UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMAZON.COM SERVICES LLC
Respondent,

and

TEAMSTERS AMAZON NATIONAL NEGOTIATING COMMITTEE, INTERNATIONAL BROTHERHOOD OF TEAMSTERS
Charging Party.

Case No. 20-CA-353378

MOTION OF PROPOSED AMICI CURIAE TO CORRECT THE CAPTION AND RELATED REFERENCES TO FMI - THE FOOD INDUSTRY ASSOCIATION

Pursuant to 29 C.F.R. §§ 102.46(i) and 102.47, Proposed Amici respectfully move to correct a clerical error in their September 10, 2026 motion for permission to file and the proposed amicus curiae brief submitted with it.

The filing identified one proposed amicus as "Food Industry Association" in the motion and caption of the proposed brief, and as "The Food Industry Association" in the brief's Interest of Amici Curiae section. The organization's correct name is "FMI - The Food Industry Association."

A corrected copy of the September 10 filing, attachment 1, accompanies this motion. It changes only the organization's name in the affected references; it does not add or remove an amicus or change any argument, authority, requested relief, or other substantive content. The correction will not prejudice any party or affect any applicable response period.

Accordingly, Proposed Amici respectfully request that the Board grant this motion, accept the corrected motion for permission and proposed amicus curiae brief in place of the September 10 filing, and deem the corrected filing submitted as of September 10, 2026.

Respectfully submitted,
JACKSON LEWIS P.C.
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Counsel for Proposed Amici Curiae
Dated: September 11, 2026

STATEMENT OF SERVICE

I certify that on September 11, 2026, I caused the foregoing Motion of Proposed Amici Curiae to Correct the Caption and Related References to FMI - The Food Industry Association, together with the accompanying corrected September 10, 2026 filing, to be E-Filed with the Office of the Executive Secretary of the National Labor Relations Board and served by email on the following:

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/s/ David A. Kelly
David A. Kelly
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ATTACHMENT 1

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMAZON.COM SERVICES LLC

Respondent,

and

Case No. 20-CA-353378

TEAMSTERS AMAZON NATIONAL NEGOTIATING COMMITTEE, INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Charging Party.

MOTION OF PROPOSED AMICI CURIAE FOR PERMISSION TO FILE THE ATTACHED AMICUS CURIAE BRIEF IN SUPPORT OF RESPONDENT AMAZON.COM SERVICES LLC'S EXCEPTIONS

Pursuant to Section 102.46(i) of the Rules and Regulations of the National Labor Relations Board, American Hotel and Lodging Association; American Trucking Associations, Inc.; Associated Builders and Contractors; Associated General Contractors of America; Coalition for a Democratic Workplace; Chamber of Commerce of the United States of America; FMI – The Food Industry Association; Independent Electrical Contractors; International Franchise Association; International Foodservice Distributors Association; National Association of Wholesaler-Distributors; National Federation of Independent Business Small Business Legal Center, Inc.; National Retail Federation; Restaurant Law Center; and National Association of Manufacturers (collectively, "Proposed Amici") respectfully move for permission to file the proposed amicus curiae brief attached as Exhibit A in support of Respondent Amazon.com Services LLC's exceptions to the Administrative Law Judge's Decision and Recommended Order in *Amazon.com Services LLC*, Case No. 20-CA-353378 (JD-39-26).

Section 102.46(i) directs a proposed amicus to identify its interest in the case and explain why its brief will assist the Board. Proposed Amici satisfy both requirements.

I. PROPOSED AMICI HAVE A DIRECT AND SUBSTANTIAL INTEREST IN THE ISSUES BEFORE THE BOARD.

Proposed Amici are national business, employer, and industry organizations whose members operate in nearly every sector of the economy, employ millions of workers, and regularly are governed by the Act's representation and collective-bargaining rules. Their members include employers of every size in lodging, trucking, construction, retail, food distribution, franchising, restaurants, wholesale distribution, electrical contracting, and other industries.

This case will determine whether the framework announced in *Cemex Construction Materials Pacific, LLC*, 372 NLRB No. 130 (2023), permits the Board to treat an employer's failure to recognize a union based on authorization cards or promptly file an RM petition as a violation of Section 8(a)(5), and to impose a bargaining order on that basis. The answer will directly affect Proposed Amici's members whenever a union makes a card-based demand for recognition.

Proposed Amici and their members therefore have a substantial interest in clear and lawful rules governing employee choice, representation proceedings, voluntary recognition, employer speech, and the circumstances in which the Board may displace a secret-ballot election with a bargaining order.

II. THE PROPOSED BRIEF WILL ASSIST THE BOARD IN DECIDING THE MATTERS AT ISSUE.

This case presents the *Cemex* recognition-demand rule in a particularly clean posture. No election was conducted or set aside, no independent unfair labor practice was alleged, and the Administrative Law Judge's Section 8(a)(5) finding and bargaining order rest solely on Amazon's failure to recognize the Union or file an RM petition after a card-based demand. The validity of the recognition-demand rule therefore is necessary to the disposition of the case.

The proposed brief will assist the Board in four principal respects. First, it analyzes the text and structure of Sections 8(a)(5), 9(a), and 9(c), and explains why *Linden Lumber Division, Summer & Co. v. NLRB*, 419 U.S. 301 (1974), forecloses converting an employer's optional RM-petition procedure into a mandatory filing duty enforced through unfair-labor-practice liability.

Second, the brief explains why *NLRB v. Gissel Packing Co.*, 395 U.S. 575 (1969), reserves bargaining orders for cases in which serious election-impairing misconduct makes a fair election unlikely, and why both components of the *Cemex* framework depart from that case-specific remedial standard.

Third, the brief addresses *Brown-Forman Corp. v. NLRB*, 169 F.4th 646 (6th Cir. 2026), and the limits on using adjudication to announce a generally applicable rule that was unnecessary to resolve the case in which it was announced. The brief explains why the Sixth Circuit's reasoning applies to the recognition-demand rule that is dispositive here even though *Brown-Forman* directly addressed *Cemex*'s post-election bargaining-order standard.

Fourth, the brief offers the Board the cross-industry perspective of employers that must administer the Act in day-to-day operations. It explains the practical consequences of displacing the Board's secret-ballot election process, pressuring employers to act on untested card claims, and tying bargaining-order liability to ordinary disputes over protected campaign speech.

These issues fall within the scope of Amazon's exceptions. The proposed brief relies on the existing record and legal authorities, does not seek to introduce new evidence, and presents a focused perspective that will assist the Board without duplicating the parties' submissions.

III. THE MOTION IS TIMELY, AND GRANTING IT WILL NOT PREJUDICE ANY PARTY.

Amazon filed its exceptions on July 20, 2026. On August 25, 2026, the Office of the Executive Secretary granted Proposed Amici's request to extend through September 10, 2026, the time to file their motion for permission and proposed brief. This motion is timely under that order.

To the extent the August 25 order is construed not to cover any organization that joined the same joint submission after the extension request was filed, good cause independently supports accepting the filing under Section 102.46(i)(2). The additional organizations join a single brief filed by the extended deadline, add no pages or separate arguments, and their participation neither alters the parties' briefing schedule nor causes prejudice.

The proposed brief accompanies this motion and does not exceed the 25-page limit in Section 102.46(i)(3). Granting leave will not delay the proceeding. Section 102.46(i)(4) gives the parties seven days to respond to this motion and, if permission is granted, fourteen days to answer the amicus brief.

CONCLUSION

For these reasons, Proposed Amici respectfully request that the Board grant this motion and accept for filing the proposed amicus curiae brief attached as Exhibit A.

Respectfully submitted,
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Counsel for Proposed Amici Curiae
Dated: September 10, 2026

STATEMENT OF SERVICE

I certify that on September 10, 2026, I caused the foregoing *Motion of Proposed Amici Curiae for Permission to File the Attached Amicus Curiae Brief in Support of Respondent Amazon.com Services LLC's Exceptions,* together with Exhibit A, to be E-Filed with the Office of the Executive Secretary of the National Labor Relations Board and served by email on the following:

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EXHIBIT A

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMAZON.COM SERVICES LLC

Respondent,

and **Case No. 20-CA-353378**

TEAMSTERS AMAZON NATIONAL NEGOTIATING COMMITTEE, INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Charging Party.

BRIEF OF AMERICAN HOTEL AND LODGING ASSOCIATION, AMERICAN TRUCKING ASSOCIATIONS, INC., ASSOCIATED BUILDERS AND CONTRACTORS, ASSOCATED GENERAL CONTRACTORS OF AMERICA, COALITION FOR A DEMOCRATIC WORKPLACE, CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA , FMI – THE FOOD INDUSTRY ASSOCIATION, INDEPENDENT ELECTICAL CONTRACTORS, INTERNATIONAL FRANCHISE ASSOCIATION, INTERNATIONAL FOODSERVICE DISTRIBUTORS ASSOCIATION, NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS, NATIONAL FEDERATION OF INDEPENDENT BUSINESS SMALL BUSINESS LEGAL CENTER, INC., NATIONAL RETAIL FEDERATION, RESTAURANT LAW CENTER, AND NATIONAL ASSOCIATION OF MANUFACTURERS, AS AMICI CURIAE IN SUPPORT OF RESPONDENT AMAZON.COM SERVICES LLC'S EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S DECISION AND RECOMMENDED ORDER

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INTEREST OF AMICI CURIAE

The American Hotel and Lodging Association (AHLA), founded in 1910, is the sole national association representing all segments of the lodging industry, including hotel owners, REITs, chains, franchisees, management companies, independent properties, bed and breakfasts, state hotel associations, and industry suppliers. Supporting more than 9 million jobs and with over 33,000 properties in membership worldwide, the AHLA represents more than half of all the hotel rooms in the United States. The mission of the AHLA is to be the voice of the lodging industry, its primary advocate, and an indispensable resource. AHLA serves the lodging industry by providing representation at the federal, state, and local level in government affairs, education, research, and communications. AHLA also represents the interests of its members in litigation that raises issues of widespread concern to the lodging industry.

American Trucking Associations, Inc., (ATA) is the national association of the trucking industry, comprising motor carriers, state trucking associations, and national trucking conferences, and was created to promote and protect the interests of the national trucking industry. Its direct membership includes approximately 2,600 trucking companies and industry suppliers of equipment and services; and in conjunction with its affiliated organizations, ATA represents over 30,000 companies of every size, type, and class of motor carrier operation. ATA regularly represents the common interests of the trucking industry before courts and agencies throughout the nation, including before the NLRB.

Associated Builders and Contractors (ABC) is a national construction industry trade association established in 1950 with 67 chapters and 24,000 members. Founded on the merit shop philosophy, ABC represents all specialties within the U.S. construction industry, comprised primarily of nonunion firms that perform work in the industrial and commercial sectors. ABC members often deal with union organizing in the workplace, and they rely on the NLRB to adhere to long-established statutory policies adopted by the Supreme Court that protect the rights of employers and their employees to secret ballot elections.

Associated General Contractors of America (AGC) is a nationwide trade association of commercial construction companies and of service providers and suppliers to such companies. Founded in 1918, AGC now has 87 chapters, including at least one in every state, and over 28,000 member firms. AGC represents both union- and open-shop contractors engaged in building, heavy, civil, industrial, utility, and other construction. The association provides a full range of services to meet the needs and concerns of its members, thereby improving the quality of construction and protecting the public interest. In addition to the substantial interest in the present case shared with the other organizations joined in this brief, AGC has a unique interest given that the *Cemex* framework can uniquely affect unionized workforces in the construction industry by providing a pathway for involuntary conversion from 8(f) relationships to 9(a) relationships without proper protections.

The Coalition for a Democratic Workplace (CDW) is a trade organization composed of hundreds of organizations representing millions of businesses that employ tens of millions of workers nationwide in nearly every industry. CDW members are joined by their mutual concern over regulatory overreach by the National Labor Relations Board that threatens employees, employers, and economic growth.

The Chamber of Commerce of the United States of America is the world's largest business organization. As the nation's leading advocate for business, the Chamber represents companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files amicus curiae briefs in cases, like this one, that raise issues of concern to the nation's business community.

FMI - The Food Industry Association (FMI) works with and on behalf of the entire industry to advance a safer, healthier, and more efficient consumer food supply chain. FMI's membership manufactures, distributes, and sells food and consumer goods that are found in pantries, refrigerators, medicine cabinets, and laundry rooms across the country. Our retail members, which range in size from independent operators to regional and large national and international businesses and brands, operate 45,000 grocery stores and 12,000 supermarket pharmacies. The food industry produces and supplies over 30,000 different food and consumer good products found on store shelves, employs over 6.3 million individuals, and ultimately touches the lives of more than 100 million U.S. households per week.

Independent Electrical Contractors (IEC) is a nonprofit trade association federation with 54 educational campuses and affiliate local chapters across the country. IEC represents more than 4,300 member businesses and educates over 20,000 electrical apprentices each year through world-class training programs. IEC is the leading organization representing America's independent electrical and systems contractors.

The International Franchise Association (IFA) is the world's oldest and largest trade association devoted to representing the interests of franchising. Founded in 1960, IFA's membership includes franchisors, franchisees, and suppliers, and IFA serves as a voice for both franchisors and franchisees throughout the United States. Through its public policy work, IFA protects, enhances, and promotes franchising on behalf of more than 1,400 brands in more than 300 business categories, including, among others, food service, retail, hospitality, health and fitness, residential services and business services. Nationally, IFA's 2026 Franchising Economic Outlook projects approximately 845,000 franchised establishments, nearly 8.9 million jobs, and $921.4 billion in economic output.

International Foodservice Distributors Association (IFDA) is a leading trade association representing foodservice distributors throughout the United States. IFDA members play a crucial role in the foodservice supply chain, delivering food and related products to restaurants, K-12 schools, hospitals and care facilities, hotels and resorts, U.S. military bases and government facilities, and other operations that make meals away from home possible. The industry generates $400+ billion in sales, employs 431,000 people, and operates 17,100 distribution centers in all 50 states and the District of Columbia.

National Association of Wholesaler-Distributors (NAW) is an employer and a non-profit, non-stock, incorporated trade association that represents the wholesale distribution industry—the essential link in the supply chain between manufacturers and retailers as well as commercial, institutional, and governmental end users. NAW is made up of direct member companies and a federation of national, regional, state and local associations which together include approximately 35,000 companies operating nearly 150,000 locations throughout the nation. The overwhelming majority of wholesaler-distributors are small-to-medium-size, closely held businesses. The wholesale distribution industry generates more than $8.2 trillion in annual sales volume and provides stable and well-paying jobs to more than 6 million workers.

The National Federation of Independent Business Small Business Legal Center, Inc. (NFIB Legal Center) is a nonprofit, public interest law firm established to provide legal resources and be the voice for small businesses in the nation’s courts through representation on issues of public interest affecting small businesses. It is an affiliate of the National Federation of Independent Business, Inc. (NFIB), which is the nation's leading small business association. NFIB's mission is to promote and protect the right of its members to own, operate, and grow their businesses. NFIB represents the interests of its members in Washington, D.C. and all 50 state capitals.

Established in 1911, the National Retail Federation (NRF) is the world's largest retail trade association and the voice of retail worldwide. Retail is the largest private-sector employer in the United States. The NRF's membership includes retailers of all sizes, formats, and channels of distribution, spanning all industries that sell goods and services to consumers. The NRF provides courts with the perspective of the retail industry on important legal issues impacting its members. To ensure that the retail community's position is heard, the NRF often files amicus curiae briefs expressing the views of the retail industry on a variety of topics.

The Restaurant Law Center (RLC) is the only independent public policy organization created specifically to represent the interests of the food service industry in the courts. While the RLC is its own independent organization with its own Board of Directors, all members in good standing with the National Restaurant Association and State Restaurant Associations are members of the RLC. As such, the RLC represents a labor-intensive industry comprised of over one million restaurants and other food-service outlets employing about 16 million people—approximately 10 percent of the U.S. workforce. Restaurants and other food-service providers are the second largest private sector employers in the United States. In addition, the RLC represents the interests of its state restaurant association affiliates, many of which have both food service establishments and hotels as members, as well as other hospitality interests. Through amicus participation and first party litigation, the RLC serves as the industry's voice in the judicial system and offers courts and regulatory agencies with the industry's perspective on significant legal and regulatory issues to ensure that the views of America's restaurants are taken into consideration. The RLC has a strong interest in the fair interpretation of federal labor relations law because the restaurant and food-service industry depends on clear, evenhanded, and administrable rules governing employee choice, employer speech and conduct, representation proceedings, and bargaining obligations.

Restaurants and other food-service employers operate in a highly labor-intensive environment with large numbers of employees, varied job classifications, high public visibility, and decentralized operations. In that setting, labor-relations rules must be fair not only in principle, but also in day-to-day application. A rule that is unclear, unevenly applied, or detached from the remedial principles recognized in the governing cases can create substantial uncertainty for employers, employees, and the industry as a whole. The RLC therefore has a direct interest in decisions interpreting or applying the NLRB's *Cemex* framework. Amici have a substantial interest in the proper interpretation and application of the National Labor Relations Act (the "Act"), 29 U.S.C. §§ 151–169, and in particular the Act's provisions governing the determination of exclusive bargaining representatives through Board-conducted secret-ballot elections. Amici's members are directly affected by the framework announced in *Cemex Construction Materials Pacific, LLC*, 372 NLRB No. 130 (2023), which fundamentally altered the longstanding procedures by which unions obtain recognition and employers exercise their statutory rights under Sections 9(a) and 9(c) of the Act, 29 U.S.C. §§ 159(a), 159(c).

The National Association of Manufacturers (NAM) is the largest manufacturing association in the United States, representing small and large manufacturers in all fifty states and in every industrial sector. Manufacturing employs nearly 13 million people, contributes $2.96 trillion to the economy annually, has the largest economic impact of any major sector, and accounts for over half of all private-sector research and development in the nation, fostering the innovation that is vital for this economic ecosystem to thrive. The NAM is the voice of the manufacturing community and leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States.

This case presents the first litigated application of the *Cemex* recognition-demand rule in a posture where no election was conducted, no independent unfair labor practice was alleged, and the sole basis for liability is an employer's alleged failure to file an RM petition or extend voluntary recognition upon receiving a card-based demand. The outcome of this proceeding will directly affect the rights and obligations of all employers covered by the Act, including many of Amici's members. Amici have a direct and substantial interest in the Board's resolution of the legal questions presented.

No party or counsel for any party authored this brief in whole or in part, and no person or entity other than Amici, their members, or their counsel made any monetary contribution intended to fund to the preparation or submission of this brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

This case presents the cleanest possible test of *Cemex*'s recognition-demand rule. There was no election, no tainted vote, no election-objection proceeding, and no independent unfair labor practice. Former-General Counsel Abruzzo's theory -- and the ALJ's order -- rests entirely on Amazon's failure to voluntarily recognize the Union or file an RM petition after receiving a card-based recognition demand. That theory presents a single dispositive question: May the Board convert Congress's employer election-petition option into a duty and then impose Section 8(a)(5) liability and a bargaining order when the employer does not file that petition? *Linden Lumber* says no. Absent election-impairing misconduct, the union bears the burden to invoke the Board's election machinery The recognition-demand rule is squarely presented here and should be rejected. And because *Cemex*'s separate election-set-aside rule likewise was unnecessary to the disposition there, the Board should make clear that it has no precedential force without waiting for a later case in which that rule is outcome-determinative. Once the unauthorized filing-duty violation is rejected, *Gissel* supplies no alternative basis for the order because there was no independent election-impairing misconduct and no finding that a fair election was unlikely. Section 9(c) similarly does not supply an alternative basis for the order because it does not create an employer election-petition duty. Rather, it gives employers a mechanism to seek an election, not a textual basis for treating nonuse of that mechanism as an unfair labor practice or a basis for a bargaining order.

The Board should sustain Amazon's exceptions and reverse for five mutually reinforcing reasons:

1. The *Cemex* recognition-demand rule conflicts with *Linden Lumber Div., Summer & Co. v. NLRB*, 419 U.S. 301 (1974), and the Act's election-centered statutory structure. *Linden Lumber* approved the rule that, absent election-impairing unfair labor practices or an agreement to use another method, a union refused recognition bears the burden of invoking Board election procedures. *Cemex* wrongly reverses that burden allocation by treating an employer's failure to file an RM petition as an unfair labor practice, even though Section 9(c) gives both unions and employers optional -- not mandatory -- petition routes.

2. Because the *Cemex* recognition-demand rule was unnecessary to the disposition in *Cemex* itself, the Board may decide its validity here without treating that language as a controlling holding. *Brown-Forman* separately demonstrates that *Cemex*'s post-election standard is vulnerable for the same procedural reasons. Although only the recognition-demand rule is outcome-determinative here, the post-election rule likewise was unnecessary to *Cemex*'s disposition, and the Board should make clear that neither component of the *Cemex* framework is entitled to precedential effect. The ALJ acknowledged that Amazon's legal arguments are "salient" and potentially persuasive but applied *Cemex* because he believed he was bound by Board precedent. The Board is not so constrained.

3. The *Cemex* framework conflicts with *NLRB v. Gissel Packing Co.*, 395 U.S. 575 (1969), by converting an extraordinary bargaining-order remedy into a default consequence without the case-specific remedial showing *Gissel* requires. As Member Kaplan explained in his partial dissent in *Cemex*, that shift rests on an unsupported assumption -- that traditional remedies cannot cleanse the effects of election misconduct -- which the *Cemex* majority defended without citing a single case in which those remedies had proven inadequate to permit a fair election.

4. The Sixth Circuit held in *Brown-Forman Corp. v. NLRB*, 169 F.4th 646 (6th Cir. 2026), that *Cemex*'s post-election bargaining-order standard was created through an improper exercise of adjudicatory authority. Although the court expressly stated that the separate recognition-demand component was not before it, the court's reasoning applies with equal force here because that component likewise was unnecessary to resolve *Cemex*, was not derived from case-specific necessity, and was announced as a prospective rule governing future parties.

5. The statutory and policy consequences confirm the need for reversal. Secret-ballot elections are the Board's preferred mechanism for determining employee choice, and *Cemex* displaces that mechanism without justification. Under the recognition-demand rule applied here, no election is held at all: Employees lose their private vote and the statutorily provided opportunity to test, through the ballot, whether a card showing reflects their current majority sentiment. Across the broader *Cemex* framework, the rule also chills employer speech protected by Section 8(c) because ordinary campaign disputes can trigger bargaining-order liability instead of a rerun election.

ARGUMENT

I. THIS CASE CLEANLY PRESENTS THE *CEMEX* RECOGNITION-DEMAND RULE IN A POSTURE *CEMEX* ITSELF DID NOT PRESENT.

The Board should sustain Amazon's exceptions because Amazon presents the *Cemex* recognition-demand rule in pure and outcome-determinative form. *Cemex* itself did not decide that rule in such a posture, and because the rule was unnecessary to the judgment, the Board should treat it as nonbinding.

A. *Cemex* Announced Two Distinct Rules, Neither of Which Determined the Result in *Cemex*.

The Board's decision in *Cemex* announced two related but distinct rules. First, it adopted a recognition-demand rule: When a union claims majority support in an appropriate unit and demands recognition, an employer must either voluntarily recognize and bargain with the union or promptly file an RM petition to test majority status or unit appropriateness. *Cemex*, 372 NLRB No. 130, slip op. at 25 & n.141. That is the rule applied here. JD-39-26 at 2. If the employer does neither, *Cemex* treats that failure as a violation of Section 8(a)(5) and (1) and directs a remedial bargaining order running from the date of the demand. *Cemex*, 372 NLRB No. 130, slip op. at 25 & n.141. Second, *Cemex* adopted an election-set-aside rule: When an employer seeks an election and then commits unfair labor practices that require setting aside that election, the Board will dismiss the RM petition and issue a bargaining order rather than conduct the traditional inquiry under *NLRB v. Gissel Packing Co.*, 395 U.S. 575 (1969), into whether a fair rerun election remains possible. *Cemex*, 372 NLRB No. 130, slip op. at 26–28.

Neither rule was necessary to the result in *Cemex*. The Board had already found extensive independent unfair labor practices and issued a bargaining order independently supportable under *Gissel*. *Cemex*, 372 NLRB No. 130, slip op. at 2–3, 36–38. The Board itself acknowledged that "the application of the revised standard in this case results in neither finding any additional violation of the Act nor any additional remedial obligation." Id. at 8 n.25. The Ninth Circuit enforced the Board's order under *Gissel* and therefore did not reach the parties' dispute over the retroactive application of the new bargaining-order standard adopted in *Cemex*. The court expressly stated that it expressed no view on that issue. *Int'l Bhd. of Teamsters v. NLRB*, Nos. 23-2081 et al., unpublished mem. disp. at 26 n.5 (9th Cir. Apr. 21, 2026).

The D.C. Circuit likewise has declined to decide whether *Cemex* independently supported a bargaining order. In *NP Red Rock LLC v. NLRB*, the Board had grounded its order in *Gissel* and, alternatively, *Cemex*. The court enforced the order under *Gissel* and therefore did not consider whether the order was separately warranted under *Cemex*. No. 24-1221, 2026 U.S. App. LEXIS 17053, at *10 n.6 (D.C. Cir. June 10, 2026) ("Because we affirm the Board's imposition of the bargaining order under *Gissel*, we need not consider whether the bargaining order is separately warranted under *Cemex*."). Thus, both the Ninth and D.C. Circuits found it unnecessary to reach *Cemex* when the orders before them were independently supportable under *Gissel*.

That posture matters here. Unlike those cases, this case cannot be resolved on *Gissel* grounds. It presents the recognition-demand rule in its pure, outcome-determinative form.

B. *Amazon* Presents the Recognition-Demand Rule as the Dispositive Issue.

This case squarely requires the Board to decide whether the *Cemex* recognition-demand rule can lawfully support liability because that rule is the sole basis for the ALJ's order. The General Counsel alleged no independent unfair labor practice. No election was held or set aside. The ALJ found an 8(a)(5) violation and ordered bargaining solely because Amazon did not recognize the Union or file an RM petition after a card-based demand. JD-39-26 at 2, 14.

The ALJ recognized the force of Amazon's challenge: Amazon argued that *Cemex* conflicts with Supreme Court precedent, violates the Administrative Procedure Act, implicates the Major Questions and Non-Delegation Doctrines, and rests on nonbinding dicta. He candidly observed that, "[i]f this was a matter of first impression that the Board had not already considered, these arguments could be persuasive." JD-39-26 at 12. But he applied *Cemex* because "it is a judge's duty to apply established Board precedent," leaving the merits for the Board. Id. at 14. The Board is not so constrained.

The Board should decide the question now. If the recognition-demand rule is lawful, this is the case to say so. If it is unlawful, this is the case to correct course before the rule becomes the sole basis for bargaining orders in other cases with no election and no misconduct. And the Board should not stop there. Because *Cemex*'s separate election-set-aside rule likewise was unnecessary to the disposition in *Cemex*, the Board should reject that rule as well, without waiting for a later case in which it is outcome-determinative.

II. THE *CEMEX* RECOGNITION-DEMAND RULE CONFLICTS WITH *LINDEN LUMBER* AND THE ACT'S ELECTION-CENTERED STATUTORY STRUCTURE.

A. *Linden Lumber* Establishes That an Employer Does Not Violate Section 8(a)(5) by Insisting on a Board Election.

Linden Lumber controls the recognition-demand rule applied here. The Supreme Court approved the Board's rule that an employer should not be found guilty of violating Section 8(a)(5) "solely upon the basis of [its] refusal to accept evidence of majority status other than the results of a Board election." Id. at 306. The Court was clear about who bears the burden when an employer declines card-based recognition and has not impaired the election process: "[U]nless an employer has engaged in an unfair labor practice that impairs the electoral process," the union "has the burden of taking the next step in invoking the Board's election procedure." Id. at 310.

That rule fits the Act's structure: Section 7 protects employees' right to choose representation or refrain; Section 9(a) gives effect to majority choice in an appropriate unit; Section

8(a)(5) enforces the resulting bargaining obligation; and Section 9(c) supplies the Board-election mechanism for testing disputed majority status.

Section 9(c) confirms that allocation. Section 9(c)(1)(A) permits employees or a union to file an election petition, and Section 9(c)(1)(B) permits an employer to file an RM petition when faced with a representation claim. Congress thus gave both sides access to the Board's election machinery; it did not make one side's petition voluntary and the other side's petition mandatory. *Linden Lumber* preserves that symmetry by placing the "next step" on the union when recognition is refused and the employer has not impaired the electoral process: "[T]he union should go forward and ask for an election on the employer's refusal to recognize the authorization cards." Id. at 309–10. *Linden Lumber* also recognized the election-centered policy behind this allocation. The Court noted that the "policy of encouraging secret elections under the Act is favored." Id. at 307.

B. *Cemex* Recreates the Burden Shift Rejected in *Linden Lumber*.

Cemex reverses that allocation. It requires an employer that receives a card-based demand either to recognize the union or promptly file an RM petition and then treats the employer's failure to do either as an 8(a)(5) violation. But *Cemex* imposes no comparable consequence on a union that claims majority support yet elects not to file an RC petition. The result is a one-sided burden: The Union's election route remains optional, while the employer's parallel election route becomes a practical mandate backed by bargaining-order liability.

That is the same burden shift the Supreme Court rejected in *Linden Lumber*. The D.C. Circuit had reasoned that authorization cards created "a sufficient probability of majority support" to require the employer "to resolve the possibility through a petition for an election," but the Supreme Court reversed. *Linden Lumber*, 419 U.S. at 305–06. *Cemex* tracks that rejected rule in all material respects: A union presents a card-based majority claim; the employer must either recognize the union or invoke the Board's election machinery; and the employer's failure to file becomes the predicate for Section 8(a)(5) liability and a bargaining order. In *Linden Lumber*, the Supreme Court rejected that burden shift and sustained the Board's contrary allocation "in light of the statutory scheme and the practical administrative procedural questions involved." Id. at 309–10.

The *Cemex* majority's response -- that *Linden Lumber* approved only a permissible construction of the Act, not a mandatory one -- fails. That response is especially unpersuasive after *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 394–95 (2024). A reviewing court will not sustain *Cemex* merely because it represents one "permissible" construction of the Act; the court must independently determine whether the Act authorizes the challenged agency action. The relevant question is therefore whether the best reading of Sections 8(a)(5), 9(a), and 9(c) authorizes the Board to convert Section 9(c)(1)(B)'s employer petition mechanism into a mandatory filing duty whose nonuse creates unfair-labor-practice liability. It does not. *Cemex* identifies no statutory text explaining why the employer's election option becomes mandatory while the Union's parallel election option remains optional, or why Section 9(c) authorizes that one-sided liability consequence.

The Board's post-*Cemex* precedent confirms this point. In *St. John's College*, 374 NLRB No. 72 (2026), the Board held that *Cemex*'s requirement that an employer promptly file an RM petition does not require dismissal of an otherwise proper RM petition and does not alter representation-case procedures. *St. John's College* thus confirms that *Cemex*'s prompt-filing requirement does not alter the requirements governing an RM petition in a representation case. That concession underscores the statutory defect: *Cemex* does not implement Section 9(c); it leaves Section 9(c)(1)(B) intact as an election procedure, then punishes the employer under Section 8(a)(5) for not using it quickly enough.

Nor does Section 9(a)'s reference to representatives "designated or selected" by a majority cure the defect. That phrase confirms that majority choice is the foundation of representative status, but it does not eliminate Section 9(c)'s election procedures or make every card-based demand an immediate bargaining obligation. *Gissel* recognized that a union may establish majority status by means other than an election, but it also recognized that an employer under then-current Board practice was not obligated to accept a card check and need not justify insisting on an election. *Linden Lumber* then answered the question left open by *Gissel*, approving the Board's allocation of the election burden to the union absent election-impairing misconduct. *Cemex* does not merely adjust that balance; it overrides it by treating the very election-burden allocation approved in *Linden Lumber* as an independent unfair labor practice that eliminates employees' opportunity to select or reject a collective-bargaining representative through the Board's secret-ballot election process.

III. THE *CEMEX* FRAMEWORK IMPERMISSIBLY CONVERTS AN EXTRAORDINARY *GISSEL* REMEDY INTO A NEAR-AUTOMATIC BARGAINING ORDER.

A. *Gissel* Reserves Board-Imposed Remedial Bargaining Orders for Cases of Serious Election-Impairing Misconduct.

Gissel did not authorize bargaining orders whenever a union has signed authorization cards. It treated bargaining orders as an exceptional remedy tied to serious unfair labor practices and identified two categories of cases in which such orders may be appropriate. The first category -- which the Court labeled "exceptional" -- involves "outrageous" and "pervasive" unfair labor practices so coercive that their effects cannot be remedied by traditional means; bargaining orders are warranted in such cases because no election could fairly measure employee sentiment. *Gissel*, 395 U.S. at 613. The second category -- which the Court described as "less extraordinary" but still serious -- involves misconduct that tends "to undermine majority strength and impede the election processes." Id. at 614. Even in this second category, a bargaining order may issue only where "the possibility of erasing the effects of past practices and of ensuring a fair election . . . by the use of traditional remedies" is "slight" and where "employee sentiment once expressed through cards would, on balance, be better protected by a bargaining order." Id. at 614–15. The Court also identified a third category -- "minor or less extensive" unfair labor practices -- where the misconduct has only a "minimal impact on the election machinery" and traditional remedies can restore fair conditions; bargaining orders are not appropriate in such cases. Id. at 615.

The point is straightforward: Under *Gissel*, a Board-imposed remedial bargaining order based on authorization cards may substitute for an election only where employer misconduct has made a fair election or fair rerun election unlikely. The bargaining order is tied to election-impairing misconduct; it is not a freestanding remedy for refusing card-based recognition. See *Gissel*, 395 U.S. at 614–15.

In sum, a bargaining order requires more than cards and more than ordinary objectionable conduct; it requires a nexus between serious coercive misconduct, injury to the election process, and the need for a bargaining order as a substitute for a fair election. See *Gissel*, 395 U.S. at 614–15. The bargaining order is not a shortcut around Section 9(c), and it is not triggered by a refusal to accept card evidence standing alone.

B. ***Cemex* Exceeds *Gissel*'s Limits in Two Distinct Ways.**

First, as explained in Section II, the *Cemex* recognition-demand rule treats an employer's failure to recognize a card-based demand or file an RM petition as an independent unfair labor practice. That rule falls squarely outside *Gissel*'s remedial framework: There is no tainted election to remedy, no election-impairing misconduct to cure, and no finding that a fair election cannot be held. Accordingly, the bargaining order rests not on the case-specific remedial findings *Gissel* requires, but on *Cemex*'s reversal of the election-burden allocation *Linden Lumber* approved.

Second, although the Board need not decide the post-election rule to dispose of this case, that portion of *Cemex* further demonstrates the framework's departure from *Gissel*. In cases involving an election, *Cemex* collapses two distinct remedial questions. Under *Gissel*, setting aside an election is not the same thing as imposing a bargaining order. A tainted election ordinarily leads to a rerun election; a bargaining order requires the additional, case-specific showing that traditional remedies cannot likely restore fair election conditions. *Gissel*, 395 U.S. at 614–15. *Cemex* replaces that inquiry (approved by the Supreme Court) with a categorical presumption: Once an election is set aside, a bargaining order follows.

The Sixth Circuit recently addressed that defect in *Brown-Forman*. The court explained that *Gissel* "instructs the Board (and reviewing courts) to order an election when a fair one is possible," while *Cemex* "looks only at whether a previous election was not fair" and "no longer evaluates whether it could still use an election to measure contemporaneous employee sentiment." *Brown-Forman*, 169 F.4th at 659. That is precisely why *Cemex* cannot be squared with *Gissel*: It eliminates the Supreme Court's required inquiry into whether traditional remedies can restore fair election conditions.

IV. THE RECOGNITION-DEMAND RULE SHARES THE ADJUDICATORY DEFECT IDENTIFIED IN *BROWN-FORMAN*.

The NLRA and APA give the Board two distinct tools for making policy: rulemaking under 29 U.S.C. § 156 and adjudication under 29 U.S.C. § 160. The Board may develop precedent through adjudication, and the Supreme Court has recognized that "the choice made between proceeding by general rule or by individual, ad hoc litigation is one that lies primarily in the informed discretion of the administrative agency." *SEC v. Chenery Corp.*, 332 U.S. 194, 202–03 (1947); see also *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759, 765–66 (1969); *NLRB v. Bell Aerospace Co.*, 416 U.S. 267, 294 (1974).

That discretion is not limitless. A four-Justice plurality of the Supreme Court in *Wyman-Gordon* emphasized that the APA's rulemaking procedures were "designed to assure fairness and mature consideration of rules of general application." 394 U.S. at 764. *Bell Aerospace* subsequently confirmed both sides of the governing principle: The Board generally may announce new principles through adjudication, but reliance on adjudication may in some circumstances amount to an abuse of discretion or a violation of the Act. 416 U.S. at 294. The distinction between adjudication and rulemaking is practical and important. Adjudication may announce principles necessary to decide the dispute before the Board and to fashion relief for the parties involved; rulemaking is the process Congress supplied for rules designed to govern broadly, for future parties and future cases. See *Brown-Forman*, 169 F.4th at 661–64.

Brown-Forman directly addressed the post-election bargaining-order standard, not the recognition-demand component. But the court's rationale applies to the recognition-demand rule as well. As explained above, the Board already had resolved the employer-specific dispute through a *Gissel* bargaining order, and the new recognition-demand framework did not add any violation or remedy to the dispute at issue. In describing the post-election standard before it, *Brown-Forman* identified the relevant defect: "the *Cemex* Board created the *Cemex* standard as a new rule of general applicability" and "the *Cemex* standard was not created as a means to resolve the parties' dispute or undo the effects of the parties' violative conduct." 169 F.4th at 662–63. The recognition-demand rule shares those features, and it is fatal.

The point is especially forceful because the framework exposes employers to the Board's most extraordinary remedy. As the Sixth Circuit put it, "[t]he intended flexibility of adjudication-based policymaking is lost where a standard imposes an extraordinary remedy—like a bargaining order—on employers through such a non-case-specific hard-and-fast rule." Id. at 663. The recognition-demand rule likewise announced a prospective framework to govern future cases after the original case had already been resolved under *Gissel*.

Brown-Forman also rejected, as to the post-election standard, the argument that applying an improperly formulated rule in a later case cured the original adjudicatory defect: "A post-hoc application of an improperly formulated standard does not fix the *Cemex* Board's unlawful exercise of adjudicatory authority." 169 F.4th at 663. The same reasoning applies here. The alleged defect occurred when the Board used the original *Cemex* adjudication to announce a prospective rule that was unnecessary to the remedy in that case. A later case may present facts to which the rule would matter, but later relevance does not retroactively supply the basis for the rule's creation. Former-General Counsel Abruzzo asks the Board to treat the recognition-demand rule announced in *Cemex* as binding in this later case. The Board should instead decide the recognition-demand issue on its merits here, where the rule is outcome-determinative.

V. POLICY AND STATUTORY CONCERNS FAVOR SECRET-BALLOT ELECTIONS AND TRADITIONAL REMEDIES.

The NLRA protects employee free choice, provides a process for testing a union's claimed majority status, and safeguards noncoercive employer speech. *Cemex* undermines that statutory framework.

A. Secret-Ballot Elections Best Protect Employees' Section 7 Rights.

Section 7 of the NLRA protects employees' right to choose representation and their right to refrain from such activity, while Section 9 establishes the machinery for determining whether a labor organization has been selected by a majority in an appropriate unit. The doctrinal rules discussed in Parts II and III serve those statutory interests by preserving the Board election as the ordinary mechanism for resolving representation questions and by reserving bargaining orders for the exceptional remedial circumstances *Gissel* describes.

The Board's own rules and precedent reflect that secret-ballot elections are the normal and preferred mechanism for employee choice. Board regulations provide that "[a]ll elections shall be by secret ballot." 29 C.F.R. § 102.69(a)(2). The Board has long described its election function as providing a "laboratory" in which employees may express their "uninhibited desires" under conditions "as nearly ideal as possible." *General Shoe Corp.*, 77 NLRB 124, 126–27 (1948). The Supreme Court likewise has recognized that secret elections are "the most satisfactory -- indeed the preferred -- method of ascertaining whether a union has majority support." *Gissel*, 395 U.S. at 602.

That preference also limits the Board's remedial discretion. Where unfair labor practices require setting aside an election, the Board's own "preferred route" has been to impose traditional remedies and then hold a new election "once the atmosphere has been cleansed by those remedies." *Aqua Cool*, 332 NLRB 95, 97 (2000). A bargaining order is appropriate only when that route will not work -- *i.e.*, when traditional remedies cannot restore conditions for a fair election. *Cemex* reverses that hierarchy by replacing the preferred secret-ballot process with card-based recognition and bargaining orders in circumstances where *Linden Lumber* and *Gissel* preserve the election process.

Member Kaplan's *Cemex* dissent identified the central remedial concern. He observed that the majority "fail[ed] to cite a single prior case" in which, under the new standard, a bargaining order would not already have been warranted. *Cemex*, 372 NLRB No. 130, slip op. at 50 & n.22 (Member Kaplan, dissenting). And he explained that the premise underlying the new rule -- that traditional remedies cannot cleanse the effects of election misconduct -- "contradicts longstanding judicial precedent holding that the Board's traditional remedies are perfectly capable of dissipating the coercive effects of unfair labor practices so as to permit a free and fair election in all but extreme cases." Id. (Member Kaplan, dissenting). The Board's own decisions bear this out, having repeatedly found traditional remedies sufficient to permit a fair election even where an employer committed numerous violations. See, e.g., *Intermet Stevensville*, 350 NLRB 1349, 1359 (2007) (declining to issue a bargaining order despite one violation of Section 8(a)(3) and thirteen violations of Section 8(a)(1)); *Aqua Cool*, 332 NLRB at 97 (traditional remedies "adequate to cleanse the atmosphere" despite seven Section 8(a)(1) violations); *Burlington Times, Inc.*, 328 NLRB 750, 752 (1999) (declining to issue a bargaining order despite six Section 8(a)(1) violations); *Uarco, Inc.*, 286 NLRB 55, 59 (1987) (same, despite violations of Section 8(a)(3), (2), and (1)).

Experience confirms the point. Unions have won rerun elections even where the employer committed extensive and egregious unfair labor practices, demonstrating that a fair election frequently remains possible after the Board's ordinary remedies take effect. *See, e.g.*, *Kumho Tires Georgia*, 370 NLRB No. 32 (2020); *Union Tank Car Co.*, 369 NLRB No. 120 (2020); *Pacific Coast Sightseeing Tours & Charters, Inc.*, 365 NLRB No. 131 (2017); *First Student, Inc.*, 359 NLRB 1090 (2013). By treating the bargaining order as the routine consequence of election misconduct, *Cemex* forecloses that outcome and sacrifices the secret ballot in the very cases where it remains a viable and superior measure of employee choice. That is what happened here. No election was held or even petitioned for, yet the ALJ ordered Amazon to bargain based on authorization cards and Amazon's failure to file an RM petition. Employees lose something concrete under that rule. They lose their private vote; they lose the chance to change their minds; and if the card showing is no longer reflective of contemporaneous majority sentiment or is subject to disputes that a Board election would resolve, they lose the statutory mechanism designed to test current majority status. That is the practical consequence of *Cemex*: It replaces the Board's ordinary election process with bargaining-order liability even though a fair and free election is still possible under Section 9(c).

B. *Cemex*'s Post-Election Rule Unduly Chills Employers' Section 8(c) Speech.

The NLRA does not merely tolerate employer speech. It protects it. Section 8(c) provides that "expressing any views, argument, or opinion" shall not constitute or be evidence of an unfair labor practice if the expression contains no threat of reprisal or force and no promise of benefit. The Supreme Court repeatedly has recognized the importance of that protection. In *Gissel*, the Court stated that an employer's free speech right to communicate views to employees is "firmly established" and cannot be infringed upon by the Board; Section 8(c) "merely implements the First Amendment" by protecting non-coercive expression. 395 U.S. at 617. In *Chamber of Commerce v. Brown*, 554 U.S. 60, 67-68 (2008), the Court explained that Section 8(c) reflects Congress' intent to encourage free debate on issues dividing labor and management.

Cemex chills that debate during a representation campaign because it ties the Act's most extraordinary remedy to a standard far broader than permitted by *Gissel*, which requires a case-specific showing that employer misconduct has made a fair election unlikely. *Cemex*, by contrast, requires only an unfair labor practice sufficient to set aside the election. That is a low threshold: The Board ordinarily sets aside an election when a critical-period unfair labor practice occurs unless it is "virtually impossible to conclude" that the conduct affected the results. See *Bon Appetit Mgmt. Co.*, 334 NLRB 1042, 1044 (2001); *Airstream, Inc.*, 304 NLRB 151, 152 (1991). The election-objection inquiry therefore does not require the separate *Gissel* finding that the conduct actually made a fair rerun election unlikely.

That low threshold can reach relatively modest unfair labor practices. Member Kaplan's *Cemex* dissent identified examples including removal of union literature from a breakroom one month before an election, a single unfair labor practice affecting one employee in a large unit based on implicit dissemination, and the mere maintenance of an unlawful work rule during the critical period. *Cemex*, 372 NLRB No. 130, slip op. at 47–48 (Member Kaplan, dissenting). Even assuming *arguendo* that conduct of that kind could justify rerunning an election, it does not satisfy *Gissel*'s requirement for a bargaining order.

Cemex changes the consequence. A ULP that previously would have led to a rerun election can now dismiss the petition, end the election process, and trigger a bargaining order. That threat predictably chills campaign speech. An employer facing a card-majority demand must weigh every statement, policy, and procedural step against the risk that an alleged misstep will not merely rerun the election but result in a bargaining order without a rerun election. The Board should reject a rule that converts ordinary election-objection litigation into bargaining-order liability without the separate *Gissel* finding that a fair future election is unlikely.

Although this case does not involve campaign speech and does not require the Board to decide the validity of *Cemex*'s post-election rule, the interaction between the two components is relevant to the practical pressure created by the recognition-demand rule. *Cemex* tells employers that after a card demand they must recognize or file an RM petition. But if they file an RM petition and campaign, the post-election rule turns alleged campaign violations into a bargaining order without the full *Gissel* inquiry. Employers thus face pressure at both ends: recognize immediately on cards or seek an election under a framework that substantially increases the consequences of disputed campaign conduct. That pressure is inconsistent with Section 8(c), *Gissel*, and the Act's election-centered structure.

CONCLUSION

For the foregoing reasons, amici curiae respectfully request that the Board:

1. Sustain *Amazon.com Services LLC*'s exceptions to the Administrative Law Judge's Decision and Recommended Order;

2. Reverse the ALJ's finding that Amazon violated Section 8(a)(5) of the Act by declining to recognize the Union or file an RM petition upon receiving a card-based recognition demand;

3. Vacate the bargaining order and dismiss the complaint in its entirety;

4. Hold that the recognition-demand rule purportedly announced in *Cemex Construction Materials Pacific, LLC*, 372 NLRB No. 130 (2023), is not controlling Board precedent and is unlawful in any event, and hold that the controlling framework is the one established by *Linden Lumber Div., Summer & Co. v. NLRB*, 419 U.S. 301 (1974), under which, absent election-impairing unfair labor practices or an agreement to determine majority status through another lawful method, an employer does not violate Section 8(a)(5) by declining card-based recognition and the union bears the burden of invoking the Board's election procedure; and

5. In the alternative, hold that any generally applicable alteration to the recognition-demand framework must proceed through notice-and-comment rulemaking under Section 6 of the Act, 29 U.S.C. § 156.

Respectfully submitted this 10th day of September 2026.

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STATEMENT OF SERVICE

I caused the foregoing BRIEF OF AMERICAN HOTEL AND LODGING ASSOCIATION, AMERICAN TRUCKING ASSOCIATIONS, INC., ASSOCIATED BUILDERS AND CONTRACTORS, ASSOCATED GENERAL CONTRACTORS OF AMERICA, COALITION FOR A DEMOCRATIC WORKPLACE, CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA , FMI – THE FOOD INDUSTRY ASSOCIATION, INDEPENDENT ELECTICAL CONTRACTORS, INTERNATIONAL FRANCHISE ASSOCIATION, INTERNATIONAL FOODSERVICE DISTRIBUTORS ASSOCIATION, NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS, NATIONAL FEDERATION OF INDEPENDENT BUSINESS SMALL BUSINESS LEGAL CENTER, INC., NATIONAL RETAIL FEDERATION, RESTAURANT LAW CENTER, AND NATIONAL ASSOCIATION OF MANUFACTURERS AS AMICI CURIAE IN SUPPORT OF RESPONDENT AMAZON.COM SERVICES LLC'S EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S DECISION AND RECOMMENDED ORDER to be served on the following counsel of record by email on September 10, 2026:

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