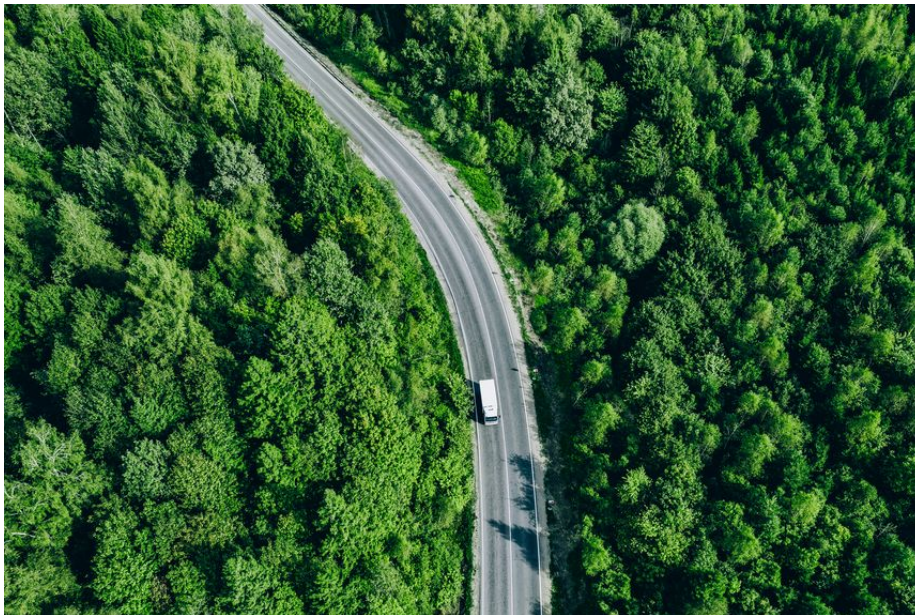


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Detour Ahead: Supreme Court to Weigh Scope of Transportation Worker Arbitration Exemption

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By [Ryan Krone](#)



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The U.S. Supreme Court has agreed to revisit the scope of the “transportation worker” exemption under the Federal Arbitration Act (FAA). The exemption — found in Section 1 of the FAA — carves out certain workers from the FAA’s purview. Specifically, it exempts “contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce.” In recent years, lower courts have been divided over how broadly the exemption applies, particularly to workers who move goods or passengers within a

single state but play a role in the broader flow of interstate commerce.


The Supreme Court's decision to grant the petition to review signals renewed interest in setting the boundaries of this carve-out, which has taken on increasing importance in employment disputes involving drivers, delivery personnel, and logistics workers. The Court's decision will likely resolve a circuit split over what exactly it means to be engaged in interstate commerce under the FAA for certain transportation workers.

In the case at issue, the Tenth Circuit U.S. Court of Appeals acknowledged that the plaintiff did not cross state lines to deliver goods in connection with the operation of his business, but noted that alone is not dispositive. The Tenth Circuit found that the plaintiff's intrastate delivery of goods on his route is not an isolated transaction, but instead, his route forms the final leg of an interstate route. In other words, the plaintiff served as the "last-mile driver" such that he is engaged in interstate commerce.

A ruling could have significant implications for employers that rely on arbitration agreements to manage workplace claims in many industries. If the Supreme Court upholds the Tenth Circuit's view on the issue, it could mean that many workers are exempt from the FAA's arbitration provision because so many different workers handle goods that travel across state lines. It could indeed be a slippery slope, potentially placing a meaningful constraint on some employers' continued reliance on arbitration agreements.



Tastykake and Dave's Killer Bread baker Flowers Foods Inc. convinced the US Supreme Court Monday to reexamine the extent of the transportation worker arbitration exemption and its application



to delivery drivers. The high court will weigh in on whether workers who make local deliveries are truly involved in interstate transportation.

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