

Legal Update Article

# **Ninth Circuit Continues to Expand Transportation Worker Exemption Under Federal Arbitration Act**

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## Meet the Authors



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Courts are finding more workers who do not physically transport goods or people across state lines to be transportation workers exempt from arbitrating their claims under the Federal Arbitration Act (FAA).

The U.S. Court of Appeals for the Ninth Circuit Court of Appeals affirmed the district court's denial of a motion to compel arbitration in a wage-and-hour lawsuit brought by an airline fuel technician in [\*Lopez v. Aircraft Service Int'l, Inc.\*](#), No. 23-55015 (July 19, 2024). Relying on the 2022 decision by the U.S. Supreme Court in [\*Southwest Airlines Co. v. Saxon\*](#), 142 S.Ct. 1783, the Ninth Circuit panel ruled the plaintiff was a transportation worker engaged in foreign or interstate commerce and therefore exempt from arbitrating under the FAA.

### Underlying Case

Lopez filed a complaint in California Superior Court on behalf of himself and other employees, alleging his employer failed to provide required meal periods, rest periods, overtime wages, minimum wages, copies of records, wages earned during employment, and itemized wage statements. The employer moved the case to federal court and sought to compel arbitration based on an agreement Lopez signed.

Lopez opposed arbitration, claiming he was exempt from the FAA and arbitration as a transportation worker engaged in interstate commerce. He worked as a fuel technician at Los Angeles International Airport, fueling planes involved in interstate and international travel.

The district court denied the employer's motion, noting that there had been no dispute by the employer about Lopez's job description. The court found that Lopez's role in fueling planes was closely related to interstate transportation, making him exempt from the FAA's arbitration requirements.

### Ninth Circuit's Opinion

Affirming the lower court decision, the panel emphasized that the plaintiff played a direct and necessary role in the transportation of goods across borders as a fuel technician, falling within the transportation worker exemption. The panel focused on prior Supreme Court case law, including *Saxon*, to reject the argument that only workers who had "hands-on contact with goods bound for transportation in [the] channels of interstate or foreign commerce" qualified for the transportation worker exemption. Instead, the Ninth Circuit interpreted *Saxon* to leave open courts' ability to apply the exemption to classes of workers "further removed from the channels of interstate commerce," including Lopez as a fuel technician.

### Takeaway

This decision and the Ninth Circuit's decision in [\*Ortiz v. Randstad Inhouse Services, LLC\*](#), No. 23-55147 (Mar. 12, 2024), illustrate how courts continue to expand the transportation worker exemption to the FAA beyond those who physically transport goods or people across state lines. Employers that have arbitration agreements and are involved in work related to moving goods or people interstate should continue to carefully follow developments pertaining to the exemption.

Please contact a Jackson Lewis attorney with any questions.

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