Press Release

Washington Legal Foundation
Advocate for Freedom and Justice®
2009 Massachusetts Avenue, NW
Washington, DC 20036
202.588.0302 wlf.org

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Media Contact: Glenn Lammi | glammi@wlf.org | 202-588-0302

WLF Urges Supreme Court To Construe FAA § 1 Exemption In Line With Statutory Text And History

(*Bissonnette v. LePage Bakeries Park St., LLC*)

> **"The text and history of FAA § 1 confirm that it covers only transportation-industry workers who carry goods or passengers across borders."**
> —Cory 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 affirm a Second Circuit decision that properly reads Section 1 of the Federal Arbitration Act (FAA), known as the "transportation worker exemption," in line with its text and historical context.

The FAA establishes a federal policy favoring arbitration. Section 2 requires that most people comply with their arbitration agreements. Section 1 contains a discrete exemption for "seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce." The district court ruled that the plaintiffs, business franchisees who independently distribute baked goods within a fixed intrastate territory, do not fall within this exemption. The Second Circuit affirmed, emphasizing that Section 1 covers only workers in the transportation industry.

In its brief, WLF explains that Section 1 exists because Congress expected a few discrete classes of workers to engage in arbitration or pursue remedies 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 exemption beyond transportation-industry workers who carry goods or passengers across borders, WLF argues that these contrived standards defy statutory text and context, produce inconsistent results, and serve no end set forth by Congress.

Celebrating its 46th 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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