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SCOTUS Holds Independent Contractor Truck Drivers Exempt from Arbitration Under FAA

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On January 15, 2019, the Supreme Court issued its decision in *New Prime Inc. v. Oliveira*, where it decided independent contractor truck drivers cannot be forced into arbitration. The Court's decision is based on Federal Arbitration Act § 1, which excepts from coverage disputes involving "contracts of employment" with "workers engaged in foreign or interstate commerce."

Facts

Dominic Oliveira was an independent contractor (owner-operator) of New Prime Inc., an interstate trucking company. Oliveira's operating agreement contained a mandatory arbitration provision, which included a delegation clause allowing the arbitrator to decide whether a dispute is subject to arbitration.

Oliveira brought a FLSA class action, alleging he and other drivers were owed wages. New Prime sought to compel arbitration. Oliveira argued the court lacked authority to compel arbitration because of the FAA's § 1 exception for "contracts of employment" with certain transportation workers.

New Prime argued, first, that the question of § 1's applicability was for the arbitrator to decide due to the arbitration agreement's delegation clause. Second, New Prime argued the language in § 1, "contracts of employment," only refers to contracts involving an employer-employee relationship. Thus, New Prime argued, §

1's exception does not apply to independent contractor agreements, and these can still be subject to arbitration.

SCOTUS's Decision

The Supreme Court unanimously held in favor of Oliveira. (8-0, with Justice Kavanaugh recused.)

First, the Court held a court, not an arbitrator, should determine whether a § 1 exclusion applies before it can compel arbitration. This is because §§ 1 and 2 of the FAA limit the scope of the Court's powers under §§ 3 and 4 to stay litigation and compel arbitration. Section 2 provides the FAA applies only when the parties' agreement to arbitrate is set forth in a "written provision in...a contract evidencing a transaction involving commerce." Section 1 defines § 2's terms, and states "nothing" in the FAA "shall apply" to "contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce." In short, if a contract falls within § 1, the FAA does not apply.

The Court also held the delegation clause in Oliveira's agreement did not change anything, because a delegation clause is "merely a specialized type of arbitration agreement," and the FAA applies to it the same as any other arbitration agreement. Therefore, the Court held, a court may use §§ 3 and 4 to enforce a delegation clause only if the contract does not first trigger § 1's exception.

Second, the Court held the term "contract of employment" in § 1 refers broadly to any agreement to perform work, and is not limited to employee-employer relationships. The Court relied on the meaning of the phrase "contract of employment" at the time Congress passed the FAA. At the time, "contract of employment" was not a term of art, but only referred to work generally. Additionally, there was no dispute that Oliveira, as an owner-operator, qualified as a "worker engaged in...interstate commerce." Therefore, Oliveira's agreement was excepted from the FAA under § 1.

Impact of *New Prime*

Going forward, the *New Prime* decision calls into question whether arbitration agreements in owner-operator agreements can be enforced by a court, and whether independent contractor drivers can be required to arbitrate claims.

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