that both the Purchase Agreement and the RISC contained arbitration agreements and compelled arbitration.

REASONS FOR GRANTING THE PETITION

I. THE RECORD RAISES FORMATION QUESTIONS THAT WERE NEVER ANSWERED

Petitioner is not asking this Court to create a new rule of law. The rules governing contract formation and arbitration already exist. Petitioner asks only that those rules be applied to the formation dispute she actually presented.

From the beginning, Petitioner challenged whether an enforceable agreement was ever formed. She did not challenge only one page, one signature, or one document by title. She challenged the agreement as a whole and the signatures, authorizations, financial terms, and transaction documents relied upon to establish that agreement.

That challenge was neither newly constructed for litigation nor raised only after repossession. Petitioner formally disputed the transaction on July 16, 2025. On July 18, GM Financial issued the first of its notices stating that, based upon the information Petitioner provided, the account may have been fraudulently established through identity theft.

Petitioner thereafter completed GM Financial's own "INVESTIGATION REQUEST FORM," identifying "CUT & PASTE SIGNATURES," "UNAUTHORIZED E-SIGNATURES," unauthorized add-on coverages, a fraudulent credit application containing incorrect information and inflated income, and the failure of the transaction documents to account for "\$6000 (\$4000 CASH, \$2000 debit)."

On October 2, 2025, Petitioner also executed a notarized declaration under penalty of perjury. She declared that the application contained false and manipulated information, including inflated income figures, cut-and-paste or unauthorized electronic signatures, and no proper authorization for electronic-signature use. She further declared that she had not supplied or approved the income attributed to her and that GM Financial had failed to verify the information, documents, and signatures relied upon in approving the transaction.

Thus, Petitioner did not merely question whether the attributed signatures appeared genuine. She placed the authorization and attribution of the signing acts themselves in issue. Her challenge encompassed the credit application,

the RISC, the Purchase Agreement, the optional-product agreements, and all signatures relied upon to establish assent. It did not exempt the Purchase Agreement merely because that document bore a separate title.

The financial records show why identifying the agreement mattered. Petitioner does not contend that different numbers, standing alone, prove wrongdoing. She does not ask this Court to reconstruct the dealership's accounting. She asks what the evidence established about the financial bargain to which she supposedly assented.

Respondents relied upon a \$2,000 debit-card receipt as evidence of Petitioner's presence at the dealership. The receipt establishes a "DEBIT CARD SALE" processed through "Station: PARTS." It does not identify that \$2,000 as a vehicle down payment, consideration under the RISC, consideration under the Purchase Agreement, or payment pursuant to any identified financing agreement.

Petitioner separately placed before the district court her sworn account that approximately \$4,000 in cash was tendered and counted in the finance office. No corresponding dealership receipt has been identified in the transaction records reviewed. Her asserted payments therefore totaled approximately \$6,000—\$4,000 cash and \$2,000 debit. Her GM Financial Investigation Request raised that precise issue by identifying "\$6000 (\$4000 CASH, \$2000 debit)" and stating that it was "NOT IDENTIFIED W PAPERWORK."

The RouteOne Decision Details reflects materially different financial terms. In its Application column, it records \$5,300.00 as "Cash Down," \$4,036.35 as "Total Down," \$923.59 as the monthly payment, and \$46,420.05 as the financed amount. Those entries establish what RouteOne recorded at the application stage. They do not establish that Petitioner supplied or authorized those figures or accepted them as the final terms.

The Decision column on the same document reflects \$1,714.78 as "Total Down," \$1,007.37 as the monthly payment, and \$48,741.62 as the financed amount. Those entries establish what the lender decision recorded. They do not explain why the Application and Decision reflect different down-payment, monthly-payment, and financing figures or establish which terms Petitioner accepted.

The later Champion Purchase Agreement / Invoice

presents another financial picture. It identifies a \$49,108.00 Selling Price, a \$30,000.00 Trade Allowance, a \$39,373.46 Lien Payoff, and a resulting negative \$9,373.46 Net Trade Allowance. It then identifies \$3,123.99 as "Down Payment at Delivery," \$7,964.25 as "Rebate," \$1,714.78 as "Total of Credits," and \$53,741.62 as "Unpaid Balance."

Those numbers establish what the Purchase Agreement records. They do not, by themselves, establish what money Petitioner tendered, the source of every credit, when each credit became part of the transaction, or what complete financial terms were presented when she supposedly assented.

The payment obligation also changed across the records:

\$923.59 — RouteOne Application

\$1,007.37 — RouteOne Decision

\$1,118.65 — Champion Invoice No. 0012760

Likewise, the amount financed changed from \$46,420.05 on the RouteOne Application to \$48,741.62 on the RouteOne Decision and ultimately to \$53,741.62 on the later transaction documents and RISC. The RISC further states a \$40,224.98 Finance Charge and \$93,966.60 Total of Payments.

The existence of those figures establishes what the respective documents record. It does not establish how the earlier terms became the final obligation, which payment structure was presented to Petitioner, or what evidence demonstrates that she accepted the completed financial structure.

The optional-product records raise the same formation issue. At one stage, the RouteOne Application reflects \$0.00 for GAP and \$0.00 for service contract. The lender's Decision Details separately states "MAX BACKEND ALLOWANCE OF \$5000.00." That establishes authority to finance up to \$5,000 in backend products. It does not establish that Petitioner selected or authorized any particular product.

Later documents reflect \$5,000 in optional products, but their descriptions differ. The Purchase Agreement identifies \$540 GAP Insurance and a \$4,460 Protection Plan, totaling \$5,000. The RISC itemization reflects separate charges of \$540, \$3,650, and \$810, likewise totaling \$5,000. The matching total does not establish who selected those products, when they were added, which description governed, or what evidence demonstrates Petitioner's authorization.

January 2024 records add another accounting event. Two cancellation checks—\$791.69 and \$332.30—total \$1,123.99. Those records establish later cancellation activity. They do not, without connecting evidence, establish how that January activity affected the financial terms supposedly formed in November. A later cancellation or refund cannot be fitted retrospectively into an earlier agreement by arithmetic alone. Its source, authorization, posting, and contractual effect must come from evidence.

The credit application presents the same attribution problem. It attributes approximately \$7,500 in monthly gross income to Petitioner and \$8,000 to the co-applicant. It also represents Petitioner as “Full Time,” as owning her home outright, and as having a \$0.00 monthly mortgage payment, while Petitioner placed before the court her position that an active mortgage remained. She also disputed the employment, housing, and residence-duration information attributed to the applicants.

GM Financial later stated that proof of income was not required. But “proof of income not required” answers only whether the lender demanded documentary verification. It does not establish who supplied or entered the \$7,500 and \$8,000 figures or whether Petitioner reviewed and authorized them.

Petitioner maintained that she provided income-related information of her own and that the co-applicant provided a pay stub. If the figures placed into RouteOne did not come from those materials, Petitioner was not required to invent their source. She requested the records that could establish where the figures came from and who authorized them.

The chronology compounds the problem. RouteOne reflects creation activity on November 22, 2023, later printing and lender activity on November 29, 2023, and additional accounting activity in January 2024. A creation time establishes creation. A print time establishes printing. A financing decision establishes the decision recorded. A receipt establishes the transaction shown on that receipt. A later cancellation establishes a later accounting event. None of those events becomes the moment of contract formation merely because it appears somewhere in the transaction file.

The transaction records Petitioner placed before the district court contain an additional chronological difference.

The RouteOne application data reflects 47 miles and identifies application activity on November 22, 2023. Champion's Purchase Agreement / Invoice, dated November 29, 2023, records the same vehicle at 24 miles. Thus, the later-dated transaction document reports 23 fewer miles than the earlier application data. Petitioner does not ask the Court to determine why. The difference is relevant only to the threshold question of what completed transaction information existed when assent allegedly occurred.

Petitioner was not required to create an alternative accounting for Respondents. She did not have to determine where the \$5,300 originated, why \$4,036.35 became \$1,714.78, how \$46,420.05 became \$48,741.62 and then \$53,741.62, why the monthly payment moved from \$923.59 to \$1,007.37 and then \$1,118.65, or how the later \$1,123.99 cancellation activity affected the transaction.

Those were questions for evidence, not assumptions. Once the documents are placed beside one another, the formation inquiry can be stated in plain English:

Which contract? Which terms? Which signing act? Which authorization? At what point did all of those things come together into one enforceable agreement?

If Respondents rely upon the RISC, then the RISC must be considered for the complete financial bargain it purports to memorialize, not merely for its arbitration language. If they rely upon the Purchase Agreement independently, formation of that Purchase Agreement must itself be established. If the transaction documents collectively constitute the asserted agreement, the evidence must establish how those documents connect, when their terms became final, and what complete agreement Petitioner assented to.

Section 4 of the Federal Arbitration Act provides that when "the making of the arbitration agreement" is in issue, the court "shall proceed summarily to the trial thereof." 9 U.S.C. § 4. The former Fifth Circuit explained that a party places the making of an arbitration agreement in issue through an unequivocal denial supported by some evidence. *T & R Enters., Inc. v. Cont'l Grain Co.*, 613 F.2d 1272, 1278 (5th Cir. 1980).

Applying that evidentiary standard, the Alabama Supreme Court held that a woman's sworn denial that she signed an attributed arbitration agreement was sufficient to create a genuine issue concerning formation, notwithstanding the production of an agreement bearing her purported signature. *SSC Selma Operating Co. v. Gordon*, 56 So. 3d 598, 604–05 (Ala. 2010).

Petitioner presented more than an unsupported denial. She produced a notarized declaration under penalty of perjury; identified cut-and-paste and unauthorized electronic signatures on GM Financial's own investigation form; disputed all signatures relied upon; documented inconsistent financial and transaction records; and requested audit trails, timestamps, identity-verification information, authorization records, and electronic-signature evidence capable of establishing attribution.

The existence of documents displaying signatures attributed to Petitioner did not resolve whether she performed or authorized the acts relied upon as her assent. Nor did her physical presence at the dealership authenticate every document subsequently placed in the transaction file.

The controlling question therefore remained:

When did Petitioner supposedly assent to a complete and identifiable agreement containing an arbitration provision, what financial and other terms existed at that moment, and what evidence established that the act of assent was actually hers?

This Petition does not ask the Court to determine whether a particular signature is genuine, reconstruct automobile financing, or choose Petitioner's preferred version of the numbers. It presents the antecedent question under the Federal Arbitration Act: whether an arbitration agreement may be enforced before the court determines what agreement was formed and whether the acts relied upon to establish assent were performed or authorized by the party to be bound.

In *Coinbase, Inc. v. Suski*, 602 U.S. 143, 148 (2024), this Court reaffirmed that "the first question in any arbitration dispute must be: What have these parties agreed to?" The Court further explained that a challenge need not be confined only to an arbitration provision when the same challenge applies to the contract and the agreement to arbitrate. *Id.* at 151.

Here, the district court itself identified formation as the threshold inquiry. Petitioner disputed execution, electronic authorization, authentication, attribution, presentation, consideration, definite terms, and mutual assent and sought evidence directed to those matters. Yet the separately titled Purchase Agreement was treated as containing a valid arbitration agreement because Petitioner supposedly had not challenged the handwritten signature attributed to her on that particular document.

The Fifth Circuit then held that Petitioner had waived any challenge to that determination and affirmed “on that basis alone.” App. 2a.

A. Physical presence and the appearance of a signature cannot substitute for proof of formation.

Petitioner did not deny being physically present at the dealership. But presence establishes presence. It does not establish which documents were presented, which documents Petitioner executed or authorized, what terms she accepted, or whether she assented to the particular agreement later invoked to compel arbitration.

The same distinction applies to a signature. The appearance of a signature on a page establishes that a signature or signature representation appears there. Describing that signature as “her” signature adds a separate factual proposition: attribution of the signing act to Petitioner. Where execution, authorization, and attribution were disputed, that proposition required an evidentiary basis.

Petitioner therefore sought the evidence capable of resolving that question—authentication records, audit information, timestamps, device and IP information, electronic-signature records, identity-verification information, and testimony or records concerning execution. Those requests were directed to formation, not to collateral discovery.

Yet the district court declined arbitration-related discovery or an evidentiary hearing after concluding that Petitioner had not adequately placed signature authenticity in issue. The Fifth Circuit thereafter treated a separately titled Purchase Agreement as containing “her physical, handwritten signature” and affirmed on that basis.

The resulting problem is not that a court considered

a signature or Petitioner's physical presence as evidence. It is that evidence capable of supporting an inference of assent was treated as sufficient to bypass the antecedent question Petitioner had placed in dispute: what evidence established that the relied-upon signing act was actually hers and manifested assent to the particular agreement being enforced?

Section 4 does not permit that unresolved factual proposition to be presumed merely because a signature representation appears somewhere in the transaction file. When the making of the arbitration agreement is placed in issue by sworn and supporting evidence, formation must be determined before arbitration is compelled.

B. Neither decision below resolved the formation dispute that Petitioner actually presented.

Section 4 supplies a procedure for the precise circumstance presented here. When "the making of the arbitration agreement" is genuinely in issue, the court must resolve that antecedent dispute before enforcing the alleged agreement. 9 U.S.C. § 4.

The district court did not conduct an evidentiary hearing or summary trial to determine who executed or authorized the disputed signing acts. Nor did it permit the formation-directed discovery Petitioner sought concerning authentication, electronic authorization, execution records, witnesses, and related objective evidence.

Instead, the district court concluded that Petitioner had not adequately placed signature authenticity in issue and had not separately challenged the purported handwritten signature later attributed to her on the Purchase Agreement.

The Fifth Circuit did not subsequently decide those unresolved evidentiary questions. It did not determine what evidence established that the signing act attributed to the Purchase Agreement was Petitioner's authorized act, what complete agreement was formed, or when Petitioner assented to that agreement. Rather, it held that Petitioner had not challenged the Purchase Agreement determination, deemed the issue waived, and affirmed "on that basis alone." App. 2a. That distinction is critical. A finding that a party failed adequately to dispute a fact is not the same judicial act as resolving a genuinely disputed formation fact through

evidence. An appellate waiver holding does not itself establish who executed a contract, authenticate a disputed signature, or prove assent to identifiable terms.

Thus, the threshold question remains identifiable from the decisions themselves:

Where was Petitioner's challenge to execution, attribution, authorization, and assent actually resolved before arbitration was compelled?

C. The waiver holding transformed a formation challenge into a document-by-document preservation requirement.

Petitioner never affirmatively conceded that the Purchase Agreement was formed, executed or authorized by her, or independently assented to. Her consistent position was that formation of an enforceable agreement had not been established. She challenged execution, authorization, authentication, attribution, presentation, and mutual assent—including all signatures relied upon—and sought remand for a judicial determination of contract formation.

The Fifth Circuit did not identify an affirmative concession concerning formation of the Purchase Agreement. Instead, it held that Petitioner had failed to dispute the district court's particular determination concerning that separately titled document and therefore waived review. App. 2a. The practical effect was to remove one transaction document from the broader formation challenge because Petitioner had not separately attacked it by name.

That approach is difficult to reconcile with the formation principles governing arbitration. In *Coinbase, Inc. v. Suski*, 602 U.S. 143, 148 (2024), this Court reaffirmed that the first question is: "What have these parties agreed to?" In rejecting an argument based upon severability, the Court further explained that the law does not require a party to challenge only an isolated arbitration or delegation provision when the same challenge applies equally to the contract containing it. *Id.* at 151.

Likewise, in *Will-Drill Resources, Inc. v. Samson Resources Co.*, 352 F.3d 211, 218–19 (5th Cir. 2003), the Fifth Circuit held that when the very existence of an agreement is disputed, that formation question remains for the court even though the challenge is directed to the agreement generally rather than only to its arbitration clause.

Petitioner's challenge did not become a new legal theory each time another transaction document was examined. Authentication, authorization, attribution, execution, consideration, definiteness, presentation, delivery, chronology, and mutual assent were component evidentiary questions within the same preserved challenge: What enforceable agreement, if any, did the parties form?

The question here is therefore not whether courts may enforce ordinary appellate-waiver rules. They may. The question is whether a preserved challenge to the existence of an agreement may be fragmented into document-specific waivers, permitting one transaction document to be treated as an independently formed arbitration contract without first determining whether that document and the acts attributed to it fell within the formation challenge the party actually presented.

D. Moving among multiple transaction documents does not answer which agreement was actually formed.

Respondents relied upon more than one writing containing arbitration language. That does not eliminate the formation inquiry. It makes identification of the agreement being enforced more important.

If the Purchase Agreement is an independently enforceable contract, then formation of that Purchase Agreement must be established independently—including the execution, authorization, and mutual assent upon which its enforcement depends.

If the RISC is the agreement being enforced, then formation of the RISC must be established, including the disputed electronic execution and authorization relied upon to connect Petitioner to its arbitration provision.

If Respondents contend that several transaction documents collectively constituted a single agreement, the record must provide an evidentiary and contractual basis for connecting those writings to one another and to Petitioner's assent. The existence of several related documents does not, by itself, establish that they were presented together, executed together, incorporated into one another, or mutually assented to as one agreement.

This distinction is not merely technical. Multiple writings may constitute one contractual transaction when the evidence

establishes the necessary connection. But that connection cannot be presumed solely because the writings concern the same vehicle. A signature appearing on one instrument does not automatically establish execution or authorization of another, just as performance of a vehicle transaction does not identify every contractual term to which the parties assented.

Respondents therefore cannot avoid the antecedent formation question by moving from one document to another. Whichever agreement supplies the asserted obligation to arbitrate, Respondents were required to establish the existence and terms of that agreement and Petitioner's assent to it.

The same controlling question remains:

What evidence established that Petitioner formed and assented to the particular agreement Respondents sought to enforce?

E. The attribution dispute was supported by specific evidence and a request for limited formation discovery.

The missing connection between the transaction documents and Petitioner was not theoretical. Petitioner placed before the district court separate documents containing purported signatures attributed to her and submitted clear overlay comparisons showing that the signature images appeared to correspond when superimposed. Those comparison materials were placed before the district court as part of Petitioner's formation and attribution challenge.

Petitioner did not offer those comparisons as expert proof of forgery or as a scientific determination of how the signatures were created. Their purpose was narrower: to demonstrate an observable basis for disputing attribution and why authentication of the signing acts mattered to formation. GM Financial challenged the significance of the comparisons on the ground that Petitioner was not a handwriting expert. But that objection concerned the weight of any conclusion Petitioner might draw from the similarities. It did not establish that the signatures represented separate physical signing acts performed by Petitioner. Nor did it establish when, where, or under what authorization any disputed

signature was created or applied.

Mississippi law directly addresses that distinction. An electronic signature is attributable to a person only “if it was the act of the person,” and that act may be shown through evidence concerning the efficacy of the security procedure used to determine attribution. Miss. Code Ann. § 75-12-17(a). Its legal effect depends upon the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties’ agreement, if any. § 75-12-17(b).

The Mississippi Supreme Court likewise recognizes that electronic form alone does not establish a valid signature. The sound, symbol, or process must have been executed or adopted by the person with the present intention to adopt or accept the electronic record, and whether that intent existed presents a question of fact. *Parish Transp. LLC v. Jordan Carriers, Inc.*, 327 So. 3d 45, 55–57 (Miss. 2021).

Petitioner therefore requested limited discovery directed to formation, including authentication and authorization records, electronic-signature and audit information, complete transaction documents, identity-verification information, execution records, and testimony or records from persons with firsthand knowledge. D. Ct. Dkt. 25; App. 15a. Those materials were capable of testing whether the disputed signing acts were actually Petitioner’s and how they connected her to the writings Respondents sought to enforce.

GM Financial opposed Petitioner’s position and sought arbitration on the existing record. It nevertheless stated that, “to the extent the Court finds outstanding issues of fact,” GM Financial requested an evidentiary hearing and cited Section 4’s direction that a court proceed summarily to trial when the making of an arbitration agreement is at issue. GM Financial’s Nov. 28, 2025 filing at 10–11.

The district court permitted neither limited formation discovery nor an evidentiary hearing after concluding that Petitioner had not adequately placed signature authenticity in issue. App. 15a.

The significance of the comparison evidence is therefore not that it conclusively answered who created or applied the signatures. It is that Petitioner identified an observable basis for disputing attribution, expressly challenged the signing acts relied upon to establish assent, and sought the objective

evidence capable of resolving that dispute.

The appearance of a signature representation could not itself supply the missing attribution. Under Mississippi law, the dispositive factual question remained whether the electronic act was Petitioner's and was executed or adopted by her with the intent to sign the associated record.

F. Limited formation discovery sought the evidentiary bridges missing from the fragmented transaction record.

Petitioner's request for limited discovery was not confined to signature comparison. In filings before the district court, Petitioner maintained that she was neither presented with nor provided a complete contract packet during the transaction and that documents later relied upon by Respondents were obtained through separate and fragmented productions. Petitioner also stated in materials placed before the district court that, at vehicle delivery, a sealed envelope was placed in the Jeep's glovebox and that, when she later opened the envelope, it did not contain the complete RISC or arbitration documents subsequently relied upon to compel arbitration. That evidence was relevant to presentation and delivery: whether the complete terms later asserted by Respondents were provided to Petitioner as the agreement at the alleged time of formation.

Later production establishes, at most, that a document was produced at a later time and—when supported by an adequate foundation—may establish that it existed in a party's files. It does not, standing alone, establish that the same completed document existed in its asserted form, was presented to Petitioner, was executed or authorized by her, or was delivered as part of the agreement at the alleged moment of formation.

Nor does assembling separate writings after the fact establish that those writings constituted one agreement when assent allegedly occurred. Each document may establish what appears on its face. The unanswered question is what evidence connects the individual writings to one another, to the alleged point of execution, and ultimately to Petitioner's assent.

That question was sharpened by the transaction chronology. The record contained documents and transaction activity associated with different dates, including November

22 and November 29, 2023, and later January 2024 accounting activity. App. 9a–10a. The existence of those dates does not itself establish that terms were changed or documents were improperly created. It raises the formation question the record must answer:

When did the parties assent to the same identifiable and definite agreement, and what evidence establishes the terms existing at that time?

The limited discovery Petitioner sought—including complete transaction documents, RouteOne and electronic-signature records, authentication and authorization information, identity-verification records, timestamps, and witnesses with firsthand knowledge—was directed to those missing connections. D. Ct. Dkt. 25; App. 15a.

Petitioner was not required to reconstruct from fragmented evidence the complete agreement Respondents themselves relied upon to compel arbitration. If the writings collectively constituted that agreement, the evidentiary and contractual connection among them had to be established. If one writing independently supplied the obligation to arbitrate, formation of that writing had to be established on its own.

II. THE DECISION BELOW CONFLICTS WITH THIS COURT'S REQUIREMENT THAT A COURT DETERMINE WHAT THE PARTIES AGREED TO BEFORE COMPELLING ARBITRATION

Arbitration depends upon agreement. That principle is not new, and Petitioner does not ask this Court to change it. This Court has repeatedly explained that courts must determine whether the parties actually agreed to arbitrate before requiring them to do so. *First Options of Chicago, Inc. v. Kaplan*, 514 U.S. 938, 943–44 (1995), recognizes that arbitration is a matter of consent. *Granite Rock Co. v. International Brotherhood of Teamsters*, 561 U.S. 287, 296–300 (2010), treats contract formation as a question for judicial determination. *Coinbase, Inc. v. Suski*, 602 U.S. 143, 148 (2024), begins with the basic question: “What have these parties agreed to?”

That was also the question Petitioner was asking. The district court identified formation as the threshold issue. Petitioner remained within that issue by challenging execution, authorization, authentication, attribution,

presentation, consideration, definite terms, and mutual assent. She identified parts of the record that left formation unresolved and requested evidence capable of answering those questions.

The Fifth Circuit did not hold that those questions had been resolved as to the Purchase Agreement. Instead, it concluded that Petitioner had not separately disputed that document, treated it as containing "her physical, handwritten signature," and affirmed "on that basis alone." App. 2a.

If the Purchase Agreement was an independently enforceable contract, the question remained whether that agreement itself was formed. If the Purchase Agreement and RISC were parts of one contractual transaction, the question remained what evidence connected those writings and established Petitioner's assent to the resulting agreement. Either way, arbitration language in a transaction document did not answer the antecedent question whether Petitioner formed and assented to the agreement containing it.

Without first establishing the agreement, its arbitration provision cannot supply the proof of its own formation.

III. SECTION 4 PROVIDES THE PROCEDURE WHEN THE MAKING OF THE ARBITRATION AGREEMENT IS GENUINELY IN ISSUE

Section 4 directs a court to compel arbitration only when satisfied that the making of the arbitration agreement is not in issue. When making is in issue, the court "shall proceed summarily to the trial thereof." 9 U.S.C. § 4. The former Fifth Circuit framed the required showing as an unequivocal denial supported by some evidence. *T & R Enterprises, Inc. v. Continental Grain Co.*, 613 F.2d 1272, 1278 (5th Cir. 1980).

Petitioner's showing met that procedural purpose. She denied the signing and authorization attributed to her under penalty of perjury; identified cut-and-paste signatures, unauthorized electronic signatures, disputed financial and application information, and missing transaction documents; supplied overlay comparisons as a reason to test attribution; and sought objective authentication evidence. Her showing did not require the court to accept her ultimate account. It required the court to decide making through the procedure Congress supplied.

The decisions below instead ended the inquiry by

characterizing the showing as inadequate as to one document and waived as to another. Neither disposition performed the fact-resolving function Section 4 assigns to the court once making is genuinely in issue.

IV. THE FORMATION CHALLENGE WAS NOT LIMITED TO DOCUMENTS IDENTIFIED BY TITLE

Petitioner's filings challenged formation of an enforceable agreement and all signatures and authorizations relied upon to establish assent. That challenge was transaction-wide but not vague: it identified execution, electronic authorization, authentication, attribution, presentation, consideration, definite terms, chronology, and mutual assent.

Will-Drill Resources, Inc. v. Samson Resources Co., 352 F.3d 211, 218–19 (5th Cir. 2003), distinguishes a challenge to the validity of an admitted contract from a challenge to whether any agreement was formed. Coinbase likewise rejects the premise that a challenge applying to the contract as a whole must be artificially confined to an isolated arbitration term. 602 U.S. at 151.

The label on a transaction document does not define the scope of a preserved formation challenge. Where the asserted signing acts and assent are disputed across the transaction, treating one writing as conceded solely because its title was not repeated converts a substantive formation inquiry into a naming requirement that the FAA does not contain.

V. A SIGNATURE APPEARING ON A DOCUMENT DOES NOT, BY ITSELF, ANSWER WHO MADE OR AUTHORIZED IT

A signature may be evidence of assent, but only after the signing act is attributed to the person to be bound. Mississippi's electronic-transactions statute makes that distinction express: an electronic signature is attributable to a person only if it was that person's act, and the effect of the attributed signature depends on the context and surrounding circumstances. Miss. Code Ann. § 75-12-17(a)–(b).

Parish Transport LLC v. Jordan Carriers Inc., 327 So. 3d 45, 55–57 (Miss. 2021), similarly requires an act executed or adopted with present intent to accept the record. The dispute here was therefore not answered by observing that a

signature representation appeared on a document. Petitioner disputed the act, authorization, and intent and requested the evidence—security procedures, audit records, timestamps, device information, and firsthand testimony—capable of resolving attribution.

Calling the signature “her” signature assumes the very factual connection Petitioner disputed. Section 4 required that connection to be established, not embedded in the description of the evidence.

VI. THE RECORD DOES NOT IDENTIFY THE POINT AT WHICH THE REQUIRED ELEMENTS OF FORMATION CONVERGED

The district court identified mutual assent, consideration, and definite terms as formation elements under Mississippi law. App. 9a. Yet the transaction record contains differing down-payment, credit, financed-amount, monthly-payment, product, and chronology entries. Petitioner does not contend that every difference proves misconduct. She contends that the differences prevent the papers, standing alone, from identifying the completed bargain and the moment of assent.

Formation required more than showing that individual documents existed. It required evidence identifying the operative terms, the contractual connection among the writings, and the act by which Petitioner accepted those terms. The record did not answer: Which contract? Which terms? Which signing act? Which authorization? At what point did all of those things come together into one enforceable agreement?

VII. MULTIPLE WRITINGS AND SUBSEQUENT PERFORMANCE DID NOT IDENTIFY THE AGREEMENT FORMED

The district court correctly began with formation—“whether the parties entered into any arbitration agreement at all.” App. 8a. But in resolving that inquiry, it relied upon Petitioner’s presence at the dealership, her acquisition and possession of the vehicle, and her payments, and it invoked the rule that assent may sometimes be shown by acts or conduct. App. 9a–10a, 14a–15a. Those circumstances may support an inference that some transaction occurred. They do

not, without the missing evidence of execution, authorization, and operative terms, identify which asserted writing was formed or which arbitration provision Petitioner accepted.

Possession of the vehicle, a payment, or physical presence may be evidence consistent with some transaction. But performance cannot identify every term of an agreement when the identity, content, and execution of the writings remain disputed. Nor can a signature on one writing automatically authenticate a different writing.

If several writings formed one transaction, the evidence had to establish their contractual connection and Petitioner's assent to the combined terms. If either the Purchase Agreement or RISC independently supplied the arbitration obligation, formation of that writing had to be established on its own. Moving among related documents and later conduct did not eliminate those alternatives or decide which agreement was made.

VIII. THE AUTHORIZATION AND ATTRIBUTION DISPUTE EXISTED BEFORE LITIGATION AND EXPLAINS PETITIONER'S REQUEST FOR LIMITED FORMATION DISCOVERY

Petitioner formally disputed the transaction on July 16, 2025. GM Financial's July 18 notice stated that the account may have been fraudulently established through identity theft. Petitioner then used GM Financial's investigation form to identify cut-and-paste signatures, unauthorized electronic signatures, unauthorized add-on products, false application information, inflated income, and unaccounted-for cash and debit payments. On October 2, 2025, she executed a notarized declaration under penalty of perjury addressing those same matters.

That chronology matters because it shows that the attribution dispute preceded the ruling compelling arbitration and remained consistent. The requested discovery was correspondingly limited to formation: complete transaction records, audit trails, electronic-signature authorization, timestamps, device and IP information, identity verification, and witnesses with firsthand knowledge. Those requests sought the evidentiary bridges necessary to decide making, not discovery into the merits of collateral claims.

**IX. THE DECISION BELOW RESOLVED THE APPEAL
THROUGH A DOCUMENT-SPECIFIC WAIVER
RATHER THAN THE FORMATION QUESTION
PETITIONER PRESENTED**

The Fifth Circuit's unpublished opinion did not determine that Petitioner executed or authorized the Purchase Agreement. It held that she had not disputed the district court's Purchase Agreement determination and affirmed "on that basis alone." App. 2a.

Petitioner does not ask this Court to displace ordinary preservation rules. She asks whether those rules can be applied by extracting one transaction document from a preserved challenge to formation of an enforceable agreement and all signatures relied upon to establish assent. A waiver holding may end appellate review; it cannot itself authenticate a signing act, establish definite terms, or prove mutual assent.

The consequence here was decisive: an unresolved premise—that the Purchase Agreement contained Petitioner's physical, handwritten signature and independently formed a valid arbitration agreement—became the sole basis for affirmance. Review is warranted to determine whether that result is compatible with the antecedent judicial duty imposed by Section 4.

**X. REVIEW IS WARRANTED BECAUSE THE QUESTION
CONCERNS THE FORMATION INQUIRY REQUIRED
BY EXISTING FEDERAL LAW**

The question is recurring and important. Consumer transactions increasingly involve multiple integrated writings, lender platforms, electronic signatures, later document production, and records maintained by different participants. In that setting, identifying a document containing arbitration language is not always the same as establishing who executed it, what terms were accepted, or how multiple writings became one agreement.

This case presents the issue cleanly because the district court expressly identified formation as the threshold question, the record contains a sworn denial and specific supporting evidence directed to execution and attribution, and the Fifth Circuit affirmed solely on document-specific waiver. The Court need not decide whether any signature was forged or whether Petitioner ultimately prevails. It need only clarify that

courts must determine what agreement was formed before an arbitration provision within the disputed transaction can be enforced.

Review would preserve both sides of the FAA's design: arbitration agreements are enforced according to their terms, but only after a court determines that the parties actually made the agreement invoked.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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