Recent SCOTUS Case Swift-ly Comes Home To Roost For Transportation Company

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The $100 million settlement announced Monday by a transportation company to resolve a long-running misclassification claim might be the direct result of a January Supreme Court decision, and might be a troubling harbinger of things to come for many gig economy businesses. Swift Transportation paid the massive sum to a group of drivers who claimed they were improperly classified as "owner-operator" contractors when they should have been treated as employees, but only agreed to the deal after it became clear that recent legal precedent from the SCOTUS meant that they could not resolve the dispute in arbitration. What does this settlement signal for gig economy businesses in general?

To get a clearer picture of what happened here, let's go back a few months. In January, the Supreme Court concluded in *New Prime Inc. v. Oliveira* that federal courts can't force interstate transportation workers — including contractors — into arbitration, ruling that the Federal Arbitration Act's (FAA's) Section 1 exemption for these applied not only to interstate transportation workers with employment agreements, but also to those interstate transportation workers with independent contractor agreements. Our firm's legal alert warned at the time that "this ruling could open the floodgates to a host of new class and collective action lawsuits against interstate transportation employers in federal and state courts; employers in this industry should immediately coordinate with their labor and employment counsel to determine how this development might affect them."

Immediately after the dust settled from this decision, we started theorizing how this case could impact the gig economy. We cited to prominent labor law commentator Ross Runkel, who soon released a video blog entry on his popular YouTube channel discussing whether ride-sharing and delivery drivers for gig companies were operating in interstate commerce. If so, he theorized, the FAA would not apply, and courts would be prohibited from pushing their federal wage and hour claims (and, assumedly, other similar causes of action) into arbitration. He concluded: "It will be interesting to see what the lower courts do with this," speculating about the potential evolution of the *New Prime* decision and whether it would bleed into the gig economy.

Fast-forward to this week. As Law 360's Braden Campbell reported today, Swift Transportation Co. and a group of drivers filed legal paperwork on Monday asking an Arizona federal court to approve the $100 million settlement, "laying the groundwork for ending an independent contractor misclassification saga that turns 10 years old in December." Although Swift had originally sought to send the claims to individual arbitration proceedings as per the agreements they had signed with

send the claims to individual arbitration proceedings as per the agreements they had signed with the drivers, a lower federal court rejected this theory for the same reason the SCOTUS eventually adopted. Swift appealed this ruling, but January's *New Prime* decision effectively killed its last line of defense and forced its hand into this settlement.

Campbell followed up his reporting with a series of tweets where he opined about the impact that the *New Prime* decision had on this deal. "*New Prime* wasn't necessarily the deciding factor in the deal -- the workers would still have had to prove they were misclassified to get damages. Still, it was a factor," he said. He concluded: "The Supreme Court's *New Prime* ruling isn't seen as the biggest ruling, but it means a lot to certain groups." One of those groups is definitely those of us who work in the gig economy field, who will continue to monitor the evolution of *New Prime* to determine whether it will have a similar impact on our particular pieces of litigation as it did on the parties in the Swift case.

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