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Appellate and Constitutional Law Update April 12, 2024

Supreme Court Holds That The Federal Arbitration Act's Exemption For Transportation Workers Is Not Limited To Workers In The Transportation Industry

***Bissonnette v. LePage Bakeries Park St., LLC*, No. 23-51** – Decided April 12, 2024

Today, the Supreme Court unanimously held that the applicability of the Federal Arbitration Act's exemption for transportation workers in interstate commerce turns on whether a worker is a transportation worker, not whether they work in the transportation industry.

"A transportation worker need not work in the transportation industry to fall within the exemption from the FAA provided by §1 of the Act."

CHIEF JUSTICE ROBERTS, WRITING FOR THE COURT

Background:

The Federal Arbitration Act ("FAA") broadly requires courts to enforce arbitration agreements but exempts from its application arbitration "contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce." 9 U.S.C. § 1. The Supreme Court in *Circuit City Stores, Inc. v. Adams*, 532 U.S. 105 (2001), held that this exemption applies only to transportation workers.

Neal Bissonnette and Tyler Wojnarowski worked as distributors for Flower Foods, Inc., a baked-goods producer and marketer. After they sued Flowers for allegedly violating state and federal wage laws, Flowers moved to compel arbitration under the FAA pursuant to the arbitration clauses in their distribution agreements.

Bissonnette and Wojnarowski resisted arbitration, arguing that they were exempt under Section 1 of the FAA because they were "workers engaged in foreign or interstate commerce."

The district court compelled arbitration on the ground that the distributors were not transportation workers but had much broader responsibilities. The Second Circuit affirmed, but on different reasoning: it held that the distributors worked in the bakery industry, not the transportation industry, and therefore did not qualify for the Section 1 exemption.

Issue:

Whether a transportation worker must work for a company in the transportation industry to qualify for the arbitration exemption in Section 1 of the FAA.

Court's Holding:

No. To qualify as a transportation worker under Section 1 of the FAA, a worker does not have to work for a company in the transportation industry, and can qualify for the exemption if they play "a direct and 'necessary role in the free flow of goods' across borders."

What It Means:

- The Court's decision is narrow. The Court rejected a "transportation industry" test for Section 1 of the FAA. The Court's decision largely follows from *Southwest Airlines Co. v. Saxon*, 596 U.S. 450 (2022), which held that Section 1 "focuses on the performance of work, rather than the industry of the employer."
- The Court's decision did not address whether the workers at issue were transportation workers or whether they were engaged in interstate commerce.
- This ruling does not meaningfully alter the FAA Section 1 landscape, given that *Saxon* had already held that the Section 1 inquiry focuses on whether the workers' job duties render them "transportation workers." Regardless of industry, employers who use arbitration agreements should consider workers' job duties when assessing whether the Section 1 exemption might apply.

Gibson Dunn Appellate Honors

The Court's opinion is available here.

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding developments at the Supreme Court. Please feel free to contact the following practice leaders:

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