PUBLIC JUSTICE STATEMENT ON SUPREME COURT DECISION TO REVIEW '*NEW PRIME, INC. V. OLIVEIRA*'

Public Justice issued the following statement in response to the U.S. Supreme Court's announcement this morning that it will review the First Circuit Court of Appeals decision in 'New Prime, Inc. v. Oliveira.'

Today, the Supreme Court granted certiorari to review the First Circuit's decision in *New Prime, Inc. v. Oliveira*. There are two questions before the Court. First, whether companies can avoid the Federal Arbitration Act's exemption for the "contracts of employment" of transportation workers, simply by calling their workers independent contractors. The First Circuit held that the exemption applies to *all* transportation workers, and so it doesn't matter how companies label their drivers—if they are transportation workers, the exemption applies. Second, the Court will also face the issue of who should decide that question—the court or an arbitrator. The First Circuit held that the court should decide this question, because courts cannot compel arbitration under the Federal Arbitration Act without first deciding whether the Act applies. We believe the First Circuit was right on both questions and are hopeful that, after full briefing and argument, the Supreme Court will come to the same conclusion.

We welcome the Supreme Court's decision to hear the case, not only because we are hopeful the Court will see that the First Circuit correctly decided the case, but also because we believe the truck drivers who work for New Prime have been denied crucial rights under the wage and hour laws. And New Prime's years-long effort to compel arbitration has delayed the drivers' ability to even get their claims heard. A decision upholding the well-reasoned First Circuit decision would finally permit the parties to get to the merits of the case—which, at its heart, is about whether New Prime must pay its truck drivers minimum wage. The named plaintiff in this lawsuit alleges he drove thousands of miles for New Prime, and yet frequently earned far less than minimum wage. In fact, there were some weeks, he alleges, when his paycheck was actually negative—that is, he had to pay New Prime for the privilege of working for it. Although this case was filed in 2015, these claims still have not been resolved because the company has spent years trying to compel arbitration. We are hopeful the Supreme Court's decision will ultimately permit these claims to be tried on their merits and prevent other companies from tying up similar claims for years.

We are confident that we have the stronger argument under the language of the Federal Arbitration Act, under the Supreme Court's own decisions applying that statute, and in light of Congress's intention in passing the Act. The Supreme Court has repeatedly mandated that statutes be interpreted according to the meaning of their words at the time the statute was passed. And the First Circuit did just that. After extensive historical research, the court found that the term "contracts of employment" at the time the Federal Arbitration Act was passed *universally* referred to all agreements to do work—including those of independent contractors. The exemption for transportation workers' "contracts of employment," therefore, must apply to all transportation workers—including those that have been labeled (or mislabeled) independent contractors. The First Circuit also came to the commonsense conclusion that the court—and not an arbitrator—must decide this issue, because a court can't rely on the Federal Arbitration Act to compel arbitration if the Act does not apply. For all of those reasons, we

are optimistic that, upon briefing and hearing the arguments in this case, the Court will agree that the law strongly favors our client.

For more information, visit our case page online here.