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WLF Urges Supreme Court To Clarify FAA § 1 Exemption In Line With Statutory Text and Context

(*Amazon.com, Inc. v. Waithaka*)

“The text and context of FAA § 1 establish that it covers only workers who transport goods in bulk across borders.”

—Cory L. Andrews, WLF General Counsel and Vice President of Litigation

WASHINGTON, DC—Washington Legal Foundation (WLF) today filed an *amicus curiae* brief urging the U.S. Supreme Court to review, and ultimately reverse, a First Circuit decision that refused to read section 1 of the Federal Arbitration Act (FAA), known as the “transportation worker exemption,” in line with its text and context. WLF’s brief was joined by the Allied Educational Foundation.

The FAA establishes a federal policy favoring arbitration. It requires, in section 2, that most people comply with their arbitration agreements. It contains a discrete exception, in section 1, for “seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce.” The district court ruled that a driver who merely delivers packages locally for Amazon fits within this exemption. The First Circuit agreed, holding that the plaintiff need not cross state lines to be engaged “in foreign or interstate commerce” under section 1.

In its brief, WLF explains that section 1 is not the product of a legislative intent to excuse transportation workers—and, for some peculiar reason, them alone—from honoring arbitration agreements. Section 1 exists, rather, because Congress expected shipping-industry workers to engage in arbitration governed by *other* federal laws. And because section 1 fulfills this singular purpose, there is no principled way to stretch its application. Although some judge-made tests purport to expand the exception beyond national and international transportation of goods, WLF argues that these contrived standards defy statutory text and context, produce inconsistent results, and serve no end set forth by Congress.

Because the plaintiff in this case made only local deliveries purely intrastate, WLF contends that the Supreme Court should intervene to clarify that he falls outside the section 1 exemption.

Celebrating its 44th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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