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# Justices Deliver Win to Trucker in Arbitration Fight

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- Arbitration Act excludes trucker's contract, Supreme Court says
- Decision implicates truckers nationwide

A long-haul trucker who says he was underpaid can take his fight into the courtroom rather than arbitration, the U.S. Supreme Court said Jan. 15.

The federal law that's used to enforce arbitration agreements doesn't apply to transportation workers in interstate commerce, even if they're independent contractors, the high court unanimously ruled. The justices interpreted the Federal Arbitration Act's exclusion for the "contracts of employment" of certain workers broadly, saying they refer to any agreement to perform work.

"This decision is a real setback," Richard Pianka, an attorney with the American Trucking Associations Inc., told Bloomberg Law. "It took arbitration under the FAA off the table."

The ruling is a boon to workers following last term's employer-friendly *Epic Systems Corp. v. Lewis*, which affirmed the general validity of mandatory individual arbitration clauses. The decision also could benefit delivery drivers looking to go to court with legal claims against Amazon.com Inc., GrubHub Inc., and other companies that bring goods to customers' doorsteps. But transportation companies still can turn to state law to try to enforce arbitration agreements and might rely on federal law to do so if the plaintiff wasn't involved in interstate commerce.

Dominic Oliveira filed a proposed class and collective action against trucking company New Prime Inc. for allegedly underpaying him. When the company tried to move his claim into individual arbitration, Oliveira said that as a trucker, he's engaged in interstate commerce and therefore isn't bound by the mandatory arbitration clause in his independent contractor operating agreement.

New Prime argued that the independent contractor agreement Oliveira signed was evidence that he hadn't signed a "contract of employment" with the company.

The Supreme Court agreed with Oliveira, saying that the term “contract of employment” generally meant an agreement to perform work in 1925, when the FAA was passed into law. Court rulings, federal law, and state statutes use the term to describe work agreements involving independent contractors, the court said.

“Happily, everyone before us agrees that Mr. Oliveira qualifies as” a worker engaged in interstate commerce, Justice Neil M. Gorsuch wrote for the court.

Justice Ruth Bader Ginsburg authored a concurring opinion. Justice Brett Kavanaugh didn’t take part in the decision.

Oliveira’s attorney, Jennifer Bennett of Public Justice, told Bloomberg Law that her client is excited about the chance to proceed with his claims in court.

New Prime’s lawyer, Theodore Boutrous of Gibson Dunn & Crutcher, didn’t immediately respond to a request for comment.

## Delivery Company Lawsuits

Plaintiffs’ lawyer Shannon Liss-Riordan said she’s “very excited” for the ruling because she has delivery driver lawsuits against Amazon, GrubHub, Postmates Inc., and Doordash Inc. that have been held pending the high court’s decision.

Driver wage claims against Amazon should be able to move forward in federal court following the decision on the FAA exemption, Liss-Riordan told Bloomberg Law.

But the lawsuits against the three other companies will need to cross another threshold to proceed in court, Liss-Riordan said, since it’s not resolved whether delivering prepared meals counts as interstate commerce.

## ‘Fifty Different Battlegrounds’

Companies may be able to enforce arbitration agreements even when drivers are transporting goods in interstate commerce, but that depends on state arbitration law, employment lawyers said.

Most states have laws on arbitration, although some forbid arbitration on certain types of claims and have been hostile to class action waivers, lawyers said.

Some state arbitration laws also contain exemptions like the one in the FAA. But state courts wouldn’t be bound by the Supreme Court’s ruling on the FAA exemption unless the statute was written in the same time period, since the decision turned on the meaning of “contracts of employment” in 1925, Ron Holland, an attorney with McDermott Will & Emery, told Bloomberg Law.

“Now there will be 50 different battlegrounds, to the extent companies want to arbitrate,” Braden Core, a lawyer with Scopelitis Garvin Light Hanson & Feary, told Bloomberg Law.

The case is New Prime, Inc. v. Oliveira, U.S., No. 17-340, 1/15/19.