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Arbitration Alert

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Key decisions on FAA Section 1: Impact on Arbitration Agreements

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Recent interpretations have redefined the scope of the Federal Arbitration Act's "contracts of employment" exemption.



What's the impact?

- While the Section 1's exemption has historically been construed narrowly to apply to transportation workers, new interpretations are redefining the scope to include workers—including independent contractors—that work in industries other than the transportation sector.
- These decisions may impact the enforceability of existing arbitration agreements for workers who perform the kind of work contemplated by the Section 1 exemption.
- Employers who rely on arbitration agreements to manage class and/or representative action risk should assess whether these decisions impact their existing (or future) arbitration agreements.

Recent judicial decisions have significantly refined the interpretation of the Federal Arbitration Act's (FAA) Section 1 exemption, which excludes certain "contracts of employment" from the

act's arbitration enforcement provisions. This comprehensive digest examines pivotal cases, including the US Supreme Court's decision in *Bissonnette et al. v. LePage Bakeries Park St., LLC, et al.*; the Ninth Circuit's *FLI-LO Falcon, LLC v. Amazon.com, Inc.*; and foundational cases such as *Southwest Airlines Co. v. Saxon* and *Rittmann v. Amazon.com, Inc.* These decisions collectively expand the scope of the exemption and delineate its applicability to various worker categories engaged in interstate commerce.

Federal Arbitration Act and Section 1 exemption overview

The FAA promotes arbitration as a preferred dispute resolution mechanism, applying broadly to written arbitration agreements in commercial contracts. However, Section 1 specifically exempts contracts of employment of "seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce," traditionally interpreted to apply to workers directly involved in transportation industries.

Analyzing FAA Section 1 exemption cases

BISSONNETTE ET AL. V. LEPAGE BAKERIES PARK ST., LLC, ET AL. (SUPREME COURT)

Factual background

Distributors for Flowers Foods challenged their classification as independent contractors, arguing that their duties, which included the interstate distribution of goods, should classify them as employees covered by the Section 1 exemption.

Judicial reasoning

The Supreme Court clarified that the Section 1 exemption does not depend on the employer's industry but rather on whether the workers are engaged in the movement of goods across state lines. The Court emphasized that the exemption's applicability should focus on the workers' roles rather than the broader industrial context, thereby broadening the exemption's potential scope to include workers outside traditional transportation sectors.¹

Key language from the opinion

"The text of the statute emphasizes the role of the workers in commerce, not the nature of the business of the employer. Thus, the exemption is concerned not with whom the worker performs their duties but with what duties are performed. The

¹ The Ninth Circuit's ruling in *Ortiz v. Randstad* has sparked debate regarding the scope of this exception and its applicability to logistics and warehousing. Adan Ortiz's employment at GXO Logistics Supply Chain Inc. involved handling international shipments within a warehouse, leading to the court's analysis of his duties and engagement in interstate commerce. Through a two-step analysis, the court concluded Ortiz qualified for the exemption, emphasizing his active role in maintaining the supply chain's continuity.

critical factor is that the worker's duties must be performed in a channel of interstate commerce."²

FLI-LO FALCON, LLC V. AMAZON.COM, INC. (9TH CIRCUIT)

Factual background

FLI-LO Falcon, contracted to provide delivery services for Amazon, argued that it was exempt from the FAA's arbitration requirements, positing that the business entity itself fell under the Section 1 transportation worker exemption.

Judicial reasoning

The Ninth Circuit held that the exemption applies strictly to natural persons and not to corporations or other entities, thereby limiting the scope to individuals directly involved in interstate transportation activities. This decision underscores the distinction between corporate entities and individual workers concerning FAA exemptions.

Key language from the opinion

"Section 1's exemption, as clarified by prior precedents, strictly applies to 'contracts of employment' of certain categories of workers. This cannot logically extend to include corporations or other entities which, by their nature, cannot be 'employed' in the traditional sense of the word. The statute's focus is on the worker's engagement in interstate commerce, not the entity's business operations."³

Contextualization with *Southwest Airlines Co. v. Saxon and Rittmann v. Amazon.com, Inc.*

The above authorities are the most recent from SCOTUS and the 9th Circuit, adding to the below jurisprudence on the Section 1 exemption.

RITTMANN V. AMAZON.COM, INC. (2020)

Background

The Ninth Circuit addressed whether Amazon delivery drivers, who do not cross state lines themselves but are integral to the interstate delivery network, should be considered transportation workers exempt from the FAA. The court concluded that these drivers fall within

² *Bissonnette et al.*, 601 U. S. ____ (2024).

³ *FLI-LO Falcon, LLC v. Amazon.com, Inc.*, Ninth Circuit.

the exemption because they perform a critical role in the interstate journey of goods, thus engaging in interstate commerce.

Legal reasoning

The court emphasized the continuous journey of goods across state lines and noted that drivers' roles in delivering directly from interstate transit to customers keeps these goods within the stream of interstate commerce until they reach their final destinations.

SOUTHWEST AIRLINES CO. V. SAXON (2021)

Background

This landmark decision by the US Supreme Court clarified the employment scope under the FAA's exemption. It determined that a Southwest Airlines employee who loaded and unloaded baggage, thus affecting the movement of goods across state lines, was a transportation worker.

Legal reasoning

The Supreme Court focused on the functional role of employees in affecting interstate commerce, asserting that transportation workers include those whose duties are integral to the interstate movement of goods, regardless of their direct cross-state travel.

TL;DR: It may be time to review your arbitration agreements

These cases affirm that the FAA's Section 1 exemption is evolving from a narrow, industry-specific application to a broader interpretation based on the nature of the work performed by individuals. The shift toward a task-based assessment broadens the exemption's applicability, potentially impacting various sectors where employees perform duties critical to the movement of goods across state lines.

The expanded interpretation of the FAA's Section 1 exemption by recent judicial rulings necessitates a thorough review of arbitration agreements and worker classifications across industries. Employers must carefully assess the roles of their workforce to determine the applicability of the exemption, ensuring compliance with evolving legal standards. This comprehensive understanding of pivotal cases aids in navigating the complex landscape of arbitration and employment law.

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