

David Cinotti Quoted in Law360 Article on Need to Update Federal Arbitration Law For 21st Century

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David Cinotti, partner at Pashman Stein Walder Hayden, was quoted in the *Law360* article, "Judge Pushes to Update Arbitration Law for 21st Century." The article discusses issues raised in a recent concurring opinion of U.S. Third Circuit Judge Paul Matey, suggesting that Section 1 of the Federal Arbitration Law (FAA) does not account for the workforce of "gig economy" drivers.

However, a change in the law could be a "tall order," according to Pashman Stein Walder Hayden PC partner David N. Cinotti, who counts appellate litigation among his specialties. Cinotti noted that the FAA hasn't been substantially modified over the last nine decades, even in the wake of other court precedent on various aspects of the law.

Cinotti suggested that, given the lack of congressional action to update the law thus far, the decision's strongest message could be found in Judge Matey's recommendation to apply a strictly textual interpretation to the exemption for now.

Quoting U.S. Supreme Court precedent holding that "the words of a statute must be read in their context and with a view to their place in the overall statutory scheme," Judge Matey said the best approach would be to "examine the ordinary meaning of the 1 exclusion in the context of the FAA."

"My view is that he's trying to understand what the 1925 Congress intended. What he's saying is, What kind of class of workers did Congress intend to exempt in 1925, and once we know that, we can apply it to modern types of businesses," Cinotti said.

Cinotti also took note of Judge Matey's criticism of Third Circuit

precedent addressing Section 1, namely the court's 1953 en banc decision in Tenney Engineering Inc. v. United Electrical Radio & Machine Workers of America...

In Cinotti's view, Section 1 seems likely to escalate through the judicial system.

"I do think the transportation worker issue is something the U.S. Supreme Court is likely to address," he said.

To read the full article, please [click here](#).