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JAMS Institute

LEARNING FROM EACH OTHER

November 20, 2024

ADR Case Update 2024 - 19

Federal Circuit Courts

- **BAKERY DISTRIBUTER EXEMPT FROM ARBITRATION ENFORCEMENT UNDER FAA SECTION 1**

[*Brock v Flowers Foods, Inc.*](#)

United States Court of Appeals, Tenth Circuit

2024 WL 4744443

November 12, 2024

Angelo Brock worked as an independent distributor for Flowers Foods. He placed orders for Flowers' pre-packaged bakery products according to the needs of his route, picked up the products at a Colorado distribution center, and delivered them to in-state retail stores which sold the products to consumers. Brock filed a putative class employment action against Flowers, claiming that Flowers misclassified distributors as independent contractors. Flowers moved to compel arbitration under Brock's distribution agreement. Brock claimed exemption from arbitration as an interstate transportation worker under FAA Section 1. Flowers argued that the exemption did not apply because Brock did not work in the transportation industry, and because he worked entirely intra-state. The court denied the motion. Flowers was exempt under Section 1 because he belonged to a class of workers who delivered goods in trucks as part of an interstate distribution system. Flowers appealed.

The United States Court of Appeals, Tenth Circuit affirmed. Brock was a transportation worker engaged in interstate commerce exempt from arbitration under FAA Section 1. The Supreme Court's intervening decision in *Bissonnette v LePage Bakeries Park St., LLC* established that a "transportation worker" is defined not by the employer's industry, but by the job performed. Brock, who picked up and delivered Flowers products in his truck, was unquestionably a "transportation worker" under Section 1. Although he physically worked intra-state, Brock was engaged in interstate commerce. He "commenced the interstate delivery of products" by placing orders with out-of-state bakeries; the products travelled across state lines to Brock's local distribution center;

and Brock then served as the “last mile” delivery driver who transported the products to the retail stores who were Flowers’ “true customers.”

Case research and summaries by Deirdre McCarthy Gallagher and Rene Todd Maddox.

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