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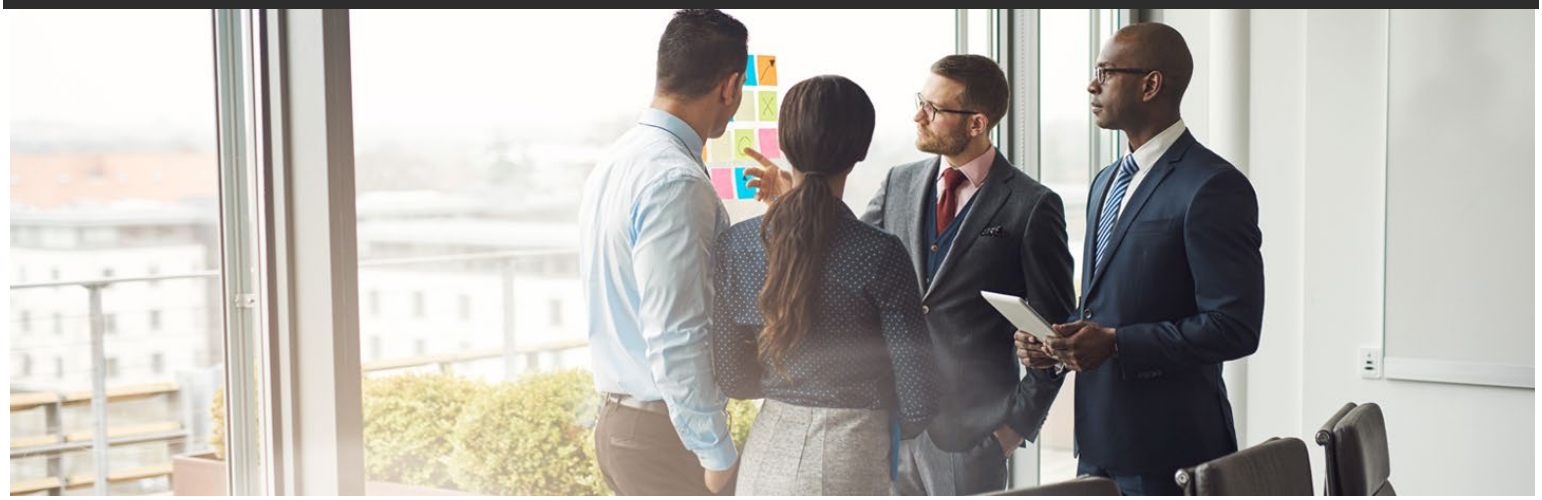

April 2024

Supreme Court Finds FAA 'Transportation Worker' Exemption Does Not Require Employment in Transportation Industry

In a unanimous 9-0 decision issued April 12, 2024, the U.S. Supreme Court held the "transportation worker" exemption under Section 1 of the Federal Arbitration Act (FAA) does not require the employee to be in the transportation industry.

In *Bissonnette et al. v. LePage Bakeries Park St., LLC et al.*, petitioners Neal Bissonnette and Tyler Wojnarowski owned the rights to distribute products in certain areas of Connecticut. Their contract contained a mandatory arbitration provision under the FAA, 9 U.S.C. § 1 *et seq*.

Petitioners sued for violations of state and federal wage laws, arguing they were misclassified as independent contractors and improperly denied overtime and paycheck protections, and respondents moved to compel arbitration. Petitioners then responded arguing an exemption from arbitration under the FAA because the FAA contains an exception for "contracts for employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce." The district court dismissed the case in favor of arbitration and the Second Circuit affirmed, holding Section 1 of the FAA was only available to workers in the transportation industry and petitioners were in the bakery industry. The Second Circuit granted panel rehearing in light of the Supreme Court's 2022 decision in *Southwest Airlines Co. v. Saxon*, in which the Court determined that a ramp supervisor who "frequently load[ed] and unload[ed] cargo" from airplanes belonged to a "class of workers engaged in foreign or interstate

commerce." The Second Circuit adhered to its prior decision after rehearing. The Supreme Court then granted certiorari because of a circuit court split on this question.

The question before the Supreme Court was "whether a transportation worker must work for a company in the transportation industry to be exempt under 1 of the FAA." The Court concluded no such requirement exists. Chief Justice John Roberts delivered the opinion of the Court, stating, "[a] transportation worker need not work in the transportation industry to be exempt from coverage under 1 of the FAA." Discussing its previous ruling in *Southwest Airlines Co*., the Court reinforced that it declined to "adopt an industrywide approach to §1," noting that the "transportation-industry requirement" fashioned by the Second Circuit "'pegs its charges chiefly to the movement of goods or passengers' and its 'predominant source of commercial revenue is generated by that movement.' But that test would often turn on arcane riddles about the nature of a company's services. For example, does a pizza delivery company derive its revenue mainly from pizza or delivery? Extensive discovery might be necessary before deciding a motion to compel arbitration, adding expense and delay to every FAA case. That 'complexity and uncertainty' would 'breed[] litigation from a statute that seeks to avoid it.'" (internal citations omitted). The focus of this analysis should remain on the "performance of the work rather than the industry of the employer."

The Supreme Court again reiterated its holding in *Saxon* that "a transportation worker is one who is 'actively' 'engaged in transportation' of…goods across borders via the channels of foreign or interstate commerce.' In other words, an exempt worker 'must at least play a direct and 'necessary role in the free flow of goods' across borders.' These requirements reinforce the narrow nature of the exemption and 'undermine[] any attempt to give the provision a sweeping, open-ended construction,' instead limiting §1 to its appropriately 'narrow' scope." (internal citations omitted). Based on this analysis, the Court vacated the Second Circuit's judgment compelling arbitration and remanded the case for further proceedings.

Authors

This GT Alert was prepared by:

- Nicholas D. SanFilippo | +1 703.903.7507 | Nicholas.SanFilippo@gtlaw.com
- Shirin Afsous | +1 703.749.1354 | Shirin.Afsous@gtlaw.com