



keep on truckin'

MSK Client Alert

January 30, 2019

In a blow to the transportation industry, last week, the U.S. Supreme Court ruled that the trucking company, New Prime Inc., cannot compel arbitration in a class action alleging it failed to pay independent contractor driver apprentices minimum wage. In *New Prime Inc. v. Oliveira*, the Court held that transportation workers engaged in interstate commerce, including those classified as independent contractors, are exempt from the Federal Arbitration Act (the "FAA"). Justice Neil Gorsuch wrote the Court's 8-0 opinion (Justice Brett Kavanaugh was recused from the case).

Section 1 of the FAA exempts from arbitration "contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce." In *New Prime*, the Court addressed two questions: (1) whether a dispute over the applicability of the Section 1 exemption must be resolved by an arbitrator based on a valid delegation clause or by a court; and (2) whether the Section 1 exemption covers independent contractor agreements. On the first question, the Court held that a court should decide whether the Section 1 exemption applies before sending a case to arbitration. "The parties' private agreement may be crystal clear and require arbitration of every question under the sun, but that does not necessarily mean the act authorizes a court to stay litigation and send the parties to an arbitral forum."

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