CLIENT ALERTS & INSIGHTS

SCOTUS Extends FAA Exemption to Last-Mile Drivers: What the Flowers Foods Decision Means for Motor Carriers and Transportation Providers

MAY 29, 2026

Authors: Marc S. Blubaugh, Jonathan R. Todd, Adam Primm, Robert (Bob) Pleines, Jr.

Featured Practices: Labor & Employment

Featured Industries: Transportation & Logistics

Download InterConnect Newsletter - Q2 2026

Key Takeaways

- The U.S. Supreme Court's Flowers Foods decision expands the Federal Arbitration Act's exemption for transportation workers, ruling that last-mile drivers who deliver goods within a single state-but as part of an interstate journey-are covered, even if they never cross state lines.
- This ruling increases litigation risk for motor carriers and transportation providers by limiting their ability to enforce arbitration agreements under the FAA with last-mile drivers, including both employees and independent contractors handling goods that originated out of state.
- Transportation companies can prepare by reviewing and updating their arbitration agreements to reference state law arbitration statutes as a backup if the FAA exemption applies, ensuring continued access to arbitration and reducing exposure to class or collective actions.

On May 28, 2026, the U.S. Supreme Court issued a unanimous decision in *Flowers Foods, Inc. v. Brock*, expanding reach of the Federal Arbitration Act's ("FAA") Section 1 exemption for transportation workers engaged in interstate commerce. The Court held that a worker who transports goods on an intrastate leg of an interstate journey can qualify for Section 1's exemption without crossing state lines or interacting with vehicles that do. This decision has significant implications for motor carriers and transportation providers that rely on arbitration agreements to resolve disputes with independent contractors and employee drivers.

The FAA and Section 1's Exemption

The FAA establishes a strong federal policy in favor of arbitration. Section 1 exempts from its coverage "contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce." 9 USC § 1. For decades, courts interpreted this exemption narrowly, but the Supreme Court has recently expanded its reach in a series of decisions. In *New Prime Inc. v. Oliveira*, 586 U.S. 105 (2019), the Court held that the exemption covers independent contractors as well as traditional employees, and that courts-not arbitrators-must decide whether the exemption applies. Further, in *Southwest Airlines Co. v. Saxon*, 596 U.S. 450 (2022), the Court held that airline ramp supervisors who frequently load and unload cargo qualify for the exemption because they are transportation workers who "play a direct and necessary role in the free flow of goods" across state lines. *Flowers Foods* continues this trend of broadening the exemption's application to workers who handle goods moving in interstate commerce.

The Court's Decision

In a unanimous opinion authored by Justice Gorsuch, the Court affirmed the Tenth Circuit and held that Section 1's exemption applied to Mr. Brock, a franchisee distributor for Flowers Foods, Inc. ("Flowers"). Mr. Brock operated his own delivery business under a distribution agreement with Flowers, using his own truck to pick up baked goods from a Flowers warehouse in Colorado and delivering them to grocery stores and other retailers in the surrounding area. Although Mr. Brock never left the state, the goods he transported had originated from Flowers' bakeries outside Colorado.

The Court rejected Flowers' argument that Section 1's exemption requires a worker to physically cross state lines or to interact with a vehicle that does (for instance, by loading or unloading a vehicle). Instead, the Court focused on the nature of the goods being transported and the worker's role in the broader interstate journey. The court explained that even if a driver did not cross state lines, the driver could still play a direct, active and necessary part in ensuring that the goods cross state lines. Under this reasoning, Mr. Brock's delivery of goods that had originated from out-of-state bakeries made him an integral part of an interstate commercial transaction, even though his route remained entirely within Colorado.

What This Means for Motor Carriers and Transportation Providers

The *Flowers Foods* decision narrows the ability of motor carriers and transportation providers to rely on the FAA to compel arbitration of disputes with workers who handle goods moving in interstate commerce. Based on *Flowers Foods*, "last mile" drivers, or those who typically complete the final leg of an interstate shipment within a single state, are generally within scope of Section 1's exemption. This includes employee drivers and independent contractor drivers who operate vehicles that never cross state lines but transport goods that originated out of state.

Section 1's exemption, however, does not mean that all arbitration provisions applicable to last mile drivers are unenforceable. For example, the Court's decision is limited to application of the FAA and does not necessarily dictate the outcome in cases where parties have agreed by contract that a state arbitration statute governs in lieu of the FAA. Thus, the Court leaves open the possibility that a transportation worker who signs an arbitration agreement governed by state law could still be compelled to arbitrate a dispute under that state's arbitration act.

Best Practices for Arbitration Provisions

In light of *Flowers Foods* and the continuing expansion of Section 1's exemption, motor carriers and transportation providers can review their arbitration provisions to incorporate state law arbitration statutes. For instance, such arbitration provisions can be drafted to apply in the first instance or if the transportation worker exemption in Section 1 is deemed to apply to last mile drivers. A well-crafted arbitration may include:

1. Clear expressions of the parties' mutual intention to arbitrate any dispute;
2. An affirmative statement that if the FAA exemption applies, then state law arbitration statutes will govern;
3. A clear and unambiguous waiver with respect to jury trial; and
4. A clear and unambiguous waiver for dispute resolution on a class, collective, or representative basis, coupled with a clear agreement to proceed only on an individual basis.

This approach may maximize the likelihood that disputes involving transportation workers will be subject to arbitration on an individual basis. An arbitral forum offers certain tactical and strategic advantages to putative employers defending actions brought by workers.

The Benesch Transportation & Logistics and Labor and Employment teams are well positioned to craft innovative solutions customized for any transportation companies in any segment of the industry regarding this particular issue or any other that may relate to independent contractor programs. Please contact us to discuss the implications of the *Flowers Foods* decision for your business and to review your arbitration provisions.