

Supreme Court Clarifies Federal Arbitration Act Exemption for Transportation Workers

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Employment contracts [often](#) include a pre-dispute arbitration agreement in which the parties waive their right to litigate future disputes between them in court and instead agree to submit legal claims to binding arbitration before a neutral third party. The [Federal Arbitration Act](#) (FAA) (9 U.S.C. §§ 1–16) generally requires federal and state courts to [enforce](#) arbitration agreements that fall under the Act’s broad coverage, but [Section 1](#) of the Act excludes from that requirement arbitration agreements contained in the “contracts of employment” of transportation workers who are “engaged in . . . interstate commerce.” In a unanimous opinion issued on May 28, 2026, the U.S. Supreme Court held in [Flowers Foods, Inc. v. Brock](#) that the exemption is not limited to workers who cross state lines as part of their employment or who interact with vehicles that travel between states. The Court’s decision means that workers in a broader range of transportation roles may be able to avoid enforcement of their arbitration agreements under the FAA and instead have their employment disputes resolved by courts. This Legal Sidebar provides background on the FAA and the transportation worker exemption, examines the Court’s decision in [Flowers Foods](#), and discusses considerations for Congress.

Federal Arbitration Act

Congress enacted the FAA in 1925 to “[overrule](#) the judiciary’s longstanding refusal to enforce agreements to arbitrate” and to place arbitration agreements “upon the same footing as other contracts.” The FAA generally requires federal and state courts to treat covered arbitration agreements as “[valid, irrevocable, and enforceable](#),” and to “[rigorously](#)” enforce the agreements according to their terms. Under [Section 2](#) of the FAA, the Act broadly applies to written arbitration agreements in contracts “involving commerce,” which the Supreme Court has interpreted as covering contracts that fall within the [full reach](#) of Congress’s [Commerce Clause](#) power. [Section 1](#) excludes from the FAA’s scope the “contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce.”

Whether the FAA applies to an arbitration agreement can have significant consequences. If the FAA does not apply, state law may provide for enforcing the arbitration agreement in some cases. In other cases, however, state laws may not be as favorable to arbitration as the FAA. For example, although the Supreme Court has [held](#) that [class-action waivers](#) in arbitration agreements are enforceable under the

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FAA, class-action waivers may be [unenforceable](#) under state law when the arbitration agreement is not governed by the FAA.

Section 1 Exemption

Flowers Foods is the latest in a series of cases in which the Supreme Court has interpreted the scope of Section 1's exemption. In 2001, the Court held in [Circuit City Stores, Inc. v. Adams](#) that the exemption applies only to the contracts of "transportation workers." Although the exemption's residual phrase—"any other class of workers engaged in foreign or interstate commerce"—could cover all employment contracts if construed broadly, the Court reasoned that the FAA's [text and purpose](#) require construing the exemption more narrowly.

In 2019, the Court held in [New Prime Inc. v. Oliveira](#) that the exemption's reference to "contracts of employment" applies both to employer-employee agreements and to agreements with independent contractors. While [acknowledging](#) that the phrase "contracts of employment" might suggest to modern readers only contracts between employers and employees, the Court [determined](#) that the phrase had a more general meaning in 1925 when Congress enacted the FAA.

Three years later, in 2022, the Supreme Court held in [Southwest Airlines Co. v. Saxon](#) that an airport ramp supervisor was an exempt transportation worker even though she personally did not cross state lines in performing her work. The Court [explained](#) that "any class of workers directly involved in transporting goods across state or international borders" falls within the exemption. In the Court's view, although airline employees who physically load and unload planes traveling across state lines might not themselves travel interstate, they are, "as a practical matter, part of the interstate transportation of goods."

In 2024, the Supreme Court decided [Bissonnette v. LePage Bakeries Park St., LLC](#), ruling that the Section 1 exemption is not limited to individuals who work for a company in a transportation industry, such as employees of airlines or trucking companies. The plaintiffs were distributors of baked goods for a national baked goods company, Flowers Foods, Inc. (the same company involved in *Flowers Foods, Inc. v. Brock*). The plaintiffs delivered baked goods to retailers within Connecticut, and the U.S. Court of Appeals for the Second Circuit (Second Circuit) [held](#) that they were not exempt transportation workers under the FAA because, although they drove trucks, they worked "in the bakery industry, not a transportation industry." In vacating the Second Circuit's decision, the Supreme Court [explained](#) that the exemption focuses on what a worker does as opposed to "for whom they do it." The Court also [emphasized](#) that "any exempt worker 'must at least play a direct and "necessary role in the free flow of goods" across borders.'"

Flowers Foods, Inc. v. Brock

In *Flowers Foods*, a distributor for Flowers Foods, Inc. (Angelo Brock) sued the company in federal district court. Among other things, Brock's lawsuit [alleged](#) that Flowers misclassified its workers as independent contractors instead of employees and underpaid them in violation of state and federal laws. The distributor agreement between Flowers and the company Brock owned and operated (Brock, Inc.) contained an [arbitration provision](#), and Flowers asked the district court to [compel](#) Brock to arbitrate the dispute on an individual basis rather than litigating in court on behalf of himself and other distributors whom he sought to represent in the lawsuit.

The district court [concluded](#) that the arbitration agreement was subject to Section 1's exemption and therefore not enforceable under the FAA. Under the parties' distribution arrangement, Flowers shipped its products from out-of-state bakeries to a warehouse in Colorado, and Brock picked up the products from the warehouse and delivered them to local retail stores within the state. In the district court's [view](#), even

though Brock did not cross state lines or interact directly with vehicles that did, he “haul[ed] goods on the final legs of interstate journeys” and was therefore “engaged in interstate commerce” for purposes of Section 1.

The U.S. Court of Appeals for the Tenth Circuit (Tenth Circuit) subsequently [affirmed](#) the district court’s ruling. The Tenth Circuit [declined](#) to address Flowers’ separate argument that a contract between two corporate entities such as Flowers and Brock, Inc. does not qualify as a “contract of employment” for purposes of Section 1. The court explained that Flowers forfeited that argument by failing to raise it before the district court. With respect to whether Brock was “engaged in interstate commerce,” the court explained that it appeared [plausible](#) “[o]n a surface level” that “the initial cross-border delivery of goods [was] a wholly separate transaction from Brock’s intrastate deliveries of the same goods to his customers.” Upon [closer examination](#) of the contractual relationships and delivery details, however, the court [determined](#) that Brock, Inc. and Flowers “form an integrated distribution chain” and that Flowers’ “true customer[s]” are “the various retail stores on Brock’s route, not Brock, Inc.” [According](#) to the court, Brock was “engaged in interstate commerce” because his “intrastate route formed a constituent part of the goods’ interstate journey” to the retail stores.

On appeal to the Supreme Court, Flowers argued that the Court should “[adopt](#) a bright-line rule that an individual can never qualify for § 1’s exemption unless he crosses state lines or interacts with vehicles that do.” The Court disagreed and, in a unanimous opinion authored by Justice Neil Gorsuch, [held](#) that “[a]t least sometimes, a worker who transports goods on an intrastate leg of an interstate journey can qualify for § 1’s exemption without satisfying either of those criteria.” Focusing on the meaning of the phrase “engaged in interstate commerce,” the Court considered the terms’ [dictionary definitions](#) and also looked to how [judicial decisions](#) prior to the FAA’s adoption in 1925 construed the terms when used in other contexts. While [reaffirming](#) its prior holding from *Saxon* that the phrase “engaged in . . . interstate commerce” in Section 1 “denotes a ‘direct,’ ‘necessary,’ and ‘active’ role in moving goods across borders,” the Court ultimately [concluded](#) that “[n]othing in [Section 1’s] terms requires an individual to cross state lines or interact with a vehicle that does.”

By way of example, the Court described a [hypothetical](#) in which a bakery agrees to deliver baked goods made in one state to a customer in another state. In the hypothetical, the bakery hires three drivers to complete the delivery. The first driver takes the goods from the bakery to the border between the states and unloads them on his side of the border. The second driver picks up the goods then unloads them ten feet across the border. The third driver picks up the goods and delivers them to the customer. The Court [explained](#) that, while only the second driver would qualify as “engaged in interstate commerce” under Flowers’ proposed bright-line rule, each of the drivers “played a direct, active, and necessary part in ensuring the [goods] got from a point in [one state] to a point in [the other state] as the contract required.”

Considerations for Congress

The widespread use of arbitration agreements in employment contracts has generated significant debate. Some legal scholars have [argued](#) that arbitration can provide a faster resolution and a more cost-effective and accessible forum for employees than traditional court litigation. Others [argue](#) that employers may unfairly impose arbitration agreements on workers with less bargaining power and use the agreements to shield themselves from liability, such as by precluding [class litigation](#) of claims that might be too small to justify the expense of an individual lawsuit.

The Supreme Court’s *Flowers Foods* decision is the [fourth time](#) in the past decade that the Court has addressed the FAA’s exemption for transportation workers. In rejecting Flowers’ proposed bright-line rule, the Court [emphasized](#) that its decision did not address other unresolved questions about the scope of the exemption, such as the significance of transferring title to goods that are shipped across state lines. Determining when the exemption applies to workers who do not cross state lines or interact with vehicles

that do may continue to involve [thorny](#) line-drawing questions, as illustrated in the Tenth Circuit’s [analysis](#) of the parties’ contractual relationships in *Flowers*. One circuit court has [observed](#) that “the scope of the transportation worker exception is a hotly contested issue that courts have recently been called upon to address with increasing frequency,” and another circuit court has [remarked](#) that if “line-drawing” over whether a class of workers falls within Section 1’s exemption “proves to be unmanageable, it is up to Congress, not jurists, to revise the [FAA].”

If Congress wishes, it could enact legislation amending the FAA to clarify when a worker’s arbitration agreement is exempt under Section 1, or otherwise to expand, narrow, or remove the exemption. Additionally, multiple bills introduced in the 119th Congress would limit or bar enforcement of arbitration agreements in some employment contexts. For example, the Forced Arbitration Injustice Repeal Act ([S. 2799](#)) and the FAIR Act of 2025 ([H.R. 5350](#)) would provide that pre-dispute arbitration agreements and [class action waivers](#) are not valid or enforceable with respect to certain employment disputes, as well as certain consumer, antitrust, and civil rights disputes (the House [passed](#) a version of H.R. 5350 in the 116th Congress). The Protecting Older Americans Act of 2026 ([H.R. 5115](#)) and the Ending Forced Arbitration of Race Discrimination Act of 2025 ([S. 3243](#)) would more narrowly give plaintiffs the right to invalidate pre-dispute arbitration agreements and class action waivers with respect to cases related to age discrimination disputes and race discrimination disputes, respectively.

Author Information

Bryan L. Adkins
Legislative Attorney

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