No.

In the Supreme Court of the United States

HYUNDAI MOTOR AMERICA, INC., APPLICANT,

v.

BRENDA HAGEMAN AND DANA JAYE BAL, ET AL., RESPONDENTS

APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE NINTH CIRCUIT:

Under this Court's Rule 13.5, applicant Hyundai Motor America, Inc. respectfully requests a 30-day extension of time, to and including October 28, 2026, within which to file a petition for a writ of certiorari to review the judgment of the U.S. Court of Appeals for the Ninth Circuit.[†] The court of appeals entered its judgment on March 25, 2026, App. 1a, and denied applicant's timely petition for rehearing on June 29, 2026, *id.* at 36a. Unless extended, the time within which to file a petition for a writ of certiorari will expire on September 28, 2026. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1).

1. This case presents an important, recurring question about the Federal Arbitration Act on which courts are sharply divided. This Court has held that, "as a matter of federal law, any doubts concerning the scope of arbitrable issues should be resolved in favor of arbitration," including when "the problem at hand is the construction of the contract language itself." *Moses H. Cone Memorial Hospital* v. *Mercury Construction Corp.*, 460 U.S. 1, 24-25 (1983). But litigants resisting arbitration often look for ways around the presumption. Many have turned to last-gasp interpretive canons such as absurdity, arguing that courts should decline to apply arbitration agreements that by their terms cover the dispute on the ground that ordering arbitration would be "absurd." The Fourth Circuit rejected such an argument, applying *Moses H. Cone*'s "'presumption of arbitrability'" and declining to reject arbitration on absurdity grounds. *Mey* v.

[†] Under Rule 29.6, applicant states that Hyundai Motor America, Inc. is a wholly owned subsidiary of Hyundai Motor Company (HYMTF), a Korean corporation whose shares are publicly traded in the United States in the form of American Depositary Receipts. The only publicly held entity that owns 10% or more of the stock of Hyundai Motor Company is Hyundai MOBIS Co., Ltd.

DIRECTV, LLC, 971 F.3d 284, 292-95 (4th Cir. 2020). The Ninth Circuit expressly disagreed with that reasoning, declining to apply *Moses H. Cone* and instead applying the absurdity canon to reject arbitration. *Revitch* v. *DIRECTV, LLC*, 977 F.3d 713, 717-18 (9th Cir. 2020). In this case, a divided panel of the Ninth Circuit applied that precedent to reject arbitration on the ground that it would be absurd. App. 7a-9a. The Ninth Circuit's rule contravenes the FAA and this Court's decisions, evinces the very hostility to arbitration the FAA was designed to eliminate, unsettles parties' legitimate expectations, and deprives litigants of the many benefits of arbitration.

a. Applicant is a distributor of automobiles with authorized dealers across the United States. Applicant does not sell vehicles directly to consumers, but it and buyers may contract with each other following or in connection with a vehicle purchase. For instance, car buyers may contract with applicant for "Bluelink," an optional connected-services system integrated into Hyundai vehicles with features spanning from remote control to on-demand diagnostics to emergency assistance. App. 24a n.2. Those contracts call for mandatory arbitration of "any and all disputes and claims ... arising out of or relating to" not just the provision of Bluelink services, but also the "Vehicle," defined as the consumer's "Hyundai . . . vehicle." *Id.* at 3a; *id.* at 11a (Forrest, J., dissenting).

Respondents bought Hyundai Palisades and contracted with applicant for Bluelink services. They each later sued applicant, claiming their Palisades had defective tow-hitch harnesses. App. 2a. Applicant moved to compel arbitration in both cases. The district court denied both motions, accusing applicant of joining a "rogues' gallery of corporate weaponization and abuse of the arbitration agreement." *Id.* at 22a n.1. In the court's view, construing the parties' agreement to arbitrate all disputes "relating to" the

"Vehicle" to cover respondents' claims about their Palisades' tow-hitch harnesses would produce "the type of absurdity that the law abhors." *Id.* at 33a-34a (citing, *e.g.*, *Revitch*, 977 F.3d at 718-19); *see id.* at 20a (adopting that same reasoning).

b. The Ninth Circuit consolidated the cases and affirmed in a divided opinion. App. 2a, 9a. The majority concluded that the parties' arbitration agreement should not be read to cover respondents' claims. In its view, a literal reading that respondents had agreed to arbitrate "any dispute related to their Hyundai automobile[s]" would produce "absurd results." App. 7a (quoting *Revitch*, 977 F.3d at 717).

Judge Forrest dissented. She observed that "Vehicle" is used consistently throughout the agreement to refer to the entire vehicle. App. 11a. Given the agreement's plain text, Judge Forrest saw "no need for the absurdity canon" and would have held that respondents' claims were within the scope of the agreement. *Id.* at 13a-14a.

c. The Ninth Circuit denied rehearing. App. 36a.

2.a. The courts of appeals are split over how the FAA's presumption of arbitrability overlaps with interpretive canons like absurdity. The Fourth Circuit, emphasizing courts "'must decide the question in favor of arbitration'" when "'the scope of the arbitration clause is open to question,'" has found arbitrability where an agreement's terms arguably covered the parties' dispute despite arguments that doing so would be "absurd." *Mey*, 971 F.3d at 292-95; *see id.* at 301-02 (Harris, J., dissenting). The Ninth Circuit disagreed, declining to enforce an arbitration agreement whose terms arguably covered the parties' dispute because that outcome would be "absurd," *Revitch*, 977 F.3d at 717-18, drawing a dissent that instead would have applied the presumption of arbitrability, *id.* at 726 (Bennett, J., dissenting). The Ninth Circuit recognized that the Fourth

Circuit had "arrived at the opposite conclusion" and that its decision was "opening a circuit split on this difficult issue." *Id.* at 720 (majority opinion); *see* App. 7a-8a (applying *Revitch* and absurdity canon rather than presumption of arbitrability); *id.* at 33a-34a (same); *see also Metroplex Communications, Inc.* v. *Meta Platforms, Inc.*, — F.4th —, 2026 WL 2530248, at *3-4 (7th Cir. Aug. 27, 2026) (like *Revitch*, rejecting presumption of arbitrability and applying absurd-results canon).

This sharp split reflects broader confusion about the presumption of arbitrability. This issue has yielded a wealth of conflicting opinions from judges across the country. *See, e.g.*, *Revitch*, 977 F.3d at 722-24 (O'Scannlain, J., concurring); *id.* at 726-28 (Bennett, J., dissenting); *Calderon* v. *Sixt Rent a Car, LLC*, 5 F.4th 1204, 1213 (11th Cir. 2021); *id.* at 1215 (Jill Pryor, J., concurring); *id.* at 1215-21 (Newsom, J., concurring); *Davitashvili* v. *Grubhub Inc.*, 131 F.4th 109, 124-25 (2d Cir. 2025) (Pérez, J., concurring); *id.* at 125 (Sullivan, J., concurring in part and dissenting in part).

b. The Ninth Circuit's approach systematically undermines parties' commitments to arbitrate. In *Moses H. Cone*, this Court held that "*any doubts* concerning the scope of arbitrable issues should be resolved in favor of arbitration." 460 U.S. at 24-25 (emphasis added). Where, as here, there is no dispute that the parties formed an agreement to arbitrate and the question is what disputes the agreement covers, courts should find coverage so long as the "contract language itself" arguably covers the dispute. *Ibid.* Applying a last-resort canon like absurdity to reject arbitrability subverts that rule. Absurdity applies only when an agreement arguably can be read to cover the dispute; at that point, the FAA's "federal policy favoring arbitration" should apply. *Id.* at 24. Plus, absurdity should apply "only under rare and exceptional circumstances," where the supposed absurdity is "so gross as to shock the general moral or common sense." *Crooks* v. *Harrelson*, 282 U.S. 55, 60 (1930). Allowing courts to sidestep plain text based on an intuition that enforcing arbitration would be "absurd" thus encourages precisely the sort of "judicial hostility towards arbitration that prompted the FAA" in the first place. *AT&T Mobility LLC* v. *Concepcion*, 563 U.S. 333, 342 (2011).

3. Additional time is necessary for counsel to prepare a petition that would be helpful to the Court. Counsel for applicant has had, and will continue to have, significant professional responsibilities in other time-sensitive matters, along with preexisting travel plans, before and after the current September 28 deadline.

Accordingly, applicant respectfully requests that its time to file a petition for a writ of certiorari be extended by 30 days, to and including October 28, 2026.

Respectfully submitted.

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