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U.S. SUPREME COURT REJECTS INDUSTRY TEST FOR EXEMPTION TO ARBITRATION

The United States Supreme Court resolved a split between two federal appeals courts, the First and Second Circuits, on April 12, 2024, when it issued its decision in *Bissonnette v. Lepage Bakeries Park St., LLC*. The Court held that even if their employer is not in the transportation industry, transportation workers may fall under an exemption for those in interstate transportation jobs to avoid arbitration of their wage-and-hour lawsuits.

The employer in that case, Flowers Foods, Inc., produces and markets baked goods that are distributed nationwide. The plaintiffs, Neal Bissonnette and Tyler Wojnarowski, purchased the rights to distribute Flowers products in certain parts of Connecticut by entering into contracts with Flowers that required any disputes to be arbitrated under the Federal Arbitration Act ("FAA"). After the plaintiffs sued Flowers and two subsidiary companies for violating state and federal wage laws, Flowers moved to compel arbitration. The plaintiffs responded that they were exempt from the coverage, as they fell under an exception in Section 1 of the FAA for "contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce." The federal district court dismissed the case in favor of arbitration, concluding that the plaintiffs were not "transportation workers," exempt under Section 1. The Second Circuit affirmed on the ground that the Section 1 exemption was available only to workers in the transportation industry, and the plaintiffs were in the bakery industry.

The Supreme Court did not read an industry requirement into Section 1 of the FAA, finding that a transportation worker does not need to work in the transportation industry to be exempt from coverage. The Court found that the Second Circuit had erred in compelling arbitration on the basis that the drivers worked in the bakery

industry. However, the Supreme Court did not express an opinion on any alternative grounds in favor of arbitration raised in the district and circuit courts, including that the drivers are not transportation workers or are not engaged in foreign or interstate commerce, as they deliver baked goods only in the state of Connecticut.

The Supreme Court, in a 2001 ruling, said that the Section 1 exemption applied only to transportation workers, and since that ruling, appellate courts have split over whether that means any worker who transports goods or only those employed by companies that provide transportation services. This ruling provides clarity, and should result in allowing more classifications of workers to bring wage-and-hour lawsuits in court, instead of being compelled to bring those claims through arbitration.

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