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U.S. Supreme Court Decision Reshapes FAA Exemption for Transportation Workers

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In a unanimous ruling earlier this month, the Supreme Court in *Bissonnette, et al., v. LePage Bakeries Park St., LLC, et al.*, 601 U.S. ----144 S.Ct. 905 (2024) held that transportation workers need not work for a company in the transportation industry to fall within the Federal Arbitration Act's exemption from coverage for any "class of workers engaged in foreign or interstate commerce."

Bissonnette initially involved a wage dispute between respondents, including Flowers Foods, Inc. and its subsidiaries, and bakery distributor petitioners who owned the rights to distribute Flower's bakery products in certain parts of Connecticut. To purchase those rights, the distributors entered contracts with Flowers that require any disputes to be arbitrated under the Federal Arbitration Act, 9 U.S.C. § 1 et seq. The FAA provides generally that arbitration agreements are "valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract." 9 U.S.C. § 2. It contains, however, an exception specifying that "nothing herein contained shall apply to contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce." *Id.* at § 1.

After petitioners filed a putative class action claiming violations of state and federal wage laws, Flowers moved to compel the contractually agreed arbitration under the FAA. Petitioners responded that they are exempt from coverage under the FAA because they fall within an exception in § 1 of the Act for "contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce." Arguing that petitioners were not transportation workers, Flowers noted petitioners' jobs extended beyond delivering Flowers products in their territories, but also

included finding new retail outlets, advertising, setting up promotional displays, and maintaining their customers' inventories by ordering baked goods from Flowers, stocking shelves, and replacing expired products. The Second Circuit agreed with Flowers and compelled arbitration, finding that petitioners were in the bakery industry and thus did not fall within the exemption to arbitration under Section 1 of the FAA.

In resolving a Circuit split, the Supreme Court reversed the Second Circuit, finding that the lower court erred in compelling arbitration on the basis that petitioners worked in the bakery industry. The Supreme Court clarified that in determining transportation worker status, the question is not for whom the worker undertakes the transportation work, but rather, whether a transportation worker is one who is actively engaged in transportation of goods across borders via the channels of foreign or interstate commerce. Because the petitioners' role included in part the transportation of goods, their involvement in the bakery industry at large did not preclude them from falling within the scope of a transportation worker.

What this means to you

The holding in *Bissonnette* certainly has the potential for expanding the universe of who is deemed a transportation worker for purposes of the FAA, but this category of transportation worker is not unlimited in scope. The Supreme Court clarified that any exempt worker must at least play a direct and "necessary role in the free flow of goods" across state borders to fall within the exemption under Section 1 of the FAA. Thus, the decision in *Bissonnette* provides some clarity on the threshold question of whether an employee is considered a transportation worker within the meaning of FAA, focusing on the worker role rather than the employer's business. Even so, determining what is a "necessary role in the free flow of goods" remains an open question and will likely be a point of future litigation.

Contact us

If you have questions concerning the application of *Bissonnette* to your business, please contact Julie Maurer, Joseph Baratta, or your Husch Blackwell attorney.