



Transportation Arbitration Agreements Ruled Enforceable Under New Jersey's Arbitration Act Despite U.S. Supreme Court Ruling

Insights

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The New Jersey Supreme Court just ruled that state law ensures the enforceability of arbitration agreements with transportation workers despite a recent U.S. Supreme Court case that struck down such an agreement under federal law. The July 14 decision in *Arafa v. Health Express Corp.*, which sheds new light on the contours of the Supreme Court's *New Prime v. Oliveira* decision, is a welcome development for New Jersey employers – and is perhaps a sign of things to come for businesses across the country. What do you need to know about this latest development?

New Jersey Supreme Court Addresses Critical Unanswered Question

In the 2019 *New Prime* case, the U.S. Supreme Court ruled that an arbitration agreement between a trucking company and one of its independent contractor drivers was not enforceable. The Court determined that Section 1 of the Federal Arbitration Act (FAA) excludes agreements with certain transportation workers, whether they are employees or contractors. Notably though, the Court did not address the various arbitration laws enacted by state legislatures that do not contain exemptions like those found in Section 1 of the FAA. Several federal district courts have addressed this issue but have reached different conclusions.

Earlier this week, the New Jersey Supreme Court became the first state or federal appellate court to definitively rule on this issue. In *Arafa*, the New Jersey court ruled that, even if the agreements at issue are exempt from the FAA under Section 1, they are still enforceable under state law. That's because the New Jersey Arbitration Act (NJAA) does not contain an exemption for transportation workers as the federal statute does. The N.J. Supreme Court ruled that the NJAA would apply to the agreements at issue unless preempted by the FAA.

The New Jersey court initially observed that the U.S. Supreme Court has stated that “the FAA contains no express pre-emptive provision, nor does it reflect a congressional intent to occupy the entire field of arbitration.” And, while the FAA does preempt “any state rule discriminating on its face against arbitration,” the it found that the NJAA does not discriminate against arbitration. Ultimately, the N.J. Supreme Court held that the arbitration agreements were enforceable under the NJAA even if those agreements are exempt under Section 1 of the FAA.

What Does This Mean For Transportation Employers In New Jersey – And Across The Country?

The *Arafa* decision will significantly impact the enforceability of arbitration agreements with transportation workers that might otherwise be exempt from enforcement under the FAA. Forty-nine states have enacted arbitration statutes, and at least 35 of those have adopted the Uniform Arbitration Act (UAA) or the Revised Uniform Arbitration Act (RUAA), and thus read similar to the New Jersey statute.

The good news for employers in these 35 states? Neither the UAA nor the RUAA contain an exemption for transportation workers. For transportation employers in most of these states, arbitration provisions that would otherwise not be enforceable because of the FAA exemption would be enforceable under states' arbitration acts – if, of course, they followed the reasoning of *Arafa*. However, it is important to note that some states' acts contain other exemptions that may impact whether an arbitration provision would be enforceable under state law.

If you have transportation operations and have arbitration agreements with your workers, you may want to review them in concert with your employment attorney to determine the extent to which this latest decision impacts your operations. You may decide that you will need to revise your practices or agreements to best suit the situation. In evaluating arbitration provisions, you may even consider which states' arbitration act you will reference in each of your operations. If a particular state arbitration act is not favorable, you may want to consider referencing another state's arbitration act – provided, of course, that the state at issue bears a relationship to the parties.

We will continue to monitor further developments and provide updates regarding this issue, so you should ensure you are subscribed to [Fisher Phillips' alert system](#) to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney or [the author](#).

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