

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE SUPREME COURT OF THE UNITED STATES

- - - - -

NEAL BISSONNETTE, ET AL.,)

Petitioners,)

v.) No. 23-51

LePAGE BAKERIES PARK ST., LLC,)

ET AL.,)

Respondents.)

- - - - -

Washington, D.C.

Tuesday, February 20, 2024

The above-entitled matter came on for oral argument before the Supreme Court of the United States at 11:13 a.m.

APPEARANCES:

JENNIFER D. BENNETT, ESQUIRE, San Francisco, California; on behalf of the Petitioners.

TRACI L. LOVITT, ESQUIRE, New York, New York; on behalf of the Respondents.

1	C O N T E N T S	
2	ORAL ARGUMENT OF:	PAGE:
3	JENNIFER D. BENNETT, ESQ.	
4	On behalf of the Petitioners	3
5	ORAL ARGUMENT OF:	
6	TRACI L. LOVITT, ESQ.	
7	On behalf of the Respondents	31
8	REBUTTAL ARGUMENT OF:	
9	JENNIFER D. BENNETT, ESQ.	
10	On behalf of the Petitioners	64
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

(11:13 a.m.)

CHIEF JUSTICE ROBERTS: We'll hear argument next in Case 23-51, Bissonnette versus LePage Bakeries.

Ms. Bennett.

ORAL ARGUMENT OF JENNIFER D. BENNETT
ON BEHALF OF THE PETITIONERS

MS. BENNETT: Thank you. Mr. Chief Justice, and may it please the Court:

Less than two years ago, in Southwest versus Saxon, this Court carefully examined the text and history of the Federal Arbitration Act's worker exemption, and it held that the exemption applies to "any class of workers directly involved in transporting goods across state or international borders."

Flowers now asks this Court to add an additional unwritten requirement that the worker's employer must sell transportation. According to Flowers, if the thousands of truck drivers who work full-time hauling its goods were only implied -- employed by a trucking company that Flowers had hired to do so, then they'd be exempt transportation workers. But,

1 because Flowers essentially created its own
2 in-house trucking company, it says that those
3 same truck drivers are no longer transportation
4 workers.

5 That distinction has no basis in the
6 text of the statute. Flowers' only attempt at a
7 textual argument is its invocation of *eiusdem*
8 *generis*, but that argument fails from the start
9 because Flowers can't identify a single example
10 of the word "seamen" ever being defined based on
11 whether a worker's employer sold transportation.

12 In fact, if Flowers' drivers were on
13 boats rather than trucks, under Flowers' own
14 definition of "seamen," they would be seamen.
15 In the words of Saxon, that "sinks [the
16 company's] *eiusdem generis* argument."

17 Unable to rely on the text, Flowers
18 pivots to administrability. But, even if this
19 Court could rewrite statutes to make them easier
20 to apply, Flowers' rule is anything but
21 workable. Flowers can't even explain how it
22 would apply in this very case.

23 This Court should reject Flowers'
24 attempt to add to the FAA an employer-based
25 industry requirement that is both atextual and

1 unworkable.

2 I welcome this Court's questions.

3 JUSTICE THOMAS: If this case is
4 decided in your favor, would it affect the
5 separate question of whether or not this --
6 these drivers are engaged in intrastate
7 deliveries?

8 MS. BENNETT: No, I don't think it
9 would. The only question -- you know, as this
10 case comes to the Court, built into the question
11 presented is the assumption that the workers are
12 members of a class of workers engaged in
13 interstate commerce. It wouldn't affect that at
14 all.

15 The only question here is, assuming
16 that to be true, is there an additional
17 requirement that the individual plaintiffs be
18 employed by a company that's in the
19 transportation industry?

20 JUSTICE THOMAS: So why would the
21 inquiry into transportation industry be any more
22 complicated than the inquiry into transportation
23 workers?

24 MS. BENNETT: So, by -- by
25 "transportation workers," I take it you mean

1 whether someone is directly involved?

2 JUSTICE THOMAS: Yeah.

3 MS. BENNETT: So -- so I think there
4 are -- I -- I think there are certainly going to
5 be edge cases about whether some -- a class of
6 workers is directly involved in transporting
7 goods across state or international borders. I
8 -- we concede that. But what Flowers is asking
9 is that we adopt an additional requirement on
10 top of that that wouldn't obviate that inquiry.

11 So take, for example, Amazon. So it
12 has trucks traveling across the highway. It has
13 planes in the air. Maybe there's a difficult
14 question about whether those, you know, say,
15 truckers are directly involved in transporting
16 goods across borders. But what Flowers says is,
17 in addition to figuring out that question, we
18 also have to figure out whether Amazon sells
19 transportation.

20 So, you know, how do we know? Do we
21 need discovery into whether it sells
22 transportation? Does it matter who it sells it
23 to? Does it just have to sell it to its
24 customers? Does it have to sell it to other
25 companies? Does it matter how much

1 transportation it sells? Does it matter what
2 percentage of its price is in revenues? All of
3 these are going to be difficult questions that
4 are then layered on top of the question you
5 raised, which is already in the text of the
6 statute.

7 And so -- and in Amazon's case, for
8 example, it doesn't get us out of the question
9 you raised. It just adds an additional one on
10 top.

11 JUSTICE KAVANAUGH: In your opening,
12 you emphasized the text quite a bit.

13 MS. BENNETT: Yes, Your Honor.

14 JUSTICE KAVANAUGH: But, in ejusdem
15 generis cases, by definition, we're not
16 following the literal text of the residual
17 clause. Instead, we're looking at the listed
18 items and trying to discern what connects those
19 listed items, what feature of those listed items
20 is common. And as -- as the Scalia-Garner
21 treatise says, that can be somewhat
22 indeterminate. A difficult position for judges,
23 but we have to try to figure it out.

24 So seamen and railroad employees in
25 1925, one thing that it seems was going on and I

1 want to get your reaction to is Congress took
2 them out of this arbitration regime. All
3 workers, all contracts of employment are subject
4 to arbitration. It takes them out, but it takes
5 them out -- seemingly, you have to look at the
6 legal context, I would think, because they had a
7 separate arbitration regime that already
8 existed.

9 In other words, at least as I read the
10 record, and it is murky in parts, I'll grant
11 you, as of 1925, Congress didn't want anyone to
12 be outside of arbitration. They wanted
13 Section 2 for most workers and then not for
14 seamen and railroad employees because there was
15 a separate arbitration regime.

16 Why, when we look at the common legal
17 context that connects those terms, isn't that
18 the correct way to look at it? Why is that
19 wrong?

20 MS. BENNETT: There's two answers to
21 that. One is we know that Congress wasn't
22 exempting just workers who had alternative
23 dispute resolution regimes because it added the
24 residual clause, and that residual clause would
25 have covered no workers at all at the time.

1 JUSTICE KAVANAUGH: At the time, but
2 what Congress was doing, arguably -- this is the
3 argument -- was contemplating that there would
4 be future industries that would fit in. And in
5 1936, the airline industry comes in, and those
6 employees are funneled into the same kind of
7 separate arbitration -- or the railway
8 arbitration regime. So that Congress was
9 accommodating the future.

10 MS. BENNETT: Sure. So the -- the
11 second historical answer to that is, even if
12 this Court were going to try to discern some
13 purpose of the exemption and instead of focusing
14 specifically on the text, which is difficult a
15 hundred years later, you know, if you look at
16 seamen, I think one of the assumptions under
17 that -- underlying that question is seamen
18 had -- were going to arbitration, that there was
19 a mandatory arbitration scheme that covered
20 seamen, and that's actually just -- just not
21 correct.

22 So the Shipping Commissioners Act,
23 which is the statute that provided for shipping
24 commissioner arbitration for seamen, two things
25 about that. It wasn't limited to employers who

1 sold transportation, so it was -- it had
2 geographic limitations. It was about seamen who
3 were traveling abroad, coast to coast, and some
4 coastwise seamen, like the people on lumber
5 boats who would have been employed in lumber
6 companies.

7 So, even if you think that's the
8 purpose of the exemption, is to accommodate
9 these alternative dispute resolution schemes,
10 adding an employer-based industry requirement
11 would actually conflict with that purpose.

12 But I also want to take a step back
13 and talk about what the dispute resolution
14 scheme was governing seamen at the time, and
15 this Court has discussed that in its U.S. Bulk
16 Carriers case, and what the Court said is, you
17 know, from the beginning of time essentially,
18 seamen have been wards of the court. They've
19 been subject to the court's protection with a
20 right to bring cases in court. And since 1790,
21 Congress had enshrined that right in statutes.

22 And what the Shipping Commissioners
23 Act did is it said, if certain seamen, after a
24 dispute arises, if they agree with the master of
25 their boat in writing to go to the -- to the

1 shipping commissioner, then they can do so.

2 And what this Court held is that
3 imposing a pre-dispute mandatory arbitration
4 scheme would conflict with this age-old right to
5 go to court --

6 JUSTICE KAVANAUGH: So you think
7 Congress in 1925 wanted seamen to be able to go
8 straight to court?

9 MS. BENNETT: I think that's exactly
10 right. And I think that's what the --

11 JUSTICE KAVANAUGH: Where -- is there
12 anything to support that?

13 MS. BENNETT: Sure. So -- so there
14 are a few things. One is what this Court said
15 in U.S. Bulk Carriers. If you look at the title
16 of the U.S. Code, which is Title 46, enacted in
17 the -- 1925, the same year that the Federal
18 Arbitration Act was enacted, what you'll see is
19 references all of the -- a lot of the rights.
20 The references say you can go to court.

21 And if you look at the Shipping
22 Commissioners Act itself, it only applies if,
23 after the dispute has arisen, the parties to the
24 dispute agree in writing to go to arbitration.

25 In other words, it only applies

1 post-disputes, quite different than what the
2 Federal Arbitration Act would require. And --
3 and this Court explained all of this in -- in
4 the U.S. Bulk Carriers case, and in that case,
5 it was looking at grievance arbitration, but the
6 principles apply, and -- and the principles are
7 this mandatory pre-dispute arbitration statute
8 would have -- would have interrupted all of
9 this.

10 JUSTICE BARRETT: Counsel, can I --
11 I'm sorry, are you finished Justice?

12 JUSTICE KAVANAUGH: Go ahead.

13 JUSTICE BARRETT: Is there any
14 continuing reason -- and this is just my
15 ignorance, so I'm just curious -- we were
16 talking about why in 1925 what the regulatory
17 regime was and whether Congress wanted to funnel
18 some of these transportation workers into
19 alternative dispute -- resolution mechanisms.

20 Is this now just an anachronism, or is
21 there any continuing reason for transportation
22 workers to be exempt?

23 MS. BENNETT: So it's -- I'll --
24 I'll -- I'll be quite honest with you, which is
25 it's not clear entirely what the purpose was in

1 1925. It's not clear now.

2 You know, I think, if you -- if you
3 look at the history, what was happening is that
4 there were, you know, strike after strike in the
5 transportation -- among transportation workers,
6 and -- and -- in -- and among maritime workers
7 specifically, the strikes were -- were -- the
8 core of those strikers were lumber boats, people
9 who were not employed by employers in the
10 transportation industry.

11 And -- and to the extent that what
12 Congress was doing is saying, these people are
13 really important to our economy and every time
14 they strike they are interrupting commerce, you
15 know, the -- the seamen strike amongst the
16 lumber boats in 1923 interrupted the whole
17 building boom on the West Coast, and so --

18 JUSTICE BARRETT: But -- but that's
19 all from the past, right?

20 MS. BENNETT: Sure. So putting that
21 --

22 JUSTICE BARRETT: So my question is
23 just like, yeah, now.

24 MS. BENNETT: Right. So putting that
25 in that context, you know, one thing that --

1 that courts do and that group-based arbitration
2 does is it makes transparent issues that are
3 coming up amongst transportation workers and
4 amongst these companies, and it gives Congress
5 and the executive branch, which was often
6 involved in these disputes in the past, insight
7 into -- into how these disputes are arising and
8 maybe the potential for heading them off.

9 And so I do think there's a modern
10 reason, you know, to the extent we think that
11 was the reason in 1925, it's no different now in
12 what it -- in that people going to court and
13 people going to sort of labor-based grievance,
14 group-based arbitration like in the railroad
15 statutes would -- would flag these kinds of
16 disputes perhaps before they end up, you know,
17 in nationwide strikes that are going to
18 interrupt commerce.

19 JUSTICE SOTOMAYOR: The Second Circuit
20 did not rely on the district court's reasoning.

21 MS. BENNETT: They did not.

22 JUSTICE SOTOMAYOR: And so it's not
23 before us. And -- and -- but this is more a
24 curiosity on my part.

25 The district court I understood said

1 they're not transportation workers because they
2 do more that's office-based. They're --
3 they're -- they're not a traditional
4 transportation worker.

5 How do you deal with that? If -- if
6 someone's job is, you know, at the end of the
7 day, they're making all this product, but they
8 deliver it from here to somewhere else, that's
9 enough for you?

10 MS. BENNETT: So -- so I think there's
11 a factual answer to that question and a legal
12 answer, and I'll take the legal question first,
13 which is --

14 JUSTICE SOTOMAYOR: Okay. Go ahead.

15 MS. BENNETT: -- which is I think what
16 you're raising is the question of some workers
17 have different tasks that they do and how do --
18 how do we deal with that question. And the --
19 the first stab I would take at that is to look
20 at this Court's decision in Saxon actually.

21 You know, Ms. Saxon in Saxon spent
22 three days a week roughly loading and unloading
23 cargo and two days a week supervising other
24 people. And what this Court said is three days
25 a week is enough. We don't need to look at

1 whether the supervision counts.

2 And -- and, you know, so -- and so
3 there may be, I think, tough questions in very
4 few cases actually where people are -- are
5 having multiple jobs. I'll note that these
6 aren't -- I -- we haven't seen them in the lower
7 courts. It doesn't come up often.

8 And there are -- and the way I would
9 deal with answering them, you know, if it's say
10 less than Saxon but more than never is -- is to
11 look -- you know, I would do two things. One is
12 I would look in 1925 and see, for example, how
13 much, you know, of the time did someone have to
14 spend doing the kinds of work that somebody is
15 doing to be a seaman and a railroad employee.

16 I'd also note that this comes up in
17 other statutory regimes and I might look at
18 those cases. So, for example, there's a whole
19 body of law around the Jones Act, which is the
20 case that involve -- the statute governing when
21 seamen are injured and when they can bring
22 claims about what percentage of the time the
23 person has to be connected to the vessel in
24 order for them to be a seaman, and so I might
25 look at that body of law.

1 There's a body of law under the Motor
2 Carriers Act about how much a -- a company needs
3 to be engaged in commerce to be subject to that
4 act.

5 So it's not an unusual question, and
6 courts have tools to answer that question. It's
7 also not a question that comes up much.

8 JUSTICE KAVANAUGH: Can I ask you --

9 MS. BENNETT: Sure.

10 JUSTICE KAVANAUGH: -- about Saxon
11 itself and also comments in your brief that it
12 would make no sense to adopt the opposing side's
13 view?

14 Because, in Saxon, at oral argument,
15 it was repeatedly stated to us, if we're talking
16 about a company that is shipping its own goods,
17 those people likely wouldn't have been railroad
18 -- railroad employees or seamen at the time.

19 "Not just Amazon...department stores,
20 those people are likely not exempt...and here's
21 why... There was a distinction that was made
22 between railroads that shipped things for the
23 public, and I think that's how we normally
24 understood -- understand seamen and railroad
25 employees and say a coal company's internal

1 railroads."

2 And there's another -- there's more.

3 "We have seamen and railroad employees, the two
4 classes of workers that had preexisting dispute
5 resolution statutes at the time and were
6 commonly understood categories."

7 "As a class, the seamen are the people
8 who do the work of the shipping industry. As a
9 class, railroad employees are people who do the
10 work of the railroad industry."

11 Now I bring that up not to bind
12 anyone. I bring that up just because that was
13 the common-sense understanding of counsel -- of
14 Saxon, and it -- so it seems odd that you would
15 read the Saxon opinion to have blown through
16 those limits that were being stressed by counsel
17 for Saxon about the implications of the
18 position, number one.

19 And it seems odd also to say the other
20 side's position just makes no sense when --
21 given what was said at the oral argument in
22 Saxon. So I just want to give you an
23 opportunity to respond to that.

24 MS. BENNETT: Sure. A -- a -- a few
25 -- a few responses to that. One is, you know,

1 we don't read Saxon to decide the question
2 presented here. I don't think --

3 JUSTICE KAVANAUGH: Because I
4 certainly didn't think that based on what
5 happened at oral argument.

6 MS. BENNETT: Sure. And I -- I
7 think -- I think it leaves the question
8 presented open, although I will say I think
9 Flowers' argument is inconsistent with the
10 reasoning of Saxon, which is we look at what
11 these words meant in 1925, and we also are
12 looking for a commonality between seamen and
13 railroad employees, and if there isn't that
14 commonality, we're not going to add an
15 additional requirement.

16 Now I think you asked about some
17 answers to the hypotheticals in -- in Saxon.

18 JUSTICE KAVANAUGH: Mm-hmm.

19 MS. BENNETT: You know, and I'll note
20 that this question wasn't presented either way
21 in Saxon, and -- and there were some
22 hypotheticals I do think that touched on this
23 question, but the -- you know, and I apologize
24 if -- if the answer wasn't as clear as it should
25 have been. The gravamen of that --

1 JUSTICE KAVANAUGH: Well, I thought
2 the answer was very clear actually.

3 MS. BENNETT: Well, so -- so --

4 JUSTICE KAVANAUGH: It was reassuring,
5 I think the word "narrow" was used, reassuring
6 that the holding in favor of Saxon would be
7 narrow and would not extend to industries other
8 than the transportation industry, which that may
9 be incorrect, but to call it like that makes no
10 sense is a little much for me at least.

11 MS. BENNETT: Sure. And I think the
12 -- the gravamen -- you know, the -- there were
13 specific predictions maybe, but the gravamen on
14 that answer is to know whether the -- Federal
15 Arbitration Act exempts a particular class of
16 workers, what we'd have to do is go back and
17 look in 1925 and see what these words meant.
18 And we've now -- you know, because it wasn't the
19 question presented in Saxon, that -- that
20 research hadn't been done. We've now done that
21 that.

22 And I think it's very clear that in
23 1925, the word "seamen" did not mean somebody
24 who was employed by a company that sold
25 transportation, and I -- I'd like to turn to

1 that briefly if -- if I may.

2 You know, every source we have, when
3 you go back and take a look, you've -- you've --
4 dictionaries, case law, books, statute -- other
5 statutes, literally any piece of evidence we
6 have confirms that the word "seamen" included
7 anyone who worked aboard a vessel in furtherance
8 of its purpose. It had nothing to with whether
9 an employer sold transportation or in the Second
10 Circuit's word had a particular price or revenue
11 structure.

12 And I'll note that this Court has
13 already canvassed this history at least twice,
14 you know, first in Wilander and then again in
15 Saxon, and both times it came to the same
16 conclusion, which is that "seaman" -- "seamen"
17 rather is a longstanding, well-defined term that
18 in 1925 plainly meant everybody who worked
19 aboard a vessel.

20 Now, to its credit, I actually don't
21 take Flowers to dispute this ordinary meaning of
22 "seamen." Maybe they'll get up and tell me I'm
23 wrong about how I read their brief. But -- but
24 what I take them to say is, you know, whatever
25 the ordinary meaning is, for purposes of the

1 Federal Arbitration Act, the Court should give
2 the word a different definition, and that
3 different definition should be something like
4 workers aboard a ship in a carrying trade
5 carrying goods for trade and commerce.

6 And -- and there are two problems,
7 though, with this request. The first is not
8 only is this not the ordinary meaning of
9 "seamen" in 1925, it's not any meaning ever of
10 "seamen" in 1925 or since then. What that
11 definition comes from is a definition that a
12 single district court gave to the term "merchant
13 vessel," and the term "merchant vessel" is
14 nowhere in the Federal Arbitration Act.

15 So Flowers has to demonstrate a
16 commonality between seamen and railroad
17 employees, not between railroad employees and
18 merchant vessels. So that's the first problem.
19 It's just not in the statute.

20 The second problem, though, is that
21 even if this Court were willing to accept this
22 definition of words that aren't even in the
23 statute as the definition of "seamen" for
24 purposes of the Federal Arbitration Act and
25 define it in accordance with what Flowers says

1 we should define it, Flowers' drivers meet its
2 own definition. There's no question that
3 Flowers' truck drivers are engaged in
4 transporting goods for commerce, just like the
5 people on lumber boats in 1925, just like the
6 people on the barges carrying railroad tie
7 manufacturers' goods in this Court's decision in
8 Ayer.

9 And so, even if we were to accept
10 every single one of Flowers' arguments on
11 seamen, they still haven't shown that this
12 employer-based industry requirement has anything
13 to do with the words of the statute.

14 JUSTICE KAGAN: And -- and just to
15 understand, what are the categories of seamen
16 who do not work in the shipping industry?

17 MS. BENNETT: There's a vast number of
18 them, and they're not -- you know, one thing
19 that's difficult is they're not -- well, so I
20 actually -- I want to take a step back and --
21 and -- and talk about the word "industry" very
22 briefly, which is to say, when you say "in the
23 shipping industry," we can mean two different
24 things. One is we can mean the workers who are
25 in the industry, as in these are people who do

1 shipping work. They do the work of the boat.
2 Or you can mean sort of an employer-based
3 requirement, which is they work for a company
4 that sells transportation on Flowers' version.

5 And -- and I think the intuition that
6 seamen and railroad employees are definitely in
7 the transportation industry is an intuition on
8 the first question about individuals --

9 JUSTICE KAGAN: So assuming what I
10 meant was the second.

11 MS. BENNETT: Sure. Sure. A --

12 JUSTICE KAGAN: So who are the seamen
13 who are not working for shippers?

14 MS. BENNETT: There's a -- a bunch of
15 them. So there are a bunch of manufacturers,
16 for example, who employed seamen. There is -- a
17 railroad tie manufacturer, for example, in Ayer
18 employed seamen. There were lumber boats all up
19 and down the West Coast that employed seamen.
20 They worked for lumber companies. They didn't
21 work for, you know, transportation companies.
22 There were coal companies that employed seamen.
23 The Ford Motor Company employed seamen. There's
24 a host of -- of employers that employed seamen.

25 And the reason is very similar to why

1 you have a host of companies employing truckers
2 today, which is that, unlike railroads, which
3 require, you know, like a track and a railroad,
4 which is expensive and -- and
5 infrastructure-heavy and can only be laid in
6 certain places, all you needed to ship your own
7 goods is a boat --

8 JUSTICE KAVANAUGH: And before --

9 MS. BENNETT: -- just like --

10 JUSTICE KAVANAUGH: Keep going.

11 Sorry.

12 MS. BENNETT: No, please go ahead.

13 JUSTICE KAVANAUGH: Before 1925 -- and
14 you might have addressed this earlier, but I
15 want to make sure I have it nailed down. Before
16 1925, could those employees who worked, as
17 Justice Kagan said, not in the shipping industry
18 but, say, lumber barges and that kind of
19 thing -- if they had a dispute, did it go to the
20 shipping arbitration regime, or did it go to
21 court?

22 MS. BENNETT: They could choose. So
23 the -- the shipping arbitration regime, the --
24 the -- it applied to anybody who was not paid on
25 profit share, who was on an international

1 voyage, a coast-to-coast voyage, or a coasting
2 voyage if they had signed ship -- shipping
3 articles before the shipping commissioner.

4 JUSTICE KAVANAUGH: Right, but that --
5 I think that blends into my concern earlier that
6 the linkage was, even if you have a slightly
7 broader -- category of seamen than they say,
8 they were covered by this separate arbitration
9 regime, I think is what you're saying.

10 MS. BENNETT: Some were and some were
11 not. It would depend on the length of their
12 voyage essentially.

13 JUSTICE JACKSON: Didn't you also say
14 it depended on whether they chose afterwards?

15 MS. BENNETT: Yes. That's exactly
16 right.

17 JUSTICE JACKSON: Yeah.

18 MS. BENNETT: So -- so -- and they --
19 it was only if -- you know, even the seamen who
20 were covered by this statute would only go to
21 arbitration if they chose to do so along with
22 the master of their boat.

23 JUSTICE GORSUCH: I -- I -- I do want
24 to understand, though, Justice Kavanaugh's
25 point, who would not have been included in the

1 regime? You said there are some seamen who
2 wouldn't be. Who are they?

3 MS. BENNETT: So anybody who was on a
4 coasting voyage who did not sign their shipping
5 articles in front of a shipping commissioner.
6 So the lumber -- to take the lumber boat as an
7 example, the lumber boat workers who had signed
8 shipping articles before the shipping
9 commissioner could have gone to shipping
10 commissioner arbitration. Those who didn't
11 could not.

12 Anybody who wasn't on an ocean voyage.
13 So anybody who was on a river or on a lake,
14 those were certainly seamen. They could not
15 have --

16 JUSTICE GORSUCH: Category --
17 categorically outside the arbitration provision?

18 MS. BENNETT: Categorically outside
19 because those voyages were only international,
20 coast-to-coast, or coastwise. So anybody doing
21 seamen's work in the internal parts of the
22 United States. Anybody doing seamen's work that
23 was local, that didn't go very far, so, for
24 example, this Court's decision in *Ellis* talks
25 about dredgers as being seamen.

1 JUSTICE GORSUCH: Got it.

2 MS. BENNETT: Yeah.

3 JUSTICE GORSUCH: Thank you.

4 JUSTICE JACKSON: So, even if we
5 reject the transportation industry test, we
6 would still have to distinguish transportation
7 workers from other workers, and you talked a
8 little bit with Justice Sotomayor about that.

9 Are you suggesting that we -- if we
10 side with you in this case, that we take this
11 opportunity to say more about that distinction,
12 or do you think Saxon covers it?

13 MS. BENNETT: I think Saxon covers it,
14 and Saxon lays out a pretty clear test, which is
15 workers that are directly involved in
16 transporting goods across foreign or state
17 borders. And -- and I'll note, since Saxon, the
18 lower courts are pretty much agreed about what
19 that means, and so I think, you know, if there
20 is some further dispute that comes up, perhaps
21 this Court may need to weigh in in that case,
22 but I don't think this Court needs to do so
23 here.

24 CHIEF JUSTICE ROBERTS: Thank you,
25 counsel.

1 Justice Thomas?

2 Justice Alito?

3 Justice Sotomayor?

4 Justice Kagan?

5 Justice Gorsuch?

6 JUSTICE GORSUCH: Your friends on the
7 other side make a -- a -- a large feature about
8 some language in -- in Saxon, and I'm not sure
9 you quite had a chance to address it yet, but
10 seamen constituted a subset of workers engaged
11 in the maritime shipping industry. Put aside
12 history. How do you deal with that as a matter
13 of precedent?

14 MS. BENNETT: I think there are -- are
15 two answers to that. One is -- and they're
16 related. One is the argument that the Court was
17 discussing there was just the argument that
18 anybody who did the work of shipping would be
19 exempt and would be a seaman. And -- what the
20 Court was saying is not everybody who did the
21 work of shipping was a seaman. What they were
22 saying -- is -- what -- you know, the -- what --
23 people who are seamen are people who do the work
24 of shipping on a boat.

25 JUSTICE GORSUCH: Got it.

1 MS. BENNETT: So I don't think the
2 Court was answering --

3 JUSTICE GORSUCH: That's one. You
4 said you had two.

5 MS. BENNETT: The second is related,
6 which is -- to the -- it's similar to the answer
7 I was giving Justice Kagan earlier, which is
8 what it means to be in an industry. So, for
9 example, you know, Jones Day, certainly in the
10 legal services industry. I don't think the head
11 chef at the cafeteria of Jones Day would say
12 that she is in the legal services industry. I
13 think she'd say she's in the food services
14 industry.

15 JUSTICE GORSUCH: How does that differ
16 from the first point?

17 MS. BENNETT: I -- I think they're
18 related. It's the same thing. Essentially,
19 what the Court --

20 JUSTICE GORSUCH: Okay. All right.
21 Thank you.

22 MS. BENNETT: -- understood.

23 CHIEF JUSTICE ROBERTS: Justice
24 Kavanaugh?

25 Justice Barrett?

1 Justice Jackson?

2 Thank you, counsel.

3 MS. BENNETT: Thank you.

4 CHIEF JUSTICE ROBERTS: Ms. Lovitt.

5 ORAL ARGUMENT OF TRACI L. LOVITT

6 ON BEHALF OF THE RESPONDENTS

7 MS. LOVITT: Thank you, Mr. Chief

8 Justice, and may it please the Court:

9 As counsel has made clear, Petitioners
10 view the Section 1 exemption as encompassing any
11 worker directly involved in a good's interstate
12 journey, from the plant worker who loads goods
13 for shipment to the store clerk who unloads them
14 and shelves them.

15 But, in *Circuit City*, this Court said
16 that the Section 1 exemption should be read
17 narrowly and should be interpreted with
18 reference to the *ejusdem* canon, context, and
19 history, all three of which demonstrate that the
20 exemption is limited to transportation industry
21 workers.

22 After all, in 1925 -- Justice
23 Kavanaugh is correct -- seamen and railroad
24 employees were defined by the industry in which
25 they work. And that commonality should carry

1 through to the residual clause. Context and
2 history tell you why this line makes sense.

3 By 1925, Congress knew that labor
4 disputes involving transport -- transportation
5 industry workers were different. They were
6 unique. They could cause famines in Chicago.
7 And in response, Congress passed two and only
8 two federal arbitration statutes, one governing
9 railroad employees in the rail industry and one
10 governing seamen, who, under the Shipping
11 Commissioners Act, were limited to those in the
12 shipping industry.

13 Petitioners can't provide a why for
14 the enumeration. They can't explain why you
15 would pair railroad employees and seamen
16 together. And they advocate a definition of
17 "seamen" that is so broad, it's flatly
18 inconsistent with the notion of a transportation
19 worker and this Court's holding in Circuit City.

20 The result, a poor fit. And
21 Petitioners show by example. Petitioners buy
22 Flowers' bread. They pay Flowers for product.
23 Then they take title to the bread, and it is
24 only after they take title to the bread that
25 they then move it intrastate in order to sell it

1 to retailers for a profit. They are under no
2 personal obligation to move anything. They look
3 nothing like railroad employees or seamen.

4 I welcome the Court's questions.

5 JUSTICE THOMAS: We -- we have looked
6 at the performance of the workers in Saxon, and
7 wouldn't it complicate matters now to look at
8 the entire industry as the -- certainly, the
9 district court did and -- and the Second Circuit
10 did?

11 MS. LOVITT: I -- I don't think so,
12 Justice Thomas.

13 JUSTICE THOMAS: And -- and don't you
14 think -- I mean, I thought we foreclosed that.
15 We said that we won't look. The argument --
16 part of the argument in Saxon was, well, she,
17 Saxon, is in the -- in the transportation
18 industry therefore.

19 And as I hear -- you're saying, well,
20 Petitioner here is not in the transportation
21 industry therefore. And we foreclosed that, I
22 thought, in -- in Saxon.

23 MS. LOVITT: So two points, Justice
24 Thomas. The first was that you have to read
25 those holdings in Saxon in light of the

1 background fact that Ms. Saxon was an airline
2 transportation industry worker. The Court
3 presupposed that fact. And as Justice Kavanaugh
4 read from the oral argument, that was accepted
5 fact and part of the background on which the
6 holding was made.

7 The second point is the industry-wide
8 holding, and in that part of the Court's
9 opinion, the Court was rejecting Ms. Saxon's
10 argument that it was sufficient for her to fall
11 within the Section 1 exemption just because she
12 was a transportation industry worker.

13 And our argument is not that it's
14 sufficient. We think that -- that you have to
15 do the Saxon analysis, but the first question
16 is, is being in the transportation industry
17 necessary?

18 And -- and -- and -- and the answer to
19 that should be yes, because, you know, ever
20 since 1972 in the Second Circuit, the background
21 rule has been that you have to be in a
22 transportation industry. That's the Erving
23 decision that predates Circuit City and was on
24 the winning side of the Circuit City split.

25 JUSTICE JACKSON: But we have cases

1 from the 1920s in which you didn't have to be in
2 the transportation industry in order to be
3 counted as a seaman. So how do you square your
4 position with that?

5 MS. LOVITT: So I -- first, I think
6 Saxon in -- informs what it means to be a
7 seaman, but -- but, Justice Jackson, I -- those
8 cases aren't dealing with the limit here, which
9 is you already have Circuit City, and Circuit
10 City has already held that ejusdem -- because of
11 the ejusdem canon, there are implied limits.

12 And one of those implied limits is
13 it's not a limitless seamen. It's the seamen
14 who are transportation workers. And I think
15 that's where Petitioners' definition gets in
16 trouble because Petitioners freely admit that
17 their seamen are pirates, they're enemy ship
18 folks, they're on recreational boats.

19 JUSTICE JACKSON: I understand that.

20 JUSTICE BARRETT: But can I --

21 JUSTICE JACKSON: But -- but -- but --
22 but how do you square that with cases where we
23 have actors aboard a ship being counted as
24 seamen, for example?

25 MS. LOVITT: Most of those are Jones

1 Act cases, and --

2 JUSTICE JACKSON: Well, why does that
3 matter when Congress was using the word "seamen"
4 as I'm sure it was understood at the time that
5 statute was passed?

6 MS. LOVITT: Two reasons. The first
7 is the Jones Act has a broad remedial purpose,
8 and this Court has repeatedly recognized in the
9 Jones Act context that it's reaching to the
10 outer limit of seamen.

11 The second is that there's no other
12 federal statute that uses railroad employees and
13 seamen together, and Circuit City says that that
14 list has meaning and that list means that
15 Section 1 seamen are different from other
16 seamen. They share a commonality with railroad
17 employees. And this Court held in Circuit City
18 that that commonality is transportation worker.

19 CHIEF JUSTICE ROBERTS: Well, but the
20 commonality can get very complicated, as your
21 friend on the other side said. I mean, where
22 did the price structure and revenue approach
23 come from?

24 MS. LOVITT: That -- that was part of
25 the Second Circuit's decision and --

1 CHIEF JUSTICE ROBERTS: Yeah, but
2 where did it -- where did they get it?

3 MS. LOVITT: I think the court was
4 looking to characteristics of folks in the
5 transportation industry and giving a more
6 granular approach to what are common
7 characteristics on the facts of this case.

8 And, again, these facts aren't
9 disputed. So there's for purposes --

10 CHIEF JUSTICE ROBERTS: No, no, but I
11 mean they're not -- they're trying to figure out
12 what the transportation industry is.

13 MS. LOVITT: Mm-hmm. Right.

14 CHIEF JUSTICE ROBERTS: And, again,
15 I -- I think they just kind of made up, not -- I
16 don't use that in a pejorative sense, maybe
17 created this price structure and revenue
18 approach, but it really imposes a -- a difficult
19 burden and it would seem to me a lot of
20 different results. I mean, you'd have conflict
21 among the lower courts considering how that
22 applies.

23 I mean -- and the examples they give I
24 think are pretty compelling. I mean, is -- is
25 Amazon in the transportation business just

1 because it has a fleet of planes that it uses or
2 part of Amazon is?

3 MS. LOVITT: So, to -- to take your --
4 I -- I -- kind of three questions there, so
5 I'll --

6 CHIEF JUSTICE ROBERTS: Sorry.

7 MS. LOVITT: -- I'll try to keep track
8 of them, but the -- the first -- the first
9 question, which is about the Second Circuit's
10 analysis, I think the Second Circuit was giving
11 factors that were relevant to this case.

12 I think the test is broader than that
13 and it has been broader than that because,
14 again, the background rule for -- at -- since at
15 least 1972 in the Second Circuit has been you
16 have to be in the transportation industry, and
17 it's been a line between, are you hauling only
18 your own stuff, or is part of your business
19 hauling third-party goods as well?

20 And that's a very clean line. Let's
21 use your Amazon example. I think, in Amazon --
22 and, again, I don't -- I'm not Amazon's counsel,
23 so I'm speaking as purely a consumer. As I
24 understand Amazon, they're shipping not only the
25 -- some Amazon retail products, but their

1 regular course of business involves shipping all
2 sorts of products that they don't manufacture.

3 CHIEF JUSTICE ROBERTS: Well, but --

4 MS. LOVITT: I think they're clearly
5 in the transportation industry.

6 CHIEF JUSTICE ROBERTS: Well, but
7 sometimes they use their own planes and
8 sometimes they use FedEx's planes.

9 MS. LOVITT: And it --

10 CHIEF JUSTICE ROBERTS: So -- and
11 sometimes the workers who do exactly the same
12 thing count as in the transportation industry,
13 but in the other -- other times they don't.

14 MS. LOVITT: Well, again, I think that
15 in the Amazon case, you're -- you're -- you're
16 in the transportation industry, and they get out
17 for -- for last-mile reasons. But, to your
18 question, which is sometimes they use FedEx,
19 that's correct, but if FedEx -- if we had used
20 FedEx, the defendant in this suit wouldn't be
21 Flowers Foods. It would be FedEx because the
22 contract of employment would be between FedEx
23 and the worker.

24 Why would Congress do that? That was
25 your last question. I think that's the key

1 question. And there's a whole lot of reasons
2 why Congress would do this. There's -- this
3 is -- to us, Section 1, the exemption, is a
4 wholesale policy judgment by Congress that
5 transportation industry workers are different.

6 And we know Congress is making
7 wholesale judgments because it had put only two
8 classes of workers in arbitration or had federal
9 arbitration statutes, railroad employees and
10 seamen, in the shipping industry.

11 And why would Congress do that?
12 Because, up to 1925, there had been many
13 strikes, as Petitioners point out, but only
14 strikes involving the transportation industry
15 brought the country to a halt and caused famines
16 in Chicago. And so Congress could reasonably
17 say this is different.

18 Today, we -- because the economy is
19 different, we can think of all sorts of reasons
20 why that policy judgment doesn't fit on the
21 modern economy, but that doesn't make Congress's
22 judgment in 1925 wrong.

23 JUSTICE BARRETT: But, Ms. Lovitt, the
24 Shipping Commissioners Act, Ms. Bennett says
25 that, in fact, it did encompass seamen who were

1 outside of the shipping industry.

2 If I agree with her about that, do you
3 lose?

4 MS. LOVITT: Well, I -- I would
5 disagree with that, and -- and if I can answer
6 that question first, then yours, Justice
7 Barrett.

8 JUSTICE BARRETT: Sure.

9 MS. LOVITT: So in -- the Shipping
10 Commissioners Act has two large restrictions.
11 The first was in -- and I'm -- I'm citing the
12 1925 version -- 46 U.S.C. Section 464 and
13 Section 465.

14 Section 464 says it's only voyage --
15 vessels that have voyages from the East Coast in
16 the United States to the West Coast and from a
17 port in the United States to a port overseas,
18 not Canada. And then there's a second limit
19 that you can't be earning a profit from the
20 things that you're shipping. So you're not --
21 you're not making your money because you're
22 shipping fish and you're selling the fish.
23 You're making the money off the transportation.

24 Those two limits boil down to the
25 shipping industry, and here's where I think a

1 little bit of history of shipping helps a lot.

2 The Panama Canal didn't open until
3 1914, so to get from San Francisco to Boston in
4 1914 was almost a nine-month journey. You don't
5 take that journey and return with an empty ship.
6 Those factors that are in the Shipping
7 Commissioners Act are isolating the industry.

8 And it makes sense because the people
9 who need the arbitration remedy, the seamen who
10 need the arbitration remedy are those who are
11 going from port to port to port to port to port,
12 going on a new vessel every time. They aren't
13 the employees of -- of -- of a company that's
14 making the same journey back and forth and
15 they're regularly employed.

16 JUSTICE BARRETT: Except you just
17 pointed out reasons in the statute that limited.

18 MS. LOVITT: Mm-hmm.

19 JUSTICE BARRETT: So you're saying
20 this wasn't just any seaman, it was seaman who
21 met these particular restrictions.

22 Well, Section 1 doesn't have that
23 additional language. It just says seamen. So
24 why wouldn't Section 1 be a broader subset of
25 the narrower subset that you're talking about?

1 MS. LOVITT: Because, in both New
2 Prime and in Circuit City, this Court recognized
3 that the rich fabric upon which the Section 1
4 exemption was passed was the fabric of the
5 Shipping Commissioners Act and the Rail -- the
6 Railway Act, and both of those were limited in
7 effect to the shipping industry workers, and so
8 it would have been unusual at the time to bring
9 in all of these seamen who, again, Petitioners
10 concede recreational boats are in.

11 So, if you work on a yacht, you are --
12 and you never transport a good and you're just
13 sightseeing with, you know, whoever owns the
14 yacht, you're a seaman within the Section 1
15 construct. That's not a transportation worker,
16 and that's not what Congress was getting at.
17 They were getting at that narrow subset of
18 workers who actually impact the national
19 commerce and national security.

20 JUSTICE JACKSON: But why do those
21 workers have to be in the industry?

22 I mean, I can agree with you that the
23 statute is about transportation workers and, in
24 fact, we've held that. So we're not talking
25 about -- I mean, maybe -- maybe I would disagree

1 with the representation that you just made about
2 people who are working on a yacht. Maybe.

3 But I think the line there is drawn
4 between transportation worker and other workers.
5 Both -- you can have transportation workers in a
6 different kind of industry. That's why I don't
7 understand where the industry limitation is
8 coming from. That's not in the statute.

9 MS. LOVITT: I -- I think it's coming
10 from -- I think it is in the statute. I think
11 it's falling out of the enumeration. And as
12 Justice --

13 JUSTICE JACKSON: But the -- we've
14 said the enumeration goes to transportation
15 worker. Seamen, railroad workers. The other we
16 say is limited by that to mean transportation
17 workers. Got it.

18 Where is the industry coming from?

19 MS. LOVITT: So two points. First, in
20 -- in Saxon, I think this Court correctly
21 recognized that it's never given an exhaustive
22 definition of "transportation worker."

23 So the industry is coming out of the
24 fact that in 1925, seamen were the seamen on
25 these merchant ships that run the shipping

1 industry, yes.

2 JUSTICE JACKSON: But what about
3 companies in 19 -- in the 1920s that had their
4 own fleets or own boats or railroad companies or
5 lumber companies that had railroad workers that
6 -- that were their own, in-house?

7 MS. LOVITT: They were almost always
8 outside of the Shipping Commissioners Act
9 because they were making these little local
10 journeys that aren't falling within the
11 arbitration provisions.

12 And -- and a lot's been said -- if
13 you'd indulge me for 30 seconds, a lot's been
14 said about these lumber schooners. Petitioners
15 actually don't have the history right on lumber
16 schooners. Lumber schooners are a kind of boat
17 and they were owned by syndicates. The
18 syndicates included all people within the -- the
19 -- you can imagine, the people who produced the
20 lumber, the people who were trading in lumber,
21 the people who converted the lumber to
22 two-by-fours, and people who made paper. And
23 they had one -- and the master of the vessel.
24 And they had one interest, which was to keep the
25 vessel full. So, to the extent that they were

1 --

2 JUSTICE SOTOMAYOR: Counsel, isn't all
3 of this an argument for us looking at the
4 last-leg drivers and deciding whether this was
5 foreign or interstate commerce as understood at
6 the time?

7 MS. LOVITT: I --

8 JUSTICE SOTOMAYOR: I mean, that --
9 that's where I see this argument. I just don't
10 see it -- I mean, by the way, as an aside,
11 Amazon, who's an amicus on your side, doesn't
12 agree with you. On -- on pages 5 to 7 in their
13 brief, they say the focus is not on what the
14 employee is doing as part of its duties --
15 employer is doing, but what -- what the industry
16 is. And it says it's what the employee is
17 doing. Their argument is, on what I'm saying
18 your argument is, we have to look more carefully
19 and more narrowly at what foreign or interstate
20 commerce means.

21 MS. LOVITT: Well, two -- two points,
22 Justice Sotomayor. The first is I doubt they
23 liked my answer that they were in the
24 transportation industry, which might explain
25 what they were doing on pages 5 through 7, but

1 -- but -- I do think, if you disagree with us,
2 that --

3 JUSTICE SOTOMAYOR: Well, they're
4 saying they're not, but they don't say that's
5 dispositive. What they're saying is what's
6 dispositive is that their workers are not
7 engaged in foreign or interstate commerce.

8 MS. LOVITT: And I -- I would agree
9 that if -- if you decide -- I think the last
10 mile cases are important. And I think you --
11 you do have to decide the last mile issue --

12 JUSTICE SOTOMAYOR: Not here, though.

13 MS. LOVITT: -- as well as our issue.
14 Not here, but it would be an issue for remand
15 because we've -- you know, we've preserved the
16 issue.

17 JUSTICE SOTOMAYOR: I -- we --

18 MS. LOVITT: But --

19 JUSTICE SOTOMAYOR: -- don't even have
20 to get into that. Whether you preserved it or
21 not, I didn't check.

22 MS. LOVITT: -- I do think --

23 JUSTICE SOTOMAYOR: The question is a
24 different question.

25 MS. LOVITT: -- but I want to get to

1 the heart of that question, which is, is -- is
2 the problem solved by last mile? And no, it's
3 not, because, again, the background rule here
4 until about 2020 was that the transportation
5 industry workers were out, and that's why you're
6 not seeing these cases arise until just the past
7 year or so.

8 And so the problem is you have a lot
9 of companies who are -- are like -- I'm -- I'm
10 just going to say Acme to keep it, you know, the
11 record clean. You have Acme Company, who
12 actually has their own drivers who cross state
13 lines. That company doesn't see them -- they're
14 not in the shipping industry in any -- in any
15 way, and they're not preserved by the last mile.

16 And so you start to introduce a whole
17 class of cases. I mean, every -- in the modern
18 economy, every retailer, every manufacturer has
19 a shipping department, and those shipping
20 departments are inevitably shipping goods in
21 interstate commerce.

22 And so you'd be -- in -- in light of
23 the fact that the background rule excluded
24 transportation industries, you're opening a
25 whole other area that has been -- I mean,

1 honestly, if you look at Circuit City, it --
2 Circuit -- this -- cases that the Court affirmed
3 in Circuit City, the court of appeals cases,
4 were all assuming a transportation industry
5 component.

6 JUSTICE BARRETT: Ms. Lovitt, do we
7 care -- it -- let's -- let's say we do care. I
8 want to follow up on Justice Sotomayor's
9 question.

10 If you win, if we say there is an
11 industry requirement, on the last mile -- if
12 we've shifted our focus to the industry, does
13 that go a long way toward settling the last mile
14 driver question against you because then would
15 we say, as long as you're a worker in the
16 industry and the industry is engaged in
17 interstate commerce, you get swept in? Or -- I
18 understand it wouldn't resolve it, but would it
19 make your argument harder?

20 MS. LOVITT: No, I -- I don't think so
21 because we're viewing the industry issue as a
22 threshold issue. It's a necessary condition,
23 not a sufficient one. So you'd still have the
24 Saxon analysis. And the reason why that is
25 important is because you're excluding a whole

1 line of cases that heretofore have been excluded
2 involving manufacturers.

3 You'd still need to decide the last
4 mile question. And I think, for the good of the
5 lower courts, it would be good to take one of
6 those cases because that's an additional
7 limitation, not an alternative limitation in our
8 view and one that would -- again, I think it's
9 important to deal with both preventing the wave
10 of cases. And, again, Petitioner is not denying
11 the fact that this is opening a whole new line
12 of cases that, since even before the time of
13 Circuit City, were viewed as off limits under
14 Section 1. It's -- it's -- it's preventing that
15 waterfall and cascade of cases.

16 JUSTICE KAVANAUGH: Do you -- do you
17 think, before 1925, as your friend on the other
18 side said, there were some workers who were not
19 covered by any arbitration regime?

20 MS. LOVITT: Industry workers? I
21 mean, prior to -- so you --

22 JUSTICE KAVANAUGH: Well, that might
23 have loaded the --

24 MS. LOVITT: Yeah.

25 JUSTICE KAVANAUGH: You might have

1 just loaded the question. I think the question
2 was seamen who don't work for what we would call
3 a maritime shipping company --

4 MS. LOVITT: Mm-hmm.

5 JUSTICE KAVANAUGH: -- fell into this
6 gray area where they were covered by neither
7 arbitration regime, I think was the theory, and
8 -- I think that was the theory or at least the
9 answer. Do you agree with that?

10 MS. LOVITT: So just if I could
11 restate the question to --

12 JUSTICE KAVANAUGH: Yeah. Please do.

13 MS. LOVITT: -- make sure I understand
14 it correctly, is that there -- there were seamen
15 who were outside the Shipping Commissioners Act
16 or, you know, that -- that don't work in the
17 shipping industry. That would be the leisure
18 example, right, and the -- the recreational
19 boats, the folks who are -- who -- who are on --
20 on lumber schooners that are just doing
21 coastwise voyages, so they're doing -- and those
22 are the traditional manufacturers. They would
23 be outside of the Shipping Commissioners Act.

24 We are operating a bit -- just to be
25 candid, there aren't any cases interpreting the

1 Shipping Commissioners Act. So you have to
2 interpret by analogy of, you know, what was
3 happening in the rail industries. In the rail
4 --

5 JUSTICE KAVANAUGH: And on the -- on
6 the rail industry, it's crystal -- well,
7 "crystal clear" is a little strong, but it's
8 clearer, right, that you had to be an employee
9 of the railroad?

10 MS. LOVITT: Yeah. We would use the
11 word "crystal clear," but in -- in the -- in the
12 federal arbitrations provisions governing
13 railroad employees, you had to be an employer of
14 the common carrier.

15 And -- and then just to take it full
16 circle to Saxon, I mean, the cases that this
17 Court was citing in Saxon for the idea that a
18 cargo loader was part of the -- part of
19 interstate commerce, those are all rail common
20 carrier cases.

21 And the holding is, if you're a
22 baggage handler on a railroad that's in the
23 industry providing transportation services,
24 you're clearly in.

25 JUSTICE KAVANAUGH: And so the -- one

1 thing I couldn't figure out is, but I think the
2 number of workers who are going to be exempt and
3 number of companies who are going to have to
4 deal with this is massive if you lose. But, I
5 mean, spell that out for me. That's -- I -- I'm
6 not sure how to quantify it really.

7 MS. LOVITT: So it's -- it's massive.
8 Let's -- let's -- again, these are all new cases
9 in the past, say, five years. In the past five
10 years, you've had cases against Domino's
11 franchisees, so you're bringing in every
12 franchise restaurant, which is why the
13 restaurant industry group filed on our behalf.

14 You're bringing in the medical
15 industry. Medical industry ships like this
16 because they need to get their products very
17 quickly from one place to another.

18 You're bringing in basically the
19 entire food industry because, again, these
20 point-to -- these point-to-sale shipments like
21 breads, things that go bad, beer, that you have
22 to -- that whole industry is now in.

23 And the way that the modern economy
24 works, this is how retail works. You're now
25 bringing in every retail industry that is

1 shipping their own -- they've got, you know,
2 warehouses going to brick-and-mortars.

3 JUSTICE JACKSON: But --

4 MS. LOVITT: Those companies are now
5 in.

6 JUSTICE JACKSON: But couldn't that be
7 taken care of through other doctrines?

8 MS. LOVITT: Not through last mile,
9 which I think was the -- the question.

10 JUSTICE JACKSON: Yes.

11 MS. LOVITT: Because these are --
12 these are case -- these are all companies that
13 are shipping over the borders. And the reason
14 why this hasn't been a problem to date is,
15 again, because the background rule has been the
16 transportation industry.

17 And even in Saxon, when you're talking
18 about the seamen who are under Section 1, you're
19 using the -- a -- a subset of the maritime
20 shipping industry. Even this Court in its -- I
21 -- I'm not saying its holding or decided
22 anything, but I think it's saying these -- this
23 is the language that's informing the lower
24 courts.

25 JUSTICE ALITO: Well, that's a -- an

1 important point, and I hope that Ms. Bennett
2 will take the opportunity on rebuttal to address
3 it.

4 But let me just ask, on the other
5 side, it may have been straightforward for the
6 Second Circuit to apply its test to the facts of
7 this case, but will it be straightforward in
8 other cases? Will it not involve some very
9 difficult line-drawing problems?

10 MS. LOVITT: I -- I -- I don't --
11 Justice Alito, in our view, it's not.
12 Ninety-five percent of these cases, it's clear.
13 The FedExes, the UPS, the Yellow Freights, the
14 -- it's very clear who's in the shipping
15 industry because they're in the business of
16 shipping other people's goods.

17 And even there are companies like
18 Amazon, who ship their own and other people's,
19 but the usual course of their business is to
20 include other people's goods. There -- you
21 know, most companies -- I don't want to use the
22 word "most" because -- but a lot of --

23 JUSTICE ALITO: But there are not --
24 there are not a lot of companies that do -- in
25 which, let's say, 60 percent of their work

1 doesn't involve transportation, but -- or
2 70 percent doesn't involve transportation, but
3 30 percent does. There aren't companies that
4 might fall into that category?

5 MS. LOVITT: I -- I think you could
6 use the Saxon analysis for -- you know, Saxon
7 said how do you determine a worker's worth,
8 which is also a fact-based question. You use it
9 whether it's frequent. And I think that's the
10 same kind of straightforward analysis that you
11 could apply here. Are you frequently in the
12 business of shipping other people's goods?

13 And it's no more difficult than the
14 test in Saxon, but it offers a different test
15 and one that's going to exclude this mass body
16 of cases that have heretofore not -- not been in
17 the federal courts.

18 JUSTICE BARRETT: But is part of what
19 --

20 JUSTICE KAVANAUGH: The term --

21 JUSTICE BARRETT: I'm sorry.

22 JUSTICE KAVANAUGH: Go ahead.

23 JUSTICE BARRETT: Is part of what
24 you're saying that the industry has or industry
25 generally and the way that business is done now

1 has massively shifted and maybe those words mean
2 the same thing, maybe they mean what Ms. Bennett
3 says they do, but because of the way that
4 industry and shipping has changed, no -- just
5 kind of as an anachronism, it doesn't really
6 make sense, and then wouldn't it be for Congress
7 to fix it?

8 MS. LOVITT: I -- I think Congress
9 already fixed it. And because in -- when it
10 enacted Section 1, there is a residual clause.
11 Congress was anticipating that there were going
12 to be other industries and that -- that would
13 have the same kind of shipping element to them.
14 And the airline industry, for example, was the
15 very next stop.

16 And they also now have an arbitration
17 provision, which, by the way, to get to your
18 question that you asked Petitioners' counsel,
19 yes, this is still relevant because we still
20 have massive arbitration regimes governing the
21 rail industry and the air industry. And if you
22 had the FAA coming in, and -- there'd -- there'd
23 be a question over, you know, which one is
24 preeminent.

25 And I can see Petitioner -- a whole

1 new line of cases where people say -- where
2 employers are saying, no, we're outside of that
3 federal regime. We have a private contract, we
4 enforce it under the FAA. So there is
5 interference that could be done under the
6 modern -- modern statutes.

7 But I think, to get to your point,
8 it's not an anachronism. I think what has
9 changed is that in 1925, industries -- there --
10 there weren't big long haul, there really wasn't
11 a -- a -- a -- an airline industry and there
12 really wasn't an over-the-road trucking
13 industry. That didn't really come until the
14 1950s. And the way people shipped goods is by
15 rail.

16 And -- and if you were shipping or
17 you're shipping long distances in the shipping
18 industry in vessels. And so the Section 1 was
19 really encompassing the entirety of the
20 transportation industry while anticipating that
21 the industry was also evolving and that Congress
22 might want to get involved there too.

23 And if I can just make one last point,
24 I -- I think part of the issue here is too is
25 there's not been any industry component and now

1 Saxon, if you combine -- if you hold that
2 there's no industry requirement and you combine
3 it with the holding in Saxon, it's not only that
4 you bring in all of these, you know,
5 manufacturers who have never been within the
6 scope of 1, but you also bring in people who
7 load goods.

8 And the next question is going to be,
9 well, what about the people who package them?
10 What about the people who sort them?

11 JUSTICE JACKSON: But I guess --

12 MS. LOVITT: What about the people in
13 the shipping department?

14 JUSTICE JACKSON: But -- but -- but I
15 guess what I don't understand is how your theory
16 is consistent with what you say Congress's goals
17 are with respect to Section 1. I mean,
18 throughout your brief, you say that Section 1
19 was intended to capture workers "critical to
20 commerce and national security."

21 So fine. We now have all these
22 companies that have components of transportation
23 within them, but their workers are doing things,
24 as you say, involving goods that are crossing
25 state lines and that are presumably critical to

1 commerce and national security.

2 So why would the line be between big
3 companies with in-house transportation arms
4 versus those that use FedEx?

5 MS. LOVITT: I'm glad you asked that
6 question. And it's the word "presumably"
7 because, if something -- in most labor disputes,
8 if you have a labor dispute between the employer
9 and their employees, the employer is best
10 situated to deal with that dispute.

11 The time when that's not true is when
12 you have transportation industry workers because
13 there are third-party effects that cascade for
14 the customers who have their -- their goods
15 on -- on the rails to --

16 JUSTICE JACKSON: But you're --
17 you're -- you're saying that that's what
18 Congress -- I -- I thought they were just trying
19 not to have the disruption.

20 MS. LOVITT: There -- Congress was
21 saying there are areas of the economy that are
22 so important that we're doing our own federal
23 arbitration scheme. We're not leaving it to the
24 private parties to decide how they're going to
25 resolve these remedies because they in -- they

1 involve third-party concerns.

2 And that was the history. In 1925,
3 the railroad labor industry, there were all --
4 again, all sorts of industry disputes, but it
5 was only the rail industry dispute that brought
6 Chicago to the point of famine, and that's when
7 Congress had to intervene and --

8 JUSTICE JACKSON: Now I just thought
9 that was because of the nature of the goods and
10 the fact that they were crossing state lines and
11 they were sort of intranational. And that's the
12 same with Amazon and Walmart and U.S. Foods and
13 companies that have internal transportation arms
14 today.

15 MS. LOVITT: So -- so today -- let's
16 take Flowers. If -- if Flowers can't ship its
17 bread, that is -- that problem is best addressed
18 between Flowers and -- and its employees, but it
19 doesn't mean that the nation runs out of bread.
20 It means that people are going to have to buy
21 other bread for a little bit of time.

22 And that's true whenever you're
23 talking about a manufacturer. If it's a single
24 manufacturer that has a problem, there are other
25 manufacturers who aren't implicated. Where you

1 start to get the whole of the national economy
2 involved is when you're talking about the -- the
3 international and interstate shipping of goods
4 and that -- and -- and that industry.

5 And, again, we may come up with a lot
6 of examples today where that doesn't make sense,
7 but in 1925, that was the lesson that Congress
8 had learned, and Congress responded by enacting
9 arbitration provisions for only two members of
10 the economy, two classes of workers, and they
11 were both in the transportation industry.

12 JUSTICE SOTOMAYOR: I just want to
13 make sure that the background principles, I've
14 got them in my head right.

15 MS. LOVITT: Mm-hmm.

16 JUSTICE SOTOMAYOR: These contracts
17 that these employees have with the employers
18 could be enforceable in state court. If they
19 require arbitration in state court, if you file
20 a suit in state court or they file a suit in
21 state court, those arbitration agreements have
22 to be honored, correct?

23 MS. LOVITT: That's the position we
24 took in the lower court, but there's a circuit
25 -- circuit court split on that question as well.

1 And I -- I don't think that's a good answer
2 because, in a lot of states, you couldn't
3 arbitrate this at all either, so you don't get
4 --

5 JUSTICE SOTOMAYOR: Because of state
6 laws not permitting it?

7 MS. LOVITT: Because of the state --
8 because of the state law.

9 JUSTICE SOTOMAYOR: Got it.

10 MS. LOVITT: If you have no other
11 questions?

12 CHIEF JUSTICE ROBERTS: Thank you,
13 counsel.

14 Justice Thomas?

15 Justice Sotomayor?

16 JUSTICE KAVANAUGH: One question.

17 CHIEF JUSTICE ROBERTS: Justice
18 Kavanaugh?

19 JUSTICE KAVANAUGH: Is the -- the
20 phrase "common carrier" helpful or not helpful
21 here?

22 MS. LOVITT: I don't think it's
23 helpful because, in the shipping industry, I
24 mean, common carriers would mean ferries and
25 there's a whole component of -- of the -- of the

1 shipping industry that aren't common carriers
2 that are really at the heart of it.

3 JUSTICE KAVANAUGH: Thank you.

4 MS. LOVITT: Mm-hmm.

5 CHIEF JUSTICE ROBERTS: Justice
6 Barrett?

7 Justice Jackson?

8 Thank you, counsel.

9 MS. LOVITT: Thank you.

10 CHIEF JUSTICE ROBERTS: Ms. Bennett,
11 rebuttal?

12 REBUTTAL ARGUMENT OF JENNIFER D. BENNETT
13 ON BEHALF OF THE PETITIONERS

14 MS. BENNETT: Sure. So I just want to
15 make -- thank you, Your Honor. I just want to
16 make three quick points.

17 The first is on the text. I didn't
18 hear a single argument that any word in this
19 text means somebody works for an employer that
20 sells transportation.

21 Again, even if we accept Flowers'
22 understanding of what the word "seamen" meant in
23 1925 and put aside fishermen and any of the
24 other people they are worried about, even if we
25 accept it's just people who are on vessels

1 transporting goods for commerce, that has
2 nothing to do with who employed those people.

3 And that's the way every statute
4 governing seamen worked in 1925. There were a
5 bunch of statutes that have a bunch of different
6 limitations, but all of them were very explicit
7 about what they were, and not a single one was
8 employer-based.

9 And that's for the second -- to take
10 the second reason, which is Flowers says, don't
11 worry so much about the text, what we really
12 want to think about is policy and purpose. And
13 even if this Court were inclined to do so, even
14 if this Court were inclined to define what
15 Congress meant a hundred years ago, we have some
16 evidence about that, and -- and -- and Flowers
17 says look at the strikes that disrupted the
18 national economy.

19 In the maritime -- in shipping, in
20 maritime shipping, those strikes were led by
21 people on lumber boats, and I'll note we cite in
22 our brief the evidence that those people were on
23 boats were employed by the lumber companies and
24 on boats owned by those companies.

25 But, if Congress was really trying to

1 get at people who could disrupt commerce, you
2 know, the way strikes worked in 1925 is they
3 weren't employer-based. Everybody who did the
4 same job in the same location struck together,
5 and that's why they were so disruptive.

6 And so, if Congress was trying to get
7 at that, they would not have included an
8 employer-based limitation. I think that's why
9 we don't see one in the statute.

10 To Justice Alito's point about
11 narrowness, I think you asked that I address
12 that in rebuttal. Two points on that. One is
13 it's not true that the background rule in the
14 circuits has been this employer-based industry
15 requirement.

16 The Seventh Circuit decision in
17 Kienstra I believe was a concrete company. The
18 Ninth Circuit has decisions on Amazon. The
19 First Circuit does. You know, I'm not aware of
20 this requirement being true in any circuit until
21 really the Second Circuit made this decision and
22 the Eleventh Circuit had some decisions.

23 But even in the Second Circuit, when
24 the Second Circuit articulated, said that
25 workers needed to be in the transportation

1 industry, what it said was a basketball player
2 is not in the transportation industry. It
3 wasn't saying anything about who the employer
4 was.

5 And -- and as the dissent in this case
6 said in the Second Circuit, the well-established
7 rule has been forever that if the residual
8 clause covers anyone, it's truck drivers. And
9 given that longstanding principle, I still
10 haven't seen a single case where you have, you
11 know, pizza delivery drivers or pest control
12 workers or any of the people they're -- they're
13 worried about, actually any court saying that
14 they're exempt, despite the rule being
15 ordinarily, no court has really looked at
16 whether -- at this kind of employer-based test.

17 And -- and -- and the other thing is,
18 you know, they -- Flowers makes a big deal of
19 railroad employees. There are almost no
20 railroad employees today. Almost all of those
21 jobs are truckers now. And so we're not making
22 the exemption broader. We're just taking the
23 people who would have been railroad employees
24 and now they're truck drivers. And it so
25 happens that trucking works just like maritime

1 shipping, which is that some companies use
2 companies like FedEx, and some companies do what
3 Flowers did, which is essentially bring a
4 trucking company in-house themselves. There's
5 no reason that those workers should be treated
6 any differently.

7 And the last point I want to make is
8 just on administrability. Flowers hasn't
9 explained how its test or how the Second
10 Circuit's test would apply in this very case,
11 and that's in two ways. One, there's no dispute
12 here that Flowers sells transportation. The --
13 the retailers that Flowers sells to are not just
14 buying bread; they're buying the bread showing
15 up at their retail stores. It's not clear to me
16 why, for that reason alone, those -- they --
17 they don't -- Flowers doesn't satisfy its own
18 test.

19 And the second point is Flowers
20 actually has quite a complicated corporate
21 structure. And the drivers here aren't
22 contracting with Flowers. They're contracting
23 with a subsidiary of Flowers that only handles
24 transportation for other subsidiaries that make
25 baked goods. So that subsidiary is only

1 transporting other people's goods. And Flowers
2 doesn't explain why that too wouldn't satisfy
3 its test.

4 And what that shows is that its test,
5 the employer-based industry test, is going to be
6 really difficult to apply, and it's going to be
7 difficult to apply even in cases that Flowers
8 says, like this one, should be straightforward.
9 They're not.

10 And, again, this would have been a
11 problem in 1925, just as it is today. You know,
12 there were lumber companies that owned railroads
13 that may or may not have shipped entirely the
14 lumber company's goods. And it's not clear --
15 you know, Congress would have known in 1925 that
16 that would have been difficult to apply, and
17 there's no reason it would have included that
18 requirement in the statute here.

19 So, again, we ask that this Court
20 reject Flowers' request to add this requirement
21 that both has no basis in the text and would
22 just make the statute harder to apply.

23 Thank you.

24 CHIEF JUSTICE ROBERTS: Thank you,
25 counsel.

1 The case is submitted.
2 (Whereupon, at 12:14 p.m., the case
3 was submitted.)
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Official

<p>1</p> <p>1 [16] 31:10,16 34:11 36:15 40:3 42:22,24 43:3,14 50: 14 54:18 57:10 58:18 59:6, 17,18 11:13 [2] 1:16 3:2 12:14 [1] 70:2 1790 [1] 10:20 19 [1] 45:3 1914 [2] 42:3,4 1920s [2] 35:1 45:3 1923 [1] 13:16 1925 [32] 7:25 8:11 11:7,17 12:16 13:1 14:11 16:12 19: 11 20:17,23 21:18 22:9,10 23:5 25:13,16 31:22 32:3 40:12,22 41:12 44:24 50: 17 58:9 61:2 62:7 64:23 65:4 66:2 69:11,15 1936 [1] 9:5 1950s [1] 58:14 1972 [2] 34:20 38:15</p>	<p>Acme [2] 48:10,11 across [5] 3:16 6:7,12,16 28:16 Act [25] 9:22 10:23 11:18, 22 12:2 16:19 17:2,4 20: 15 22:1,14,24 32:11 36:1,7, 9 40:24 41:10 42:7 43:5,6 45:8 51:15,23 52:1 Act's [1] 3:14 actors [1] 35:23 actually [12] 9:20 10:11 15: 20 16:4 20:2 21:20 23:20 43:18 45:15 48:12 67:13 68:20 add [4] 3:18 4:24 19:14 69: 20 added [1] 8:23 adding [1] 10:10 addition [1] 6:17 additional [7] 3:19 5:16 6: 9 7:9 19:15 42:23 50:6 address [3] 29:9 55:2 66: 11 addressed [2] 25:14 61:17 adds [1] 7:9 administrability [2] 4:18 68:8 admit [1] 35:16 adopt [2] 6:9 17:12 advocate [1] 32:16 affect [2] 5:4,13 affirmed [1] 49:2 afterwards [1] 26:14 age-old [1] 11:4 ago [2] 3:11 65:15 agree [7] 10:24 11:24 41:2 43:22 46:12 47:8 51:9 agreed [1] 28:18 agreements [1] 62:21 ahead [4] 12:12 15:14 25: 12 56:22 air [2] 6:13 57:21 airline [4] 9:5 34:1 57:14 58:11 AL [2] 1:3,7 Alito [4] 29:2 54:25 55:11, 23 Alito's [1] 66:10 almost [4] 42:4 45:7 67:19, 20 alone [1] 68:16 already [6] 7:5 8:7 21:13 35:9,10 57:9 alternative [4] 8:22 10:9 12:19 50:7 although [1] 19:8 Amazon [13] 6:11,18 37:25 38:2,21,21,24,25 39:15 46: 11 55:18 61:12 66:18 Amazon's [2] 7:7 38:22 Amazon...department [1] 17:19 amicus [1] 46:11 among [3] 13:5,6 37:21</p>	<p>amongst [3] 13:15 14:3,4 anachronism [3] 12:20 57: 5 58:8 analogy [1] 52:2 analysis [5] 34:15 38:10 49:24 56:6,10 another [2] 18:2 53:17 answer [13] 9:11 15:11,12 17:6 19:24 20:2,14 30:6 34:18 41:5 46:23 51:9 63: 1 answering [2] 16:9 30:2 answers [3] 8:20 19:17 29: 15 anticipating [2] 57:11 58: 20 anybody [7] 25:24 27:3,12, 13,20,22 29:18 apologize [1] 19:23 appeals [1] 49:3 APPEARANCES [1] 1:18 applied [1] 25:24 applies [4] 3:15 11:22,25 37:22 apply [10] 4:20,22 12:6 55: 6 56:11 68:10 69:6,7,16,22 approach [3] 36:22 37:6, 18 arbitrate [1] 63:3 Arbitration [43] 3:13 8:2,4, 7,12,15 9:7,8,18,19,24 11: 3,18,24 12:2,5,7 14:1,14 20:15 22:1,14,24 25:20,23 26:8,21 27:10,17 32:8 40: 8,9 42:9,10 45:11 50:19 51:7 57:16,20 60:23 62:9, 19,21 arbitrations [1] 52:12 area [2] 48:25 51:6 areas [1] 60:21 aren't [11] 16:6 22:22 35:8 37:8 42:12 45:10 51:25 56: 3 61:25 64:1 68:21 arguably [1] 9:2 argument [29] 1:15 2:2,5,8 3:4,7 4:7,8,16 9:3 17:14 18:21 19:5,9 29:16,17 31: 5 33:15,16 34:4,10,13 46:3, 9,17,18 49:19 64:12,18 arguments [1] 23:10 arise [1] 48:6 arisen [1] 11:23 arises [1] 10:24 arising [1] 14:7 arms [2] 60:3 61:13 around [1] 16:19 articles [3] 26:3 27:5,8 articulated [1] 66:24 aside [3] 29:11 46:10 64:23 asks [1] 3:18 assuming [3] 5:15 24:9 49: 4 assumption [1] 5:11 assumptions [1] 9:16</p>	<p>atextual [1] 4:25 attempt [2] 4:6,24 aware [1] 66:19 Ayer [2] 23:8 24:17</p> <p>B</p> <p>back [5] 10:12 20:16 21:3 23:20 42:14 background [9] 34:1,5,20 38:14 48:3,23 54:15 62:13 66:13 bad [1] 53:21 baggage [1] 52:22 baked [1] 68:25 BAKERIES [2] 1:6 3:5 barges [2] 23:6 25:18 BARRETT [16] 12:10,13 13:18,22 30:25 35:20 40: 23 41:7,8 42:16,19 49:6 56:18,21,23 64:6 based [2] 4:10 19:4 basically [1] 53:18 basis [2] 4:5 69:21 basketball [1] 67:1 beer [1] 53:21 beginning [1] 10:17 behalf [9] 1:20,22 2:4,7,10 3:8 31:6 53:13 64:13 believe [1] 66:17 BENNETT [51] 1:19 2:3,9 3:6,7,9 5:8,24 6:3 7:13 8: 20 9:10 11:9,13 12:23 13: 20,24 14:21 15:10,15 17:9 18:24 19:6,19 20:3,11 23: 17 24:11,14 25:9,12,22 26: 10,15,18 27:3,18 28:2,13 29:14 30:1,5,17,22 31:3 40:24 55:1 57:2 64:10,12, 14 best [2] 60:9 61:17 between [10] 17:22 19:12 22:16,17 38:17 39:22 44:4 60:2,8 61:18 big [3] 58:10 60:2 67:18 bind [1] 18:11 BISSONNETTE [2] 1:3 3: 4 bit [5] 7:12 28:8 42:1 51:24 61:21 blends [1] 26:5 blown [1] 18:15 boat [8] 10:25 24:1 25:7 26: 22 27:6,7 29:24 45:16 boats [13] 4:13 10:5 13:8, 16 23:5 24:18 35:18 43:10 45:4 51:19 65:21,23,24 body [4] 16:19,25 17:1 56: 15 boil [1] 41:24 books [1] 21:4 boom [1] 13:17 borders [5] 3:17 6:7,16 28: 17 54:13 Boston [1] 42:3</p>	<p>both [8] 4:25 21:15 43:1,6 44:5 50:9 62:11 69:21 branch [1] 14:5 bread [8] 32:22,23,24 61: 17,19,21 68:14,14 bread's [1] 53:21 brick-and-mortars [1] 54: 2 brief [5] 17:11 21:23 46:13 59:18 65:22 briefly [2] 21:1 23:22 bring [8] 10:20 16:21 18:11, 12 43:8 59:4,6 68:3 bringing [4] 53:11,14,18, 25 broad [2] 32:17 36:7 broader [5] 26:7 38:12,13 42:24 67:22 brought [2] 40:15 61:5 building [1] 13:17 built [1] 5:10 Bulk [3] 10:15 11:15 12:4 bunch [4] 24:14,15 65:5,5 burden [1] 37:19 business [7] 37:25 38:18 39:1 55:15,19 56:12,25 buy [2] 32:21 61:20 buying [2] 68:14,14</p>
<p>2</p> <p>2 [1] 8:13 20 [1] 1:12 2020 [1] 48:4 2024 [1] 1:12 23-51 [1] 3:4</p> <p>3</p> <p>3 [1] 2:4 30 [2] 45:13 56:3 31 [1] 2:7</p> <p>4</p> <p>46 [2] 11:16 41:12 464 [2] 41:12,14 465 [1] 41:13</p> <p>5</p> <p>5 [2] 46:12,25</p> <p>6</p> <p>60 [1] 55:25 64 [1] 2:10</p> <p>7</p> <p>7 [2] 46:12,25 70 [1] 56:2</p>	<p>A</p> <p>a.m [2] 1:16 3:2 able [1] 11:7 aboard [4] 21:7,19 22:4 35: 23 above-entitled [1] 1:14 abroad [1] 10:3 accept [4] 22:21 23:9 64: 21,25 accepted [1] 34:4 accommodate [1] 10:8 accommodating [1] 9:9 accordance [1] 22:25 According [1] 3:21</p>	<p>amongst [3] 13:15 14:3,4 anachronism [3] 12:20 57: 5 58:8 analogy [1] 52:2 analysis [5] 34:15 38:10 49:24 56:6,10 another [2] 18:2 53:17 answer [13] 9:11 15:11,12 17:6 19:24 20:2,14 30:6 34:18 41:5 46:23 51:9 63: 1 answering [2] 16:9 30:2 answers [3] 8:20 19:17 29: 15 anticipating [2] 57:11 58: 20 anybody [7] 25:24 27:3,12, 13,20,22 29:18 apologize [1] 19:23 appeals [1] 49:3 APPEARANCES [1] 1:18 applied [1] 25:24 applies [4] 3:15 11:22,25 37:22 apply [10] 4:20,22 12:6 55: 6 56:11 68:10 69:6,7,16,22 approach [3] 36:22 37:6, 18 arbitrate [1] 63:3 Arbitration [43] 3:13 8:2,4, 7,12,15 9:7,8,18,19,24 11: 3,18,24 12:2,5,7 14:1,14 20:15 22:1,14,24 25:20,23 26:8,21 27:10,17 32:8 40: 8,9 42:9,10 45:11 50:19 51:7 57:16,20 60:23 62:9, 19,21 arbitrations [1] 52:12 area [2] 48:25 51:6 areas [1] 60:21 aren't [11] 16:6 22:22 35:8 37:8 42:12 45:10 51:25 56: 3 61:25 64:1 68:21 arguably [1] 9:2 argument [29] 1:15 2:2,5,8 3:4,7 4:7,8,16 9:3 17:14 18:21 19:5,9 29:16,17 31: 5 33:15,16 34:4,10,13 46:3, 9,17,18 49:19 64:12,18 arguments [1] 23:10 arise [1] 48:6 arisen [1] 11:23 arises [1] 10:24 arising [1] 14:7 arms [2] 60:3 61:13 around [1] 16:19 articles [3] 26:3 27:5,8 articulated [1] 66:24 aside [3] 29:11 46:10 64:23 asks [1] 3:18 assuming [3] 5:15 24:9 49: 4 assumption [1] 5:11 assumptions [1] 9:16</p>	<p>atextual [1] 4:25 attempt [2] 4:6,24 aware [1] 66:19 Ayer [2] 23:8 24:17</p> <p>B</p> <p>back [5] 10:12 20:16 21:3 23:20 42:14 background [9] 34:1,5,20 38:14 48:3,23 54:15 62:13 66:13 bad [1] 53:21 baggage [1] 52:22 baked [1] 68:25 BAKERIES [2] 1:6 3:5 barges [2] 23:6 25:18 BARRETT [16] 12:10,13 13:18,22 30:25 35:20 40: 23 41:7,8 42:16,19 49:6 56:18,21,23 64:6 based [2] 4:10 19:4 basically [1] 53:18 basis [2] 4:5 69:21 basketball [1] 67:1 beer [1] 53:21 beginning [1] 10:17 behalf [9] 1:20,22 2:4,7,10 3:8 31:6 53:13 64:13 believe [1] 66:17 BENNETT [51] 1:19 2:3,9 3:6,7,9 5:8,24 6:3 7:13 8: 20 9:10 11:9,13 12:23 13: 20,24 14:21 15:10,15 17:9 18:24 19:6,19 20:3,11 23: 17 24:11,14 25:9,12,22 26: 10,15,18 27:3,18 28:2,13 29:14 30:1,5,17,22 31:3 40:24 55:1 57:2 64:10,12, 14 best [2] 60:9 61:17 between [10] 17:22 19:12 22:16,17 38:17 39:22 44:4 60:2,8 61:18 big [3] 58:10 60:2 67:18 bind [1] 18:11 BISSONNETTE [2] 1:3 3: 4 bit [5] 7:12 28:8 42:1 51:24 61:21 blends [1] 26:5 blown [1] 18:15 boat [8] 10:25 24:1 25:7 26: 22 27:6,7 29:24 45:16 boats [13] 4:13 10:5 13:8, 16 23:5 24:18 35:18 43:10 45:4 51:19 65:21,23,24 body [4] 16:19,25 17:1 56: 15 boil [1] 41:24 books [1] 21:4 boom [1] 13:17 borders [5] 3:17 6:7,16 28: 17 54:13 Boston [1] 42:3</p>	<p>both [8] 4:25 21:15 43:1,6 44:5 50:9 62:11 69:21 branch [1] 14:5 bread [8] 32:22,23,24 61: 17,19,21 68:14,14 bread's [1] 53:21 brick-and-mortars [1] 54: 2 brief [5] 17:11 21:23 46:13 59:18 65:22 briefly [2] 21:1 23:22 bring [8] 10:20 16:21 18:11, 12 43:8 59:4,6 68:3 bringing [4] 53:11,14,18, 25 broad [2] 32:17 36:7 broader [5] 26:7 38:12,13 42:24 67:22 brought [2] 40:15 61:5 building [1] 13:17 built [1] 5:10 Bulk [3] 10:15 11:15 12:4 bunch [4] 24:14,15 65:5,5 burden [1] 37:19 business [7] 37:25 38:18 39:1 55:15,19 56:12,25 buy [2] 32:21 61:20 buying [2] 68:14,14</p>
<p>2</p> <p>2 [1] 8:13 20 [1] 1:12 2020 [1] 48:4 2024 [1] 1:12 23-51 [1] 3:4</p> <p>3</p> <p>3 [1] 2:4 30 [2] 45:13 56:3 31 [1] 2:7</p> <p>4</p> <p>46 [2] 11:16 41:12 464 [2] 41:12,14 465 [1] 41:13</p> <p>5</p> <p>5 [2] 46:12,25</p> <p>6</p> <p>60 [1] 55:25 64 [1] 2:10</p> <p>7</p> <p>7 [2] 46:12,25 70 [1] 56:2</p>	<p>A</p> <p>a.m [2] 1:16 3:2 able [1] 11:7 aboard [4] 21:7,19 22:4 35: 23 above-entitled [1] 1:14 abroad [1] 10:3 accept [4] 22:21 23:9 64: 21,25 accepted [1] 34:4 accommodate [1] 10:8 accommodating [1] 9:9 accordance [1] 22:25 According [1] 3:21</p>	<p>amongst [3] 13:15 14:3,4 anachronism [3] 12:20 57: 5 58:8 analogy [1] 52:2 analysis [5] 34:15 38:10 49:24 56:6,10 another [2] 18:2 53:17 answer [13] 9:11 15:11,12 17:6 19:24 20:2,14 30:6 34:18 41:5 46:23 51:9 63: 1 answering [2] 16:9 30:2 answers [3] 8:20 19:17 29: 15 anticipating [2] 57:11 58: 20 anybody [7] 25:24 27:3,12, 13,20,22 29:18 apologize [1] 19:23 appeals [1] 49:3 APPEARANCES [1] 1:18 applied [1] 25:24 applies [4] 3:15 11:22,25 37:22 apply [10] 4:20,22 12:6 55: 6 56:11 68:10 69:6,7,16,22 approach [3] 36:22 37:6, 18 arbitrate [1] 63:3 Arbitration [43] 3:13 8:2,4, 7,12,15 9:7,8,18,19,24 11: 3,18,24 12:2,5,7 14:1,14 20:15 22:1,14,24 25:20,23 26:8,21 27:10,17 32:8 40: 8,9 42:9,10 45:11 50:19 51:7 57:16,20 60:23 62:9, 19,21 arbitrations [1] 52:12 area [2] 48:25 51:6 areas [1] 60:21 aren't [11] 16:6 22:22 35:8 37:8 42:12 45:10 51:25 56: 3 61:25 64:1 68:21 arguably [1] 9:2 argument [29] 1:15 2:2,5,8 3:4,7 4:7,8,16 9:3 17:14 18:21 19:5,9 29:16,17 31: 5 33:15,16 34:4,10,13 46:3, 9,17,18 49:19 64:12,18 arguments [1] 23:10 arise [1] 48:6 arisen [1] 11:23 arises [1] 10:24 arising [1] 14:7 arms [2] 60:3 61:13 around [1] 16:19 articles [3] 26:3 27:5,8 articulated [1] 66:24 aside [3] 29:11 46:10 64:23 asks [1] 3:18 assuming [3] 5:15 24:9 49: 4 assumption [1] 5:11 assumptions [1] 9:16</p>	<p>atextual [1] 4:25 attempt [2] 4:6,24 aware [1] 66:19 Ayer [2] 23:8 24:17</p> <p>B</p> <p>back [5] 10:12 20:16 21:3 23:20 42:14 background [9] 34:1,5,20 38:14 48:3,23 54:15 62:13 66:13 bad [1] 53:21 baggage [1] 52:22 baked [1] 68:25 BAKERIES [2] 1:6 3:5 barges [2] 23:6 25:18 BARRETT [16] 12:10,13 13:18,22 30:25 35:20 40: 23 41:7,8 42:16,19 49:6 56:18,21,23 64:6 based [2] 4:10 19:4 basically [1] 53:18 basis [2] 4:5 69:21 basketball [1] 67:1 beer [1] 53:21 beginning [1] 10:17 behalf [9] 1:20,22 2:4,7,10 3:8 31:6 53:13 64:13 believe [1] 66:17 BENNETT [51] 1:19 2:3,9 3:6,7,9 5:8,24 6:3 7:13 8: 20 9:10 11:9,13 12:23 13: 20,24 14:21 15:10,15 17:9 18:24 19:6,19 20:3,11 23: 17 24:11,14 25:9,12,22 26: 10,15,18 27:3,18 28:2,13 29:14 30:1,5,17,22 31:3 40:24 55:1 57:2 64:10,12, 14 best [2] 60:9 61:17 between [10] 17:22 19:12 22:16,17 38:17 39:22 44:4 60:2,8 61:18 big [3] 58:10 60:2 67:18 bind [1] 18:11 BISSONNETTE [2] 1:3 3: 4 bit [5] 7:12 28:8 42:1 51:24 61:21 blends [1] 26:5 blown [1] 18:15 boat [8] 10:25 24:1 25:7 26: 22 27:6,7 29:24 45:16 boats [13] 4:13 10:5 13:8, 16 23:5 24:18 35:18 43:10 45:4 51:19 65:21,23,24 body [4] 16:19,25 17:1 56: 15 boil [1] 41:24 books [1] 21:4 boom [1] 13:17 borders [5] 3:17 6:7,16 28: 17 54:13 Boston [1] 42:3</p>	

Official

<p>cause [1] 32:6 caused [1] 40:15 certain [2] 10:23 25:6 certainly [5] 6:4 19:4 27:14 30:9 33:8 chance [1] 29:9 changed [2] 57:4 58:9 characteristics [2] 37:4,7 check [1] 47:21 chef [1] 30:11 Chicago [3] 32:6 40:16 61:6 CHIEF [19] 3:3,9 28:24 30:23 31:4,7 36:19 37:1,10,14 38:6 39:3,6,10 63:12,17 64:5,10 69:24 choose [1] 25:22 chose [2] 26:14,21 circle [1] 52:16 Circuit [30] 14:19 31:15 32:19 33:9 34:20,23,24 35:9,9 36:13,17 38:10,15 43:2 49:1,2,3 50:13 55:6 62:24,25 66:16,18,19,20,21,22,23,24 67:6 Circuit's [4] 21:10 36:25 38:9 68:10 circuits [1] 66:14 cite [1] 65:21 citing [2] 41:11 52:17 City [12] 31:15 32:19 34:23,24 35:9,10 36:13,17 43:2 49:1,3 50:13 claims [1] 16:22 class [7] 3:15 5:12 6:5 18:7,9 20:15 48:17 classes [3] 18:4 40:8 62:10 clause [6] 7:17 8:24,24 32:1 57:10 67:8 clean [2] 38:20 48:11 clear [13] 12:25 13:1 19:24 20:2,22 28:14 31:9 52:7,11 55:12,14 68:15 69:14 clearer [1] 52:8 clearly [2] 39:4 52:24 clerk [1] 31:13 coal [2] 17:25 24:22 coast [6] 10:3,3 13:17 24:19 41:15,16 coast-to-coast [2] 26:1 27:20 coasting [2] 26:1 27:4 coastwise [3] 10:4 27:20 51:21 Code [1] 11:16 combine [2] 59:1,2 come [4] 16:7 36:23 58:13 62:5 comes [6] 5:10 9:5 16:16 17:7 22:11 28:20 coming [6] 14:3 44:8,9,18,23 57:22 comments [1] 17:11</p>	<p>commerce [17] 5:13 13:14 14:18 17:3 22:5 23:4 43:19 46:5,20 47:7 48:21 49:17 52:19 59:20 60:1 65:1 66:1 commissioner [6] 9:24 11:1 26:3 27:5,9,10 Commissioners [12] 9:22 10:22 11:22 32:11 40:24 41:10 42:7 43:5 45:8 51:15,23 52:1 common [8] 7:20 8:16 37:6 52:14,19 63:20,24 64:1 common-sense [1] 18:13 commonality [7] 19:12,14 22:16 31:25 36:16,18,20 commonly [1] 18:6 companies [27] 6:25 10:6 14:4 24:20,21,22 25:1 45:3,4,5 48:9 53:3 54:4,12 55:17,21,24 56:3 59:22 60:3 61:13 65:23,24 68:1,2,2 69:12 company [14] 3:24 4:2 5:18 17:2,16 20:24 24:3,23 42:13 48:11,13 51:3 66:17 68:4 company's [3] 4:16 17:25 69:14 compelling [1] 37:24 complicate [1] 33:7 complicated [3] 5:22 36:20 68:20 component [3] 49:5 58:25 63:25 components [1] 59:22 concede [2] 6:8 43:10 concern [1] 26:5 concerns [1] 61:1 conclusion [1] 21:16 concrete [1] 66:17 condition [1] 49:22 confirms [1] 21:6 conflict [3] 10:11 11:4 37:20 Congress [33] 8:1,11,21 9:2,8 10:21 11:7 12:17 13:12 14:4 32:3,7 36:3 39:24 40:2,4,6,11,16 43:16 57:6,8,11 58:21 60:18,20 61:7 62:7,8 65:15,25 66:6 69:15 Congress's [2] 40:21 59:16 connected [1] 16:23 connects [2] 7:18 8:17 considering [1] 37:21 consistent [1] 59:16 constituted [1] 29:10 construct [1] 43:15 consumer [1] 38:23 contemplating [1] 9:3 context [6] 8:6,17 13:25 31:18 32:1 36:9</p>	<p>continuing [2] 12:14,21 contract [2] 39:22 58:3 contracting [2] 68:22,22 contracts [2] 8:3 62:16 control [1] 67:11 converted [1] 45:21 core [1] 13:8 corporate [1] 68:20 correct [5] 8:18 9:21 31:23 39:19 62:22 correctly [2] 44:20 51:14 couldn't [3] 53:1 54:6 63:2 Counsel [12] 12:10 18:13,16 28:25 31:2,9 38:22 46:2 57:18 63:13 64:8 69:25 count [1] 39:12 counted [2] 35:3,23 country [1] 40:15 counts [1] 16:1 course [2] 39:1 55:19 COURT [58] 1:1,15 3:10,12,18 4:19,23 5:10 9:12 10:15,16,18,20 11:2,5,8,14,20 12:3 14:12,25 15:24 21:12 22:1,12,21 25:21 28:21,22 29:16,20 30:2,19 31:8,15 33:9 34:2,9 36:8,17 37:3 43:2 44:20 49:2,3 52:17 54:20 62:18,19,20,21,24,25 65:13,14 67:13,15 69:19 Court's [9] 5:2 10:19 14:20 15:20 23:7 27:24 32:19 33:4 34:8 courts [8] 14:1 16:7 17:6 28:18 37:21 50:5 54:24 56:17 covered [6] 8:25 9:19 26:8,20 50:19 51:6 covers [3] 28:12,13 67:8 created [2] 4:1 37:17 credit [1] 21:20 critical [2] 59:19,25 cross [1] 48:12 crossing [2] 59:24 61:10 crystal [3] 52:6,7,11 curiosity [1] 14:24 curious [1] 12:15 customers [2] 6:24 60:14</p>	<p>decisions [2] 66:18,22 defendant [1] 39:20 define [3] 22:25 23:1 65:14 defined [2] 4:10 31:24 definitely [1] 24:6 definition [12] 4:14 7:15 22:2,3,11,11,22,23 23:2 32:16 35:15 44:22 deliver [1] 15:8 deliveries [1] 5:7 delivery [1] 67:11 demonstrate [2] 22:15 31:19 denying [1] 50:10 department [2] 48:19 59:13 departments [1] 48:20 depend [1] 26:11 depended [1] 26:14 despite [1] 67:14 determine [1] 56:7 dictionaries [1] 21:4 differ [1] 30:15 different [16] 12:1 14:11 15:17 22:2,3 23:23 32:5 36:15 37:20 40:5,17,19 44:6 47:24 56:14 65:5 differently [1] 68:6 difficult [11] 6:13 7:3,22 9:14 23:19 37:18 55:9 56:13 69:6,7,16 directly [6] 3:16 6:1,6,15 28:15 31:11 disagree [3] 41:5 43:25 47:1 discern [2] 7:18 9:12 discovery [1] 6:21 discussed [1] 10:15 discussing [1] 29:17 dispositive [2] 47:5,6 dispute [15] 8:23 10:9,13,24 11:23,24 12:19 18:4 21:21 25:19 28:20 60:8,10 61:5 68:11 disputed [1] 37:9 disputes [6] 14:6,7,16 32:4 60:7 61:4 disrupt [1] 66:1 disrupted [1] 65:17 disruption [1] 60:19 disruptive [1] 66:5 dissent [1] 67:5 distances [1] 58:17 distinction [3] 4:5 17:21 28:11 distinguish [1] 28:6 district [4] 14:20,25 22:12 33:9 doctrines [1] 54:7 doing [14] 9:2 13:12 16:14,15 27:20,22 46:14,15,17,25 51:20,21 59:23 60:22 Domino's [1] 53:10 done [4] 20:20,20 56:25 58:</p>	<p>5 doubt [1] 46:22 down [3] 24:19 25:15 41:24 drawn [1] 44:3 dredgers [1] 27:25 driver [1] 49:14 drivers [12] 3:22 4:3,12 5:6 23:1,3 46:4 48:12 67:8,11,24 68:21 duties [1] 46:14</p> <hr/> <p style="text-align: center;">E</p> <p>earlier [3] 25:14 26:5 30:7 earning [1] 41:19 easier [1] 4:19 East [1] 41:15 economy [9] 13:13 40:18,21 48:18 53:23 60:21 62:1,10 65:18 edge [1] 6:5 effect [1] 43:7 effects [1] 60:13 either [2] 19:20 63:3 ejusdem [6] 4:7,16 7:14 31:18 35:10,11 element [1] 57:13 Eleventh [1] 66:22 Ellis [1] 27:24 emphasized [1] 7:12 employed [14] 3:23 5:18 10:5 13:9 20:24 24:16,18,19,22,23,24 42:15 65:2,23 employee [4] 16:15 46:14,16 52:8 employees [27] 7:24 8:14 9:6 17:18,25 18:3,9 19:13 22:17,17 24:6 25:16 31:24 32:9,15 33:3 36:12,17 40:9 42:13 52:13 60:9 61:18 62:17 67:19,20,23 employer [9] 3:20 4:11 21:9 46:15 52:13 60:8,9 64:19 67:3 employer-based [10] 4:24 10:10 23:12 24:2 65:8 66:3,8,14 67:16 69:5 employers [5] 9:25 13:9 24:24 58:2 62:17 employing [1] 25:1 employment [2] 8:3 39:22 empty [1] 42:5 enacted [3] 11:16,18 57:10 enacting [1] 62:8 encompass [1] 40:25 encompassing [2] 31:10 58:19 end [2] 14:16 15:6 enemy [1] 35:17 enforce [1] 58:4 enforceable [1] 62:18 engaged [7] 5:6,12 17:3 23:3 29:10 47:7 49:16 enough [2] 15:9,25</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Official

<p>enshrined [1] 10:21 entire [2] 33:8 53:19 entirely [2] 12:25 69:13 entirety [1] 58:19 enumeration [3] 32:14 44:11,14 Erving [1] 34:22 ESQ [3] 2:3,6,9 ESQUIRE [2] 1:19,21 essentially [5] 4:1 10:17 26:12 30:18 68:3 ET [2] 1:3,7 even [21] 4:18,21 9:11 10:7 22:21,22 23:9 26:6,19 28:4 47:19 50:12 54:17,20 55:17 64:21,24 65:13,13 66:23 69:7 everybody [3] 21:18 29:20 66:3 evidence [3] 21:5 65:16,22 evolving [1] 58:21 exactly [3] 11:9 26:15 39:11 examined [1] 3:12 example [15] 4:9 6:11 7:8 16:12,18 24:16,17 27:7,24 30:9 32:21 35:24 38:21 51:18 57:14 examples [2] 37:23 62:6 Except [1] 42:16 exclude [1] 56:15 excluded [2] 48:23 50:1 excluding [1] 49:25 executive [1] 14:5 exempt [5] 3:25 12:22 29:19 53:2 67:14 exempt...and [1] 17:20 exempting [1] 8:22 exemption [11] 3:14,15 9:13 10:8 31:10,16,20 34:11 40:3 43:4 67:22 exempts [1] 20:15 exhaustive [1] 44:21 existed [1] 8:8 expensive [1] 25:4 explain [4] 4:21 32:14 46:24 69:2 explained [2] 12:3 68:9 explicit [1] 65:6 extend [1] 20:7 extent [3] 13:11 14:10 45:25</p>	<p>fall [2] 34:10 56:4 falling [2] 44:11 45:10 famine [1] 61:6 famines [2] 32:6 40:15 far [1] 27:23 favor [2] 5:4 20:6 feature [2] 7:19 29:7 February [1] 1:12 Federal [14] 3:13 11:17 12:2 20:14 22:1,14,24 32:8 36:12 40:8 52:12 56:17 58:3 60:22 FedEx [7] 39:18,19,20,21, 22 60:4 68:2 FedEx's [1] 39:8 FedExes [1] 55:13 fell [1] 51:5 ferries [1] 63:24 few [4] 11:14 16:4 18:24,25 figure [4] 6:18 7:23 37:11 53:1 figuring [1] 6:17 file [2] 62:19,20 filed [1] 53:13 fine [1] 59:21 finished [1] 12:11 first [19] 15:12,19 21:14 22:7,18 24:8 30:16 33:24 34:15 35:5 36:6 38:8,41 41:6, 11 44:19 46:22 64:17 66:19 fish [2] 41:22,22 fishermen [1] 64:23 fit [3] 9:4 32:20 40:20 five [2] 53:9,9 fix [1] 57:7 fixed [1] 57:9 flag [1] 14:15 flatly [1] 32:17 fleet [1] 38:1 fleets [1] 45:4 Flowers [30] 3:18,21,24 4:1,9,17,21 6:8,16 21:21 22:15,25 32:22 39:21 61:16, 16,18 65:10,16 67:18 68:3, 8,12,13,17,19,22,23 69:1,7 Flowers' [13] 4:6,12,13,20, 23 19:9 23:1,3,10 24:4 32:22 64:21 69:20 focus [2] 46:13 49:12 focusing [1] 9:13 folks [3] 35:18 37:4 51:19 follow [1] 49:8 following [1] 7:16 food [2] 30:13 53:19 Foods [2] 39:21 61:12 Ford [1] 24:23 foreclosed [2] 33:14,21 foreign [4] 28:16 46:5,19 47:7 forever [1] 67:7 forth [1] 42:14 franchise [1] 53:12 franchisees [1] 53:11</p>	<p>Francisco [2] 1:19 42:3 freely [1] 35:16 Freights [1] 55:13 frequent [1] 56:9 frequently [1] 56:11 friend [2] 36:21 50:17 friends [1] 29:6 front [1] 27:5 full [2] 45:25 52:15 full-time [1] 3:22 funnel [1] 12:17 funneled [1] 9:6 further [1] 28:20 furtherance [1] 21:7 future [2] 9:4,9</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>gave [1] 22:12 generally [1] 56:25 generis [3] 4:8,16 7:15 geographic [1] 10:2 gets [1] 35:15 getting [2] 43:16,17 give [3] 18:22 22:1 37:23 given [3] 18:21 44:21 67:9 gives [1] 14:4 giving [3] 30:7 37:5 38:10 glad [1] 60:5 goals [1] 59:16 good's [1] 31:11 goods [26] 3:16,22 6:7,16 17:16 22:5 23:4,7 25:7 28:16 31:12 38:19 48:20 55:16,20 56:12 58:14 59:7,24 60:14 61:9 62:3 65:1 68:25 69:1,14 GORSUCH [10] 26:23 27:16 28:1,3 29:5,6,25 30:3, 15,20 Got [8] 28:1 29:25 44:17 54:1 62:14 63:9 governing [7] 10:14 16:20 32:8,10 52:12 57:20 65:4 grant [1] 8:10 granular [1] 37:6 gravamen [3] 19:25 20:12, 13 gray [1] 51:6 grievance [2] 12:5 14:13 group [1] 53:13 group-based [2] 14:1,14 guess [2] 59:11,15</p>	<p>heading [1] 14:8 hear [3] 3:3 33:19 64:18 heart [2] 48:1 64:2 held [5] 3:14 11:2 35:10 36:17 43:24 helpful [3] 63:20,20,23 helps [1] 42:1 heretofore [2] 50:1 56:16 highway [1] 6:12 hired [1] 3:24 historical [1] 9:11 history [9] 3:13 13:3 21:13 29:12 31:19 32:2 42:1 45:15 61:2 hold [1] 59:1 holding [7] 20:6 32:19 34:6,8 52:21 54:21 59:3 holdings [1] 33:25 honest [1] 12:24 honestly [1] 49:1 Honor [2] 7:13 64:15 honored [1] 62:22 hope [1] 55:1 host [2] 24:24 25:1 hundred [2] 9:15 65:15 hypotheticals [2] 19:17, 22</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>idea [1] 52:17 identify [1] 4:9 ignorance [1] 12:15 imagine [1] 45:19 impact [1] 43:18 implicated [1] 61:25 implications [1] 18:17 implied [3] 3:23 35:11,12 16 28:1,3 29:5,6,25 30:3, 15,20 important [6] 13:13 47:10 49:25 50:9 55:1 60:22 imposes [1] 37:18 imposing [1] 11:3 in-house [4] 4:2 45:6 60:3 68:4 inclined [2] 65:13,14 include [1] 55:20 included [5] 21:6 26:25 45:18 66:7 69:17 inconsistent [2] 19:9 32:18 incorrect [1] 20:9 indeterminate [1] 7:22 individual [1] 5:17 individuals [1] 24:8 indulge [1] 45:13 industries [6] 9:4 20:7 48:24 52:3 57:12 58:9 industry [102] 4:25 5:19,21 9:5 10:10 13:10 18:8,10 20:8 23:12,16,21,23,25 24:7 25:17 28:5 29:11 30:8, 10,12,14 31:20,24 32:5,9, 12 33:8,18,21 34:2,12,16, 22 35:2 37:5,12 38:16 39:5,12,16 40:5,10,14 41:1,25</p>	<p>42:7 43:7,21 44:6,7,18,23 45:1 46:15,24 48:5,14 49:4,11,12,16,16,21 50:20 51:17 52:6,23 53:13,15,15,19, 22,25 54:16,20 55:15 56:24,24 57:4,14,21,21 58:11, 13,18,20,21,25 59:2 60:12 61:3,4,5 62:4,11 63:23 64:1 66:14 67:1,2 69:5 industry-wide [1] 34:7 inevitably [1] 48:20 informing [1] 54:23 informs [1] 35:6 infrastructure-heavy [1] 25:5 injured [1] 16:21 inquiry [3] 5:21,22 6:10 insight [1] 14:6 Instead [2] 7:17 9:13 intended [1] 59:19 interest [1] 45:24 interference [1] 58:5 internal [3] 17:25 27:21 61:13 international [5] 3:17 6:7 25:25 27:19 62:3 interpret [1] 52:2 interpreted [1] 31:17 interpreting [1] 51:25 interrupt [1] 14:18 interrupted [2] 12:8 13:16 interrupting [1] 13:14 interstate [9] 5:13 31:11 46:5,19 47:7 48:21 49:17 52:19 62:3 intervene [1] 61:7 intranational [1] 61:11 intrastate [2] 5:6 32:25 introduce [1] 48:16 intuition [2] 24:5,7 invocation [1] 4:7 involve [5] 16:20 55:8 56:1, 2 61:1 involved [9] 3:16 6:1,6,15 14:6 28:15 31:11 58:22 62:2 involves [1] 39:1 involving [4] 32:4 40:14 50:2 59:24 isn't [3] 8:17 19:13 46:2 isolating [1] 42:7 issue [7] 47:11,13,14,16 49:21,22 58:24 issues [1] 14:2 items [3] 7:18,19,19 itself [2] 11:22 17:11</p>
		<hr/> <p style="text-align: center;">H</p> <hr/> <p>halt [1] 40:15 handler [1] 52:22 handles [1] 68:23 happened [1] 19:5 happening [2] 13:3 52:3 happens [1] 67:25 harder [2] 49:19 69:22 haul [1] 58:10 hauling [3] 3:22 38:17,19 head [2] 30:10 62:14</p>	<hr/> <p style="text-align: center;">J</p> <hr/> <p>JACKSON [20] 26:13,17 28:4 31:1 34:25 35:7,19, 21 36:2 43:20 44:13 45:2 54:3,6,10 59:11,14 60:16 61:8 64:7 JENNIFER [5] 1:19 2:3,9 3:</p>	

Official

<p>7 64:12 job [2] 15:6 66:4 jobs [2] 16:5 67:21 Jones [6] 16:19 30:9,11 35:25 36:7,9 journey [4] 31:12 42:4,5,14 journeys [1] 45:10 judges [1] 7:22 judgment [3] 40:4,20,22 judgments [1] 40:7 JUSTICE [139] 3:3,10 5:3,20 6:2 7:11,14 9:1 11:6,11 12:10,11,12,13 13:18,22 14:19,22 15:14 17:8,10 19:3,18 20:1,4 23:14 24:9,12 25:8,10,13,17 26:4,13,17,23,24 27:16 28:1,3,4,8,24 29:1,2,3,4,5,6,25 30:3,7,15,20,23,23,25 31:1,4,8,22 33:5,12,13,23 34:3,25 35:7,19,20,21 36:2,19 37:1,10,14 38:6 39:3,6,10 40:23 41:6,8 42:16,19 43:20 44:12,13 45:2 46:2,8,22 47:3,12,17,19,23 49:6,8 50:16,22,25 51:5,12 52:5,25 54:3,6,10,25 55:11,23 56:18,20,21,22,23 59:11,14 60:16 61:8 62:12,16 63:5,9,12,14,15,16,17,17,19 64:3,5,5,7,10 66:10 69:24</p>	<p>last-mile [1] 39:17 later [1] 9:15 law [5] 16:19,25 17:1 21:4 63:8 laws [1] 63:6 layered [1] 7:4 lays [1] 28:14 learned [1] 62:8 least [5] 8:9 20:10 21:13 38:15 51:8 leaves [1] 19:7 leaving [1] 60:23 led [1] 65:20 legal [6] 8:6,16 15:11,12 30:10,12 leisure [1] 51:17 length [1] 26:11 LePAGE [2] 1:6 3:5 Less [2] 3:11 16:10 lesson [1] 62:7 light [2] 33:25 48:22 likely [2] 17:17,20 limit [3] 35:8 36:10 41:18 limitation [4] 44:7 50:7,7 66:8 limitations [2] 10:2 65:6 limited [6] 9:25 31:20 32:11 42:17 43:6 44:16 limitless [1] 35:13 limits [5] 18:16 35:11,12 41:24 50:13 line [8] 32:2 38:17,20 44:3 50:1,11 58:1 60:2 line-drawing [1] 55:9 lines [3] 48:13 59:25 61:10 linkage [1] 26:6 list [2] 36:14,14 listed [3] 7:17,19,19 literal [1] 7:16 literally [1] 21:5 little [6] 20:10 28:8 42:1 45:9 52:7 61:21 LLC [1] 1:6 load [1] 59:7 loaded [2] 50:23 51:1 loader [1] 52:18 loading [1] 15:22 loads [1] 31:12 local [2] 27:23 45:9 location [1] 66:4 long [4] 49:13,15 58:10,17 longer [1] 4:3 longstanding [2] 21:17 67:9 look [22] 8:5,16,18 9:15 11:15,21 13:3 15:19,25 16:11,12,17,25 19:10 20:17 21:3 33:2,7,15 46:18 49:1 65:17 looked [2] 33:5 67:15 looking [5] 7:17 12:5 19:12 37:4 46:3 lose [2] 41:3 53:4 lot [9] 11:19 37:19 40:1 42:</p>	<p>1 48:8 55:22,24 62:5 63:2 lot's [2] 45:12,13 LOVITT [59] 1:21 2:6 31:4,5,7 33:11,23 35:5,25 36:6,24 37:3,13 38:3,7 39:4,9,14 40:23 41:4,9 42:18 43:1 44:9,19 45:7 46:7,21 47:8,13,18,22,25 49:6,20 50:20,24 51:4,10,13 52:10 53:7 54:4,8,11 55:10 56:5 57:8 59:12 60:5,20 61:15 62:15,23 63:7,10,22 64:4,9 lower [6] 16:6 28:18 37:21 50:5 54:23 62:24 lumber [23] 10:4,5 13:8,16 23:5 24:18,20 25:18 27:6,6,7 45:5,14,15,16,20,20,21 51:20 65:21,23 69:12,14</p>	<p>Mm-hmm [6] 19:18 37:13 42:18 51:4 62:15 64:4 modern [6] 14:9 40:21 48:17 53:23 58:6,6 money [2] 41:21,23 most [5] 8:13 35:25 55:21,22 60:7 Motor [2] 17:1 24:23 move [2] 32:25 33:2 Ms [105] 3:6,9 5:8,24 6:3 7:13 8:20 9:10 11:9,13 12:23 13:20,24 14:21 15:10,15,21 17:9 18:24 19:6,19 20:3,11 23:17 24:11,14 25:9,12,22 26:10,15,18 27:3,18 28:2,13 29:14 30:1,5,17,22 31:3,4,7 33:11,23 34:1,9 35:5,25 36:6,24 37:3,13 38:3,7 39:4,9,14 40:23,24 41:4,9 42:18 43:1 44:9,19 45:7 46:7,21 47:8,13,18,22,25 49:6,20 50:20,24 51:4,10,13 52:10 53:7 54:4,8,11 55:1,10 56:5 57:2,8 59:12 60:5,20 61:15 62:15,23 63:7,10,22 64:4,9,10,14 much [7] 6:25 16:13 17:2,7 20:10 28:18 65:11 multiple [1] 16:5 murky [1] 8:10 must [1] 3:20</p>	<p>number [4] 18:18 23:17 53:2,3</p>
K				
<p>KAGAN [6] 23:14 24:9,12 25:17 29:4 30:7 KAVANAUGH [32] 7:11,14 9:1 11:6,11 12:12 17:8,10 19:3,18 20:1,4 25:8,10,13 26:4 30:24 31:23 34:3 50:16,22,25 51:5,12 52:5,25 56:20,22 63:16,18,19 64:3 Kavanaugh's [1] 26:24 Keep [4] 25:10 38:7 45:24 48:10 key [1] 39:25 Kienstra [1] 66:17 kind [10] 9:6 25:18 37:15 38:4 44:6 45:16 56:10 57:5,13 67:16 kinds [2] 14:15 16:14 known [1] 69:15</p>	<p>last-mile [1] 39:17 later [1] 9:15 law [5] 16:19,25 17:1 21:4 63:8 laws [1] 63:6 layered [1] 7:4 lays [1] 28:14 learned [1] 62:8 least [5] 8:9 20:10 21:13 38:15 51:8 leaves [1] 19:7 leaving [1] 60:23 led [1] 65:20 legal [6] 8:6,16 15:11,12 30:10,12 leisure [1] 51:17 length [1] 26:11 LePAGE [2] 1:6 3:5 Less [2] 3:11 16:10 lesson [1] 62:7 light [2] 33:25 48:22 likely [2] 17:17,20 limit [3] 35:8 36:10 41:18 limitation [4] 44:7 50:7,7 66:8 limitations [2] 10:2 65:6 limited [6] 9:25 31:20 32:11 42:17 43:6 44:16 limitless [1] 35:13 limits [5] 18:16 35:11,12 41:24 50:13 line [8] 32:2 38:17,20 44:3 50:1,11 58:1 60:2 line-drawing [1] 55:9 lines [3] 48:13 59:25 61:10 linkage [1] 26:6 list [2] 36:14,14 listed [3] 7:17,19,19 literal [1] 7:16 literally [1] 21:5 little [6] 20:10 28:8 42:1 45:9 52:7 61:21 LLC [1] 1:6 load [1] 59:7 loaded [2] 50:23 51:1 loader [1] 52:18 loading [1] 15:22 loads [1] 31:12 local [2] 27:23 45:9 location [1] 66:4 long [4] 49:13,15 58:10,17 longer [1] 4:3 longstanding [2] 21:17 67:9 look [22] 8:5,16,18 9:15 11:15,21 13:3 15:19,25 16:11,12,17,25 19:10 20:17 21:3 33:2,7,15 46:18 49:1 65:17 looked [2] 33:5 67:15 looking [5] 7:17 12:5 19:12 37:4 46:3 lose [2] 41:3 53:4 lot [9] 11:19 37:19 40:1 42:</p>	<p>M made [7] 17:21 31:9 34:6 37:15 44:1 45:22 66:21 mandatory [9] 9:19 11:3 12:7 manufacture [1] 39:2 manufacturer [4] 24:17 48:18 61:23,24 manufacturers [5] 24:15 50:2 51:22 59:5 61:25 manufacturers' [1] 23:7 many [1] 40:12 maritime [7] 13:6 29:11 51:3 54:19 65:19,20 67:25 mass [1] 56:15 massive [3] 53:4,7 57:20 massively [1] 57:1 master [3] 10:24 26:22 45:23 matter [6] 1:14 6:22,25 7:1 29:12 36:3 matters [1] 33:7 mean [27] 5:25 20:23 23:23,24 24:2 33:14 36:21 37:11,20,23,24 43:22,25 44:16 46:8,10 48:17,25 50:21 52:16 53:5 57:1,2 59:17 61:19 63:24,24 meaning [5] 21:21,25 22:8,9 36:14 means [7] 28:19 30:8 35:6 36:14 46:20 61:20 64:19 meant [6] 19:11 20:17 21:18 24:10 64:22 65:15 mechanisms [1] 12:19 medical [2] 53:14,15 meet [1] 23:1 members [2] 5:12 62:9 merchant [4] 22:12,13,18 44:25 met [1] 42:21 might [8] 16:17,24 25:14 46:24 50:22,25 56:4 58:22 mile [8] 47:10,11 48:2,15 49:11,13 50:4 54:8</p>	<p>N nailed [1] 25:15 narrow [3] 20:5,7 43:17 narrower [1] 42:25 narrowly [2] 31:17 46:19 narrowness [1] 66:11 nation [1] 61:19 national [6] 43:18,19 59:20 60:1 62:1 65:18 nationwide [1] 14:17 nature [1] 61:9 NEAL [1] 1:3 necessary [2] 34:17 49:22 need [7] 6:21 15:25 28:21 42:9,10 50:3 53:16 needed [2] 25:6 66:25 needs [2] 17:2 28:22 neither [1] 51:6 never [4] 16:10 43:12 44:21 59:5 New [7] 1:21,21 42:12 43:1 50:11 53:8 58:1 next [3] 3:4 57:15 59:8 nine-month [1] 42:4 Ninety-five [1] 55:12 Ninth [1] 66:18 normally [1] 17:23 note [6] 16:5,16 19:19 21:12 28:17 65:21 nothing [3] 21:8 33:3 65:2 notion [1] 32:18 nowhere [1] 22:14</p>	<p>O obligation [1] 33:2 obviate [1] 6:10 ocean [1] 27:12 odd [2] 18:14,19 offers [1] 56:14 office-based [1] 15:2 often [2] 14:5 16:7 Okay [2] 15:14 30:20 one [34] 7:9,25 8:21 9:16 11:14 13:25 16:11 18:18,25 23:10,18,24 29:15,16 30:3 32:8,9 35:12 45:23,24 49:23 50:5,8 52:25 53:17 56:15 57:23 58:23 63:16 65:7 66:9,12 68:11 69:8 only [23] 3:23 4:6 5:9,15 11:22,25 22:8 25:5 26:19,20 27:19 32:7,24 38:17,24 40:7,13 41:14 59:3 61:5 62:9 68:23,25 open [2] 19:8 42:2 opening [3] 7:11 48:24 50:11 operating [1] 51:24 opinion [2] 18:15 34:9 opportunity [3] 18:23 28:11 55:2 opposing [1] 17:12 oral [9] 1:15 2:2,5 3:7 17:14 18:21 19:5 31:5 34:4 order [3] 16:24 32:25 35:2 ordinarily [1] 67:15 ordinary [3] 21:21,25 22:8 other [34] 6:24 8:9 11:25 15:23 16:17 18:19 20:7 21:4 28:7 29:7 36:11,15,21 39:13,13 44:4,15 48:25 50:17 54:7 55:4,8,16,18,20 56:12 57:12 61:21,24 63:10 64:24 67:17 68:24 69:1 out [18] 6:17,18 7:8,23 8:2,4,5 28:14 37:11 39:16 40:13 42:17 44:11,23 48:5 53:1,5 61:19 outer [1] 36:10 outside [8] 8:12 27:17,18 41:1 45:8 51:15,23 58:2 over [2] 54:13 57:23 over-the-road [1] 58:12 overseas [1] 41:17 own [15] 4:1,13 17:16 23:2 25:6 38:18 39:7 45:4,4,6 48:12 54:1 55:18 60:22 68:17 owned [3] 45:17 65:24 69:12 owns [1] 43:13</p>
P				

Official

<p>p.m [1] 70:2 package [1] 59:9 PAGE [1] 2:2 pages [2] 46:12,25 paid [1] 25:24 pair [1] 32:15 Panama [1] 42:2 paper [1] 45:22 PARK [1] 1:6 part [13] 14:24 33:16 34:5,8 36:24 38:2,18 46:14 52:18,18 56:18,23 58:24 particular [3] 20:15 21:10 42:21 parties [2] 11:23 60:24 parts [2] 8:10 27:21 passed [3] 32:7 36:5 43:4 past [5] 13:19 14:6 48:6 53:9,9 pay [1] 32:22 pejorative [1] 37:16 people [38] 10:4 13:8,12 14:12,13 15:24 16:4 17:17,20 18:7,9 23:5,6,25 29:23,23 42:8 44:2 45:18,19,20,21,22 58:1,14 59:6,9,10,12 61:20 64:24,25 65:2,21,22 66:1 67:12,23 people's [5] 55:16,18,20 56:12 69:1 percent [4] 55:12,25 56:2,3 percentage [2] 7:2 16:22 performance [1] 33:6 perhaps [2] 14:16 28:20 permitting [1] 63:6 person [1] 16:23 personal [1] 33:2 pest [1] 67:11 Petitioner [3] 33:20 50:10 57:25 Petitioners [14] 1:4,20 2:4,10 3:8 31:9 32:13,21,21 35:16 40:13 43:9 45:14 64:13 Petitioners' [2] 35:15 57:18 phrase [1] 63:20 piece [1] 21:5 pirates [1] 35:17 pivots [1] 4:18 pizza [1] 67:11 place [1] 53:17 places [1] 25:6 plainly [1] 21:18 plaintiffs [1] 5:17 planes [4] 6:13 38:1 39:7,8 plant [1] 31:12 player [1] 67:1 please [4] 3:10 25:12 31:8 51:12 point [11] 26:25 30:16 34:7 40:13 55:1 58:7,23 61:6 66:10 68:7,19 point-to [1] 53:20</p>	<p>point-to-sale [1] 53:20 pointed [1] 42:17 points [5] 33:23 44:19 46:21 64:16 66:12 policy [3] 40:4,20 65:12 poor [1] 32:20 port [7] 41:17,17 42:11,11,11,11,11 position [5] 7:22 18:18,20 35:4 62:23 post-disputes [1] 12:1 potential [1] 14:8 pre-dispute [2] 11:3 12:7 precedent [1] 29:13 predates [1] 34:23 predictions [1] 20:13 preeminent [1] 57:24 preexisting [1] 18:4 presented [5] 5:11 19:2,8,20 20:19 preserved [3] 47:15,20 48:15 presumably [2] 59:25 60:6 presupposed [1] 34:3 pretty [3] 28:14,18 37:24 preventing [2] 50:9,14 price [4] 7:2 21:10 36:22 37:17 Prime [1] 43:2 principle [1] 67:9 principles [3] 12:6,6 62:13 prior [1] 50:21 private [2] 58:3 60:24 problem [8] 22:18,20 48:2,8 54:14 61:17,24 69:11 problems [2] 22:6 55:9 produced [1] 45:19 product [2] 15:7 32:22 products [3] 38:25 39:2 53:16 profit [3] 25:25 33:1 41:19 protection [1] 10:19 provide [1] 32:13 provided [1] 9:23 providing [1] 52:23 provision [2] 27:17 57:17 provisions [3] 45:11 52:12 62:9 public [1] 17:23 purely [1] 38:23 purpose [7] 9:13 10:8,11 12:25 21:8 36:7 65:12 purposes [3] 21:25 22:24 37:9 Put [3] 29:11 40:7 64:23 putting [2] 13:20,24</p>	<p>41:6 47:23,24 48:1 49:9,14 50:4 51:1,1,11 54:9 56:8 57:18,23 59:8 60:6 62:25 63:16 questions [6] 5:2 7:3 16:3 33:4 38:4 63:11 quick [1] 64:16 quickly [1] 53:17 quite [5] 7:12 12:1,24 29:9 68:20</p> <hr/> <p style="text-align: center;">R</p> <p>rail [9] 32:9 43:5 52:3,3,6,19 57:21 58:15 61:5 railroad [34] 7:24 8:14 14:14 16:15 17:17,18,24 18:3,9,10 19:13 22:16,17 23:6 24:6,17 25:3 31:23 32:9,15 33:3 36:12,16 40:9 44:15 45:4,5 52:9,13,22 61:3 67:19,20,23 railroads [4] 17:22 18:1 25:2 69:12 rails [1] 60:15 railway [2] 9:7 43:6 raised [2] 7:5,9 raising [1] 15:16 rather [2] 4:13 21:17 reaching [1] 36:9 reaction [1] 8:1 read [7] 8:9 18:15 19:1 21:23 31:16 33:24 34:4 really [14] 13:13 37:18 53:6 57:5 58:10,12,13,19 64:2 65:11,25 66:21 67:15 69:6 reason [11] 12:14,21 14:10,11 24:25 49:24 54:13 65:10 68:5,16 69:17 reasonably [1] 40:16 reasoning [2] 14:20 19:10 reasons [5] 36:6 39:17 40:1,19 42:17 reassuring [2] 20:4,5 REBUTTAL [5] 2:8 55:2 64:11,12 66:12 recognized [3] 36:8 43:2 44:21 record [2] 8:10 48:11 recreational [3] 35:18 43:10 51:18 reference [1] 31:18 references [2] 11:19,20 regime [12] 8:2,7,15 9:8 12:17 25:20,23 26:9 27:1 50:19 51:7 58:3 regimes [3] 8:23 16:17 57:20</p>	<p>rely [2] 4:17 14:20 remand [1] 47:14 remedial [1] 36:7 remedies [1] 60:25 remedy [2] 42:9,10 repeatedly [2] 17:15 36:8 representation [1] 44:1 request [2] 22:7 69:20 require [3] 12:2 25:3 62:19 requirement [14] 3:19 4:25 5:17 6:9 10:10 19:15 23:12 24:3 49:11 59:2 66:15,20 69:18,20 research [1] 20:20 residual [6] 7:16 8:24,24 32:1 57:10 67:7 resolution [5] 8:23 10:9,13 12:19 18:5 resolve [2] 49:18 60:25 respect [1] 59:17 respond [1] 18:23 responded [1] 62:8 Respondents [4] 1:8,22 2:7 31:6 response [1] 32:7 responses [1] 18:25 restate [1] 51:11 restaurant [2] 53:12,13 restrictions [2] 41:10 42:21 result [1] 32:20 results [1] 37:20 retail [4] 38:25 53:24,25 68:15 retailer [1] 48:18 retailers [2] 33:1 68:13 return [1] 42:5 revenue [3] 21:10 36:22 37:17 revenues [1] 7:2 rewrite [1] 4:19 rich [1] 43:3 rights [1] 11:19 river [1] 27:13 ROBERTS [17] 3:3 28:24 30:23 31:4 36:19 37:1,10,14 38:6 39:3,6,10 63:12,17 64:5,10 69:24 roughly [1] 15:22 rule [9] 4:20 34:21 38:14 48:3,23 54:15 66:13 67:7,14 run [1] 44:25 runs [1] 61:19</p> <hr/> <p style="text-align: center;">S</p> <p>same [13] 4:3 9:6 11:17 21:15 30:18 39:11 42:14 56:10 57:2,13 61:12 66:4,4 San [2] 1:19 42:3 satisfy [2] 68:17 69:2 Saxon [42] 3:12 4:15 15:20,21,21 16:10 17:10,14 18:14,15,17,22 19:1,10,17,21</p>	<p>20:6,19 21:15 28:12,13,14,17 29:8 33:6,16,17,22,25 34:1,15 35:6 44:20 49:24 52:16,17 54:17 56:6,6,14 59:1,3 Saxon's [1] 34:9 saying [17] 13:12 26:9 29:20,22 33:19 42:19 46:17 47:4,5 54:21,22 56:24 58:2 60:17,21 67:3,13 says [13] 4:2 6:16 7:21 22:25 36:13 40:24 41:14 42:23 46:16 57:3 65:10,17 69:8 Scalia-Garner [1] 7:20 scheme [4] 9:19 10:14 11:4 60:23 schemes [1] 10:9 schooners [4] 45:14,16,16 51:20 scope [1] 59:6 seaman [10] 16:15,24 21:16 29:19,21 35:3,7 42:20,20 43:14 seaman [74] 4:10,14,14 7:24 8:14 9:16,17,20,24 10:2,4,14,18,23 11:7 13:15 16:21 17:18,24 18:3,7 19:12 20:23 21:6,16,22 22:9,10,16,23 23:11,15 24:6,12,16,18,19,22,23,24 26:7,19 27:1,14,15,25 29:10,23 31:23 32:10,15,17 33:3 35:13,13,17,24 36:3,10,13,15,16 40:10,25 42:9,23 43:9 44:15,24,24 51:2,14 54:18 64:22 65:4 seamen's [2] 27:21,22 second [24] 9:11 14:19 21:9 22:20 24:10 30:5 33:9 34:7,20 36:11,25 38:9,10,15 41:18 55:6 65:9,10 66:21,23,24 67:6 68:9,19 seconds [1] 45:13 Section [19] 8:13 31:10,16 34:11 36:15 40:3 41:12,13,14 42:22,24 43:3,14 50:14 54:18 57:10 58:18 59:17,18 security [3] 43:19 59:20 60:1 see [8] 11:18 16:12 20:17 46:9,10 48:13 57:25 66:9 seeing [1] 48:6 seem [1] 37:19 seemingly [1] 8:5 seems [3] 7:25 18:14,19 seen [2] 16:6 67:10 sell [4] 3:20 6:23,24 32:25 selling [1] 41:22 sells [8] 6:18,21,22 7:1 24:4 64:20 68:12,13 sense [8] 17:12 18:20 20:10 32:2 37:16 42:8 57:6</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Official

62:6 separate [5] 5:5 8:7,15 9:7 26:8 services [4] 30:10,12,13 52:23 settling [1] 49:13 Seventh [1] 66:16 share [2] 25:25 36:16 she'd [1] 30:13 she's [1] 30:13 shelves [1] 31:14 shifted [2] 49:12 57:1 ship [8] 22:4 25:6 26:2 35: 17,23 42:5 55:18 61:16 shipment [1] 31:13 shipments [1] 53:20 shipped [3] 17:22 58:14 69:13 shippers [1] 24:13 Shipping [68] 9:22,23 10: 22 11:1,21 17:16 18:8 23: 16,23 24:1 25:17,20,23 26: 2,3 27:4,5,8,9 29:11,18, 21,24 32:10,12 38:24 39:1 40:10,24 41:1,9,20,22,25 42:1,6 43:5,7 44:25 45:8 48:14,19,19,20 51:3,15,17, 23 52:1 54:1,13,20 55:14, 16 56:12 57:4,13 58:16,17, 17 59:13 62:3 63:23 64:1 65:19,20 68:1 ships [2] 44:25 53:15 show [1] 32:21 showing [1] 68:14 shown [1] 23:11 shows [1] 69:4 side [7] 28:10 29:7 34:24 36:21 46:11 50:18 55:5 side's [2] 17:12 18:20 sightseeing [1] 43:13 sign [1] 27:4 signed [2] 26:2 27:7 similar [2] 24:25 30:6 since [6] 10:20 22:10 28:17 34:20 38:14 50:12 single [7] 4:9 22:12 23:10 61:23 64:18 65:7 67:10 sinks [1] 4:15 situated [1] 60:10 slightly [1] 26:6 sold [4] 4:11 10:1 20:24 21: 9 solved [1] 48:2 somebody [3] 16:14 20:23 64:19 someone [2] 6:1 16:13 someone's [1] 15:6 sometimes [4] 39:7,8,11, 18 somewhat [1] 7:21 somewhere [1] 15:8 sorry [4] 12:11 25:11 38:6 56:21 sort [4] 14:13 24:2 59:10	61:11 sorts [3] 39:2 40:19 61:4 SOTOMAYOR [18] 14:19, 22 15:14 28:8 29:3 46:2,8, 22 47:3,12,17,19,23 62:12, 16 63:5,9,15 Sotomayor's [1] 49:8 source [1] 21:2 Southwest [1] 3:11 speaking [1] 38:23 specific [1] 20:13 specifically [2] 9:14 13:7 spell [1] 53:5 spend [1] 16:14 spent [1] 15:21 split [2] 34:24 62:25 square [2] 35:3,22 ST [1] 1:6 stab [1] 15:19 start [3] 4:8 48:16 62:1 state [13] 3:17 6:7 28:16 48: 12 59:25 61:10 62:18,19, 20,21 63:5,7,8 stated [1] 17:15 STATES [6] 1:1,1,16 27:22 41:16,17 63:2 statute [20] 4:6 7:6 9:23 12: 7 16:20 21:4 22:19,23 23: 13 26:20 36:5,12 42:17 43: 23 44:8,10 65:3 66:9 69: 18,22 statutes [9] 4:19 10:21 14: 15 18:5 21:5 32:8 40:9 58: 6 65:5 statutory [1] 16:17 step [2] 10:12 23:20 still [7] 23:11 28:6 49:23 50: 3 57:19,19 67:9 stop [1] 57:15 store [1] 31:13 stores [2] 17:19 68:15 straight [1] 11:8 straightforward [4] 55:5,7 56:10 69:8 stressed [1] 18:16 strike [4] 13:4,4,14,15 strikers [1] 13:8 strikes [7] 13:7 14:17 40: 13,14 65:17,20 66:2 strong [1] 52:7 struck [1] 66:4 structure [4] 21:11 36:22 37:17 68:21 stuff [1] 38:18 subject [3] 8:3 10:19 17:3 submitted [2] 70:1,3 subset [5] 29:10 42:24,25 43:17 54:19 subsidiaries [1] 68:24 subsidiary [2] 68:23,25 sufficient [3] 34:10,14 49: 23 suggesting [1] 28:9 suit [3] 39:20 62:20,20	supervising [1] 15:23 supervision [1] 16:1 support [1] 11:12 SUPREME [2] 1:1,15 swept [1] 49:17 syndicates [2] 45:17,18	T	talked [1] 28:7 talks [1] 27:24 tasks [1] 15:17 term [4] 21:17 22:12,13 56: 20 terms [1] 8:17 test [13] 28:5,14 38:12 55:6 56:14,14 67:16 68:9,10,18 69:3,4,5 text [11] 3:13 4:6,17 7:5,12, 16 9:14 64:17,19 65:11 69: 21 textual [1] 4:7 themselves [1] 68:4 theory [3] 51:7,8 59:15 there'd [2] 57:22,22 there's [24] 6:13 8:20 14:9 15:10 16:18 17:1 18:2,2 23:2,17 24:14,23 36:11 37: 9 40:1,2 41:18 58:25 59:2 62:24 63:25 68:4,11 69:17 therefore [2] 33:18,21 they'll [1] 21:22 They've [2] 10:18 54:1 third-party [3] 38:19 60:13 61:1 THOMAS [9] 5:3,20 6:2 29: 1 33:5,12,13,24 63:14 though [4] 22:7,20 26:24 47:12 thousands [1] 3:21 three [5] 15:22,24 31:19 38: 4 64:16 threshold [1] 49:22 throughout [1] 59:18 tie [2] 23:6 24:17 title [4] 11:15,16 32:23,24 today [7] 25:2 40:18 61:14, 15 62:6 67:20 69:11 together [3] 32:16 36:13 66:4 took [2] 8:1 62:24 tools [1] 17:6 top [3] 6:10 7:4,10 touched [1] 19:22 tough [1] 16:3 toward [1] 49:13 TRACI [3] 1:21 2:6 31:5 track [2] 25:3 38:7 trade [2] 22:4,5 trading [1] 45:20 traditional [2] 15:3 51:22 transparent [1] 14:2 transport [2] 32:4 43:12 transportation [76] 3:20, 25 4:3,11 5:19,21,22,25 6:	19,22 7:1 10:1 12:18,21 13:5,5,10 14:3 15:1,4 20:8, 25 21:9 24:4,7,21 28:5,6 31:20 32:4,18 33:17,20 34: 2,12,16,22 35:2,14 36:18 37:5,12,25 38:16 39:5,12, 16 40:5,14 41:23 43:15,23 44:4,5,14,16,22 46:24 48:4, 24 49:4 52:23 54:16 56:1, 2 58:20 59:22 60:3,12 61: 13 62:11 64:20 66:25 67:2 68:12,24 transporting [7] 3:16 6:6, 15 23:4 28:16 65:1 69:1 traveling [2] 6:12 10:3 treated [1] 68:5 treatise [1] 7:21 trouble [1] 35:16 truck [5] 3:21 4:3 23:3 67:8, 24 truckers [3] 6:15 25:1 67: 21 trucking [5] 3:23 4:2 58:12 67:25 68:4 trucks [2] 4:13 6:12 true [5] 5:16 60:11 61:22 66:13,20 try [3] 7:23 9:12 38:7 trying [5] 7:18 37:11 60:18 65:25 66:6 Tuesday [1] 1:12 turn [1] 20:25 twice [1] 21:13 two [24] 3:11 8:20 9:24 15: 23 16:11 18:3 22:6 23:23 29:15 30:4 32:7,8 33:23 36:6 40:7 41:10,24 44:19 46:21,21 62:9,10 66:12 68: 11 two-by-fours [1] 45:22	U	U.S. [5] 10:15 11:15,16 12:4 61:12 U.S.C. [1] 41:12 Unable [1] 4:17 under [9] 4:13 9:16 17:1 32:10 33:1 50:13 54:18 58: 4,5 underlying [1] 9:17 understand [9] 17:24 23: 15 26:24 35:19 38:24 44:7 49:18 51:13 59:15 understanding [2] 18:13 64:22 understood [6] 14:25 17: 24 18:6 30:22 36:4 46:5 unique [1] 32:6 UNITED [5] 1:1,16 27:22 41:16,17 unlike [1] 25:2 unloading [1] 15:22 unloads [1] 31:13 until [5] 42:2 48:4,6 58:13	66:20 unusual [2] 17:5 43:8 unworkable [1] 5:1 unwritten [1] 3:19 up [15] 14:3,16 16:7,16 17: 7 18:11,12 21:22 24:18 28: 20 37:15 40:12 49:8 62:5 68:15 UPS [1] 55:13 uses [2] 36:12 38:1 using [2] 36:3 54:19 usual [1] 55:19	V	vast [1] 23:17 version [2] 24:4 41:12 versus [3] 3:4,12 60:4 vessel [8] 16:23 21:7,19 22: 13,13 42:12 45:23,25 vessels [4] 22:18 41:15 58: 18 64:25 view [4] 17:13 31:10 50:8 55:11 viewed [1] 50:13 viewing [1] 49:21 voyage [7] 26:1,1,2,12 27: 4,12 41:14 voyages [3] 27:19 41:15 51:21	W	Walmart [1] 61:12 wanted [3] 8:12 11:7 12:17 wards [1] 10:18 warehouses [1] 54:2 Washington [1] 1:11 waterfall [1] 50:15 wave [1] 50:9 way [13] 8:18 16:8 19:20 46: 10 48:15 49:13 53:23 56: 25 57:3,17 58:14 65:3 66: 2 ways [1] 68:11 week [3] 15:22,23,25 weigh [1] 28:21 welcome [2] 5:2 33:4 well-defined [1] 21:17 well-established [1] 67:6 West [3] 13:17 24:19 41:16 whatever [1] 21:24 whenever [1] 61:22 Whereupon [1] 70:2 whether [16] 4:11 5:5 6:1,5, 14,18,21 12:17 16:1 20:14 21:8 26:14 46:4 47:20 56: 9 67:16 who's [2] 46:11 55:14 whoever [1] 43:13 whole [11] 13:16 16:18 40: 1 48:16,25 49:25 50:11 53: 22 57:25 62:1 63:25 wholesale [2] 40:4,7 Wilander [1] 21:14 will [4] 19:8 55:2,7,8
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Official

willing ^[1] 22:21
win ^[1] 49:10
winning ^[1] 34:24
within ^[6] 34:11 43:14 45:
 10,18 59:5,23
word ^[13] 4:10 20:5,23 21:6,
 10 22:2 23:21 36:3 52:11
 55:22 60:6 64:18,22
words ^[8] 4:15 8:9 11:25
 19:11 20:17 22:22 23:13
 57:1
work ^[19] 3:22 16:14 18:8,
 10 23:16 24:1,1,3,21 27:21,
 22 29:18,21,23 31:25 43:
 11 51:2,16 55:25
workable ^[1] 4:21
worked ^[6] 21:7,18 24:20
 25:16 65:4 66:2
worker ^[14] 3:14 15:4 31:
 11,12 32:19 34:2,12 36:18
 39:23 43:15 44:4,15,22 49:
 15
worker's ^[3] 3:20 4:11 56:
 7
workers ^[56] 3:15,25 4:4 5:
 11,12,23,25 6:6 8:3,13,22,
 25 12:18,22 13:5,6 14:3
 15:1,16 18:4 20:16 22:4
 23:24 27:7 28:7,7,15 29:
 10 31:21 32:5 33:6 35:14
 39:11 40:5,8 43:7,18,21,23
 44:4,5,15,17 45:5 47:6 48:
 5 50:18,20 53:2 59:19,23
 60:12 62:10 66:25 67:12
 68:5
working ^[2] 24:13 44:2
works ^[4] 53:24,24 64:19
 67:25
worried ^[2] 64:24 67:13
worry ^[1] 65:11
worth ^[1] 56:7
writing ^[2] 10:25 11:24

Y

yacht ^[3] 43:11,14 44:2
year ^[2] 11:17 48:7
years ^[5] 3:11 9:15 53:9,10
 65:15
Yellow ^[1] 55:13
York ^[2] 1:21,21