Case Name and Number: *Bissonnette v. LePage Bakeries Park Street, LLC*, No. 23-51

Today, the Supreme Court held in a unanimous decision that an individual need not work in the transportation industry to fall within the exemption from the Federal Arbitration Act (FAA) protection in Section 1 of the statute. The Court decided only that narrow issue and left open all other questions related to whether the workers qualify for the Section 1 exemption.

Background: Section 1 of the FAA exempts from the FAA's coverage "contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce." Petitioners Neal Bissonnette and Tyler Wojnarowski worked as distributors for Flowers Foods, Inc., a producer and marketer of baked goods. After they sued Flowers for violating state and federal wage laws, Flowers moved to compel arbitration under the FAA, and the petitioners invoked the Section 1 exemption in response.

The district court compelled arbitration, holding that the plaintiffs were not "engaged in … interstate commerce" within the meaning of Section 1. The Second Circuit affirmed on the alternative ground that the two individuals worked in the bakery industry, not the transportation industry, interpreting Section 1 to apply only if the worker's job was in the transportation industry. The Second Circuit granted panel rehearing, adhered to its prior decision, and denied rehearing en banc.

Issue: Whether a transportation worker must work for a company in the transportation industry to be exempt under Section 1 of the FAA.

Court's Holding: In a unanimous opinion authored by Chief Justice Roberts, the Supreme Court held that the Section 1 exemption does not require a worker to work for a company in the transportation industry.

The Court emphasized that application of the Section 1 exemption turns on what the workers "do, not for whom they do it." The Court reasoned that Section 1 "refers to 'seamen' and 'railroad employees' without specifying any industry to which they must belong," and that the residual category of "any other class of workers engaged in foreign or interstate commerce" similarly lacks any "industry-specific" requirement.

The Court further noted that it may not always be clear whether a company is in the transportation industry, and that "[m]ini-trials on the transportation-industry issue could become a regular, slow, and expensive practice in FAA cases."

In both footnote 2 and at the end of the opinion, the Court emphasized the narrowness of its opinion. The Court "express[ed] no opinion on any alternative grounds in favor of arbitration raised below, including that petitioners are not transportation workers and that petitioners are not 'engaged in foreign or interstate commerce' within the meaning of §1 because they deliver baked goods only in Connecticut." And the Court further emphasized that the Section 1 exemption remains "narrow": "[A]ny exempt worker must at least play a direct and necessary role in the free flow of goods across borders."

The Court vacated the decision below and remanded the case back to the Second Circuit to address all of these remaining issues.

Mayer Brown filed an *amicus* brief in support of respondents on behalf of the Chamber of Commerce of the United States of America, National Retail Federation, and American Bakers Association.

Read the opinion here.