IN THE

Supreme Court of the United States

ENTRATA, INC.,

Applicant,

v.

KAITLYN TRIMBLE,

Respondent.

On Application for Extension of Time

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

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RULE 29.6 STATEMENT

Applicant Entrata, Inc. has no parent company and no publicly held company owns 10% or more of its stock.

To the Honorable John G. Roberts, Jr., Chief Justice of the United States and Circuit Justice for the Fourth Circuit:

Pursuant to this Court's Rule 13.5, applicant Entrata, Inc. (Entrata) respectfully requests a 60-day extension of time, to and including January 8, 2027, within which to file a petition for a writ of certiorari. The United States Court of Appeals for the Fourth Circuit issued its opinion and entered judgment on August 11, 2026. A copy of the opinion is attached as Exhibit A. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

Absent an extension, a petition for a writ of certiorari would be due on November 9, 2026. This application is being filed more than 10 days in advance of that date.

1. Entrata seeks review of a decision of the Fourth Circuit that raises a direct conflict among the courts of appeals on an important question of federal law: whether the Federal Arbitration Act (FAA), 9 U.S.C. § 2, allows courts to require that an arbitration clause contained within a larger contract be supported by special and distinct consideration, beyond the consideration that is sufficient for the non-arbitration promises in the same contract.

2. The FAA provides that agreements to arbitrate "shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract." 9 U.S.C. § 2. This provision "establishes an equal-treatment principle: A court may invalidate an arbitration agreement based on 'generally applicable contract defenses' like fraud or unconscionability, but not on legal rules that 'apply only to arbitration or that derive their meaning from the fact that an

agreement to arbitrate is at issue.'" *Kindred Nursing Centers Ltd. Partnership v. Clark*, 581 U.S. 246, 251 (2017) (quoting *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333, 339 (2011)). This equal-treatment principles applies to rules that speak to "contract formation" as well as those speaking to enforceability. *Id.* at 254-255

3. The decision below turns on a Maryland rule imposing a special consideration requirement solely on arbitration clauses in a contract. Under Maryland law, every promise in a contract may be supported by a single form of consideration—such as monetary payment or provision of a service—*except for* a promise to arbitrate, which requires its own separate, additional consideration. The Maryland Supreme Court thus specifically rejected the view that "consideration for an underlying contract also can serve as consideration for an arbitration agreement within the contract." *Cheek v. United Healthcare of Mid-Atl., Inc.*, 835 A.2d 656, 665 (Md. 2003). Even when the contract as a whole is supported by adequate consideration, Maryland courts single out the arbitration provision in that contract for special treatment: there must be independent consideration specifically supporting the arbitration clause, such as a mutual exchange of promises to arbitrate. *Id.*

4. Several circuits have squarely held that the FAA preempts such a heightened consideration requirement for arbitration provisions. The Tenth Circuit held that the FAA preempts Arizona's rule that "an *arbitration* clause must be supported by consideration independent of the consideration supporting the contract as a whole." *In re Cox Enterprises, Inc. Set-top Cable Television Box Antitrust Litigation*, 835 F.3d 1195, 1212 (10th Cir. 2016). "Such arbitration-specific law," the Tenth

Circuit reasoned, "is not the sort of *general* state law applicable under 9 U.S.C. § 2 of the FAA." *Id.* The Eighth Circuit reached the same conclusion regarding a similar "Arkansas law requir[ing] mutuality of obligation within the contract's arbitration agreement, even if there was sufficient mutuality within the rest of the contract." *Southeastern Stud & Components, Inc. v. American Eagle Design Build Studios, LLC*, 588 F.3d 963, 966-967 (8th Cir. 2009).[1] As that court explained, the FAA precludes states from "impos[ing] additional requirements that appl[y] only to arbitration agreements." *Id.*

5. The Fourth Circuit, however, has repeatedly rejected preemption challenges to Maryland's special consideration requirement for arbitration agreements. The Fourth Circuit admitted that Maryland's *Cheek* rule "properly gives [the court] pause" because the rule "does single out an arbitration provision in a larger contract." *Noohi v. Toll Bros., Inc.*, 708 F.3d 599, 612 (4th Cir. 2013). Yet, "on closer inspection," the court concluded that "all *Cheek* does is treat an arbitration provision like any stand-alone contract, requiring consideration." *Id.* While forecasting that "[t]he Supreme Court may eventually hold that the FAA preempts such a rule," the Fourth Circuit "decline[d] to do" so. *Id.* at 613.

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[1] *Accord Glazer v. Lehman Bros., Inc.*, 394 F.3d 444, 453 (6th Cir. 2005) ("reject[ing] the claim that an arbitration clause requires separate 'consideration' to be enforceable"); *Harris v. Green Tree Fin. Corp.*, 183 F.3d 173, 180 (3d Cir. 1999) (holding, as a matter of "substantive federal law" under the FAA, that "parties to an arbitration agreement need not equally bind each other with respect to an arbitration agreement if they have provided each other with consideration beyond the promise to arbitrate"); *Doctor's Assocs., Inc. v. Distajo*, 66 F.3d 438, 453 (2d Cir. 1995) ("A doctrine that required separate consideration for arbitration clauses might risk running afoul of" the FAA's "strong federal policy favoring arbitration.").

6. In the thirteen years since *Noohi*, the Fourth Circuit has consistently reaffirmed its holding that Maryland's *Cheek* rule is not preempted by the FAA. *See Ford v. Genesis Fin. Sols., Inc.*, 2025 WL 1540933, at 1 n.* (4th Cir. May 30, 2025), *pet. for cert. docketed*, No. 25-311 (Sept. 17, 2025); *Coady v. Nationwide Motor Sales Corp.*, 32 F.4th 288, 291 (4th Cir. 2022). And it has denied en banc review on this question. *See Johnson v. Cont'l Finance Co.,* No. 23-2047, Dkt. No. 62 (4th Cir. Apr. 8, 2025), *pet. for cert. dismissed*, 146 S. Ct. 1367 (2026) (No. 25-34).

7. The decision below squarely presents the question that has divided the circuits. Entrata provides an online portal that residential tenants—like Respondent Kaitlyn Trimble—can use to conveniently pay their rent. Tenants' use of the portal is subject to Terms & Conditions containing a mandatory arbitration clause. When Ms. Trimble filed this putative class action in court, Entrata moved to compel arbitration. Yet the district court refused to enforce the arbitration clause because the arbitration provision in the Terms was not supported by separate consideration "beyond the consideration that supports the overall contract."

8. A divided panel of the Fourth Circuit affirmed on the same ground. The majority reasoned that Entrata's "promise to arbitrate is illusory pursuant to Maryland law," so it could not be consideration in exchange for Ms. Trimble's promise to arbitrate. Ex. A at 2. Because the other consideration that Entrata gave Ms. Trimble for the contract as a whole—*i.e.*, supplying an online portal to conveniently pay her rent—cannot support an arbitration clause under *Cheek*, the majority concluded that "the arbitration agreement is unenforceable for lack of consideration." *Id.*

9. Judge Rushing dissented. She reasoned that, even under *Cheek*, Entrata's promise to arbitrate was not illusory and therefore was consideration for the arbitration agreement. Ex. A at 20.

10. But for Maryland's arbitration-specific *Cheek* rule, the parties' arbitration agreement would undoubtedly be supported by adequate consideration. The Maryland Supreme Court explicitly stated that if "consideration from the underlying agreement was sufficient to support the arbitration agreement, [courts] would be precluded from ever finding an arbitration agreement invalid for lack of consideration when performance of a contract has already occurred, no matter how illusory the arbitration agreement was." *Cheek*, 835 A.2d at 669. Here, Entrata performed under the contract by supplying Ms. Trimble with an online portal; absent the *Cheek* rule, therefore, that consideration would support the parties' arbitration provision.

As discussed above, multiple circuits have disagreed with the Fourth Circuit and held that state rules like Maryland's are preempted by the FAA. Given the significant circuit conflict, Entrata's forthcoming petition for certiorari will present a substantial question worthy of this Court's review.

6. Applicant respectfully requests a 60-day extension of time to file its petition for a writ of certiorari to and including January 8, 2027. Entrata's counsel have been heavily engaged with other matters and have other commitments that make the preparation of a petition for a writ of certiorari by the existing deadline impracticable. These commitments have included a recent oral argument in the Eleventh Circuit Court of Appeals on September 28, 2026; an opening brief due in the Delaware

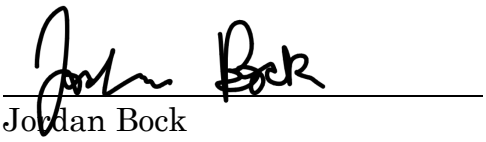
Supreme Court on October 2, 2026; an opening brief due in the Eighth Circuit Court of Appeals on October 9, 2026; and a reply brief in support of a motion to dismiss in the Eastern District of Texas on October 23, 2026. In the coming weeks, these commitments will include a reply brief due in the Delaware Supreme Court on November 17, 2026; an opening brief due in the Fourth Circuit Court of Appeals on November 12, 2026; and a series of amicus briefs and district court filings.

Moreover, the parties are currently scheduling a mediation that, if successful, could resolve this dispute and render this Court's intervention unnecessary. Entrata anticipates the mediation will likely take place in December 2026 or January 2027.

Finally, the requested extension would not cause Ms. Trimble any prejudice, in particular because the district court action is stayed after that court granted the parties' joint motion to stay proceedings pending mediation. *See Trimble v. Entrata, Inc.*, No. 1:24-cv-03710-RDB, Dkt. No. 38 (Sept. 21, 2026).

For the foregoing reasons, Entrata respectfully requests that the time to file a petition for a writ of certiorari be extended to and including January 8, 2027.

Respectfully submitted.



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