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Top Transportation Rulings Of 2021

By **Linda Chiem**

Law360 (December 22, 2021, 8:58 AM EST) -- A U.S. Supreme Court ruling clarifying the limits of specific personal jurisdiction for automakers, appellate decisions hampering ride-share and ride-hail drivers' efforts to pursue class actions, and shielding California workplace regulations from federal preemption are among the biggest court decisions of 2021 impacting the transportation industry.

Here, Law360 looks back at a few notable transportation-related court rulings of 2021.

High Court Rebuffs Ford's Jurisdictional Workaround

The U.S. Supreme Court in March clarified the limits of specific personal jurisdiction by ruling that Ford Motor Co. could be sued in Montana and Minnesota over accidents involving used cars initially sold out of state with purportedly defective tires or air bags.

The ruling largely maintained the status quo for big automakers facing product defect and negligence suits, with the justices rebuffing Dearborn, Michigan-based Ford's bid to strictly limit where manufacturers can be sued when their products cause injuries. Ford had sought to reverse a pair of 2019 decisions from the Montana Supreme Court and Minnesota Supreme Court that kept alive lawsuits from residents who were injured in 2015 accidents in those states involving Ford Explorer and Crown Victoria vehicles that were initially designed, assembled and sold out of state.

While Ford is neither based in nor did it manufacture its cars in either of the two states, the justices held that Ford's "truckload of contacts" and business activities in Montana and Minnesota allowed for it to be sued in those states, rejecting the auto giant's proposed workaround for existing rules on specific personal jurisdiction. The justices hewed to the court's 2017 holding in Bristol-Myers Squibb Co. v. Superior Court of California that the due process clause requires that both the defendant "have purposefully availed itself of the privilege of conducting activities within the forum state" and that the plaintiff's claim "'arise out of or relate to' the defendant's forum conduct."

Experts told Law360 that it wasn't necessarily a "needle-moving" decision, but it reaffirmed prior precedent. It remains to be seen how much it impacts stream-of-commerce legal theories.

The cases are Ford Motor Co., Petitioner v. Montana Eighth Judicial District Court et al., case number 19-368, and Ford Motor Co., Petitioner v. Adam Bandemer, case number 19-369, both in the U.S. Supreme Court.

D.C. Circ. Dumps Truck Trailer Fuel Efficiency Standards

A divided D.C. Circuit panel in November dumped Obama-era greenhouse gas emissions and fuel-economy standards for heavy-duty truck trailers, saying those components aren't self-propelling and therefore cannot be regulated as motor vehicles.

The panel, with one judge partially dissenting, vacated the 2016 rule issued jointly by the U.S. Environmental Protection Agency and the National Highway Traffic Safety Administration, which set greenhouse gas emissions and fuel-efficiency standards for heavy-duty truck trailers for the first time ever. The Truck Trailer Manufacturers Association immediately sued to challenge the new standards, and the D.C. Circuit issued a 2017 injunction blocking the EPA portion of the rule from taking effect. The NHTSA portion of the rule pertaining to fuel-efficiency standards, which were initially slated to take effect this year, were also put on hold in September 2020 pending the outcome of the litigation.

Experts say the D.C. Circuit panel adopted a very traditional view of the statutory term "motor vehicles" in finding that because trailers have no motor, they cannot be subject to emissions limits for motor vehicles under the Clean Air Act. The panel also found that trailers are not "vehicles" for purposes of CAA regulation, since "motorless vehicles use no fuel."

"While of limited immediate practical impact because the rule at issue had been stayed, this decision could change how EPA approaches regulation and electrification of trucks and trailers," said Amanda Shafer Berman, a partner in Crowell & Moring LLP's environment and natural resources and litigation groups. "And it may be yet another indication of the courts' inclination to rely on a traditional interpretation of statutory text to overturn government attempts to limit greenhouse gas emissions, even as the Biden administration pushes for regulatory measures that will essentially mandate increased electrification of vehicles of all types."

The case is Truck Trailer Manufacturers v. EPA, case number 16-1430, in the U.S. Court of Appeals for the D.C. Circuit.

Uber, Lyft Drivers Aren't Exempt From Arbitration

Ride-share or ride-hail drivers who've alleged for years that they've been improperly classified as independent contractors are seeing their court pursuits for employee status stymied by companies' arbitration agreements.

For years, courts have been dancing around the issue of whether arbitration provisions are even valid and enforceable, and whether gig-economy drivers can wield the Federal Arbitration Act to get around them. The Ninth Circuit's August decision in Capriole v. Uber Technologies Inc. and the First Circuit's November decision in Cunningham v. Lyft Inc. determined that ride-share or ride-hail drivers don't engage in interstate commerce to be exempt from arbitration.

Section 1 of the FAA exempts from arbitration "contracts of employment of seamen, railroad employees or any other class of workers engaged in foreign or interstate commerce." But the statute doesn't precisely define the phrase "engaged in foreign or interstate commerce," nor does it specify which "class[es] of workers" are covered by the exemption — leaving those issues to be heavily litigated.

Just because the Uber and Lyft drivers had argued that they sometimes transported passengers to and from airports or across state lines, most of their trips were local and hardly equivalent to being "engaged in interstate commerce" to qualify for the Section 1 exemption, the courts said.

Shannon Liss-Riordan of Lichten & Liss-Riordan PC, who represents the drivers in the Capriole and Cunningham cases, has described the rulings as disappointing.

"Once again, Lyft (like Uber) has been able to escape the consequences for its systemic violations of law — including here, not paying sick time to workers during a pandemic — all because of its arbitration provision," Liss-Riordan said in a November statement following the First Circuit's Cunningham ruling. "Congress needs to step in and bring some sanity to this situation."

The Ninth Circuit case is John Capriole et al. v. Uber Technologies Inc. et al., case number 20-16030, in the U.S. Court of Appeals for the Ninth Circuit.

The First Circuit cases are Cunningham v. Lyft Inc. et al., case numbers 20-1373, 20-1379, 20-1544, 20-1549 and 20-1567, in the U.S. Court of Appeals for the First Circuit.

9th Circ. Leaves Airlines Bracing for Flight Crew Wage and Hour Fights

The Ninth Circuit held in February that California's meal and rest break regulations don't interfere with federal aviation safety regulations and, therefore, still apply to flight attendants, even those mostly working out of state, dealing a blow to Virgin America — and the broader commercial airline industry — in a long-running wage and hour battle with flight attendants.

The Ninth Circuit rejected Virgin's arguments that California's labor laws trample on interstate commerce and are preempted by the Federal Aviation Act, which established aviation safety rules, and the Airline Deregulation Act, which bars states from regulating the "price, route or service of an air carrier."

The full Ninth Circuit in July declined to rehear the case en banc, prompting Virgin America Inc. to petition the U.S. Supreme Court for review in August. The justices in November asked the U.S. solicitor general to weigh in with the government's views on the preemption question.

Virgin and parent company Alaska Airlines Inc. contend there would be substantial compliance headaches for airlines flying in and out of California if the Ninth Circuit's ruling is allowed to stand. Notably, they say the Ninth Circuit crafted a stringent and categorical "binds to" test that flouts Supreme Court and other circuit court precedent, according to its certiorari petition.

Virgin has maintained that the panel "turned a blind eye to the disruption that will result from allowing states to impose their own break rules on flight crews." Airplanes cannot lawfully operate while flight attendants are taking "off duty" breaks and imposing such breaks under state law will cause massive delays by forcing planes to circle in the air or idle on runways as they wait for mandatory break periods to end, which would create air traffic chaos, Virgin has said.

The Ninth Circuit cases are Julia Bernstein et al. v. Virgin America Inc. et al., case number 19-15382; and Julia Bernstein et al. v. Virgin America Inc. et al., case number 20-15186, in the U.S. Court of Appeals for the Ninth Circuit.

The Supreme Court case is Virgin America Inc. et al. v. Julia Bernstein et al., case number 21-260, in the U.S. Supreme Court.