



What Qualifies as Interstate Commerce Under the Motor Carrier Act? Does the Fifth Circuit Go Too Far?

The U.S. Court of Appeals for the Fifth Circuit issued a decision on July 31, 2024, in [*Escobedo v. Ace Gathering, Inc.*](#), addressing what qualifies as interstate commerce under the Motor Carrier Act (MCA). The decision appears to evidence a rift between Fifth Circuit and U.S. Supreme Court precedents.

The dispute arose when Escobedo, a tanker-truck driver who transported crude oil for Ace, filed a class action against the company for unpaid overtime wages under the Fair Labor Standards Act. Ace argued that the crude haulers were exempt from the overtime pay under the MCA while the crude haulers argued that the MCA's interstate commerce requirement was not met, and they were indeed entitled to the overtime pay as a result.¹

Fifth Circuit Interpretation of the Motor Carrier Act

The job responsibilities of Ace's crude haulers included transporting crude oil from oil fields to injection points on pipelines. Once injected, this oil would travel through the pipeline to Ace's customers. Although this entire process took place solely in Texas, and none of the crude haulers in this case crossed state lines pursuant to their employment duties, the Fifth Circuit held that their activities qualified as interstate commerce because Ace's customers subsequently transported most of the oil out of Texas upon receiving it. To support its holding, the Fifth Circuit pointed to its own precedent to establish that the MCA exemption applies to "the intrastate transport of goods in the flow of interstate commerce."²

U.S. Supreme Court Precedent Favoring Textualist Interpretation

Both the concurrence to the July 31 decision and the dissent to the denial of rehearing *en banc* on September 30, 2024, noted that the Court has evidenced a preference for a textualist reading of the statute: *i.e.*, a method of legal interpretation that emphasizes the plain meaning of the text of a statute. Such an approach goes directly against the Fifth Circuit's precedent, which the court admits goes beyond the text of the MCA which defines interstate commerce as transportation "by motor carrier between a place in a state and a place in another state." The statute's text contains no reference to any transportation intrastate that is "in the flow of interstate commerce."

In other cases, the Fifth Circuit goes even further in broadening the MCA. In some cases, the court ventures into the realm of line-drawing and multifactor balancing tests to determine what constitutes interstate commerce. In his September 30 dissent, Circuit Judge Andrew Oldham says these standards are messy and make no sense.³ This is especially true when the issue can be resolved by the plain language of the statute.⁴

The Root of the Rift

In addition to their own precedent, the Fifth Circuit majority pointed to a U.S. Supreme Court decision in which the Court held that a Washington, D.C. bus company's transportation solely within D.C. qualified as interstate commerce because the passengers were bound for Virginia. The dissent stresses that this 1949 opinion is problematic because the U.S. Department of Labor (DOL) issued an interpretive rule in 1971 exempting certain employees from federal overtime requirements and requiring that exempt employees must engage in activities directly affecting the safety of operation of motor vehicles in the transportation of people or property in interstate commerce within the meaning of the MCA.⁵

Did the DOL issue this rule with the intention of nudging the courts to pump the brakes on their Commerce Clause powers? Possibly. But as of now, it appears that the Fifth Circuit majority doesn't think so.

Where From Here?

Every Circuit Court that has issued an opinion on the matter has deemed intrastate travel sufficiently interstate under the MCA to differing extents. However, it is unclear how many courts would stretch the definition to cover circumstances such as these, where the interstate portion of the oil's journey was only fulfilled by the crude haulers' customers.

For now, the Fifth and Eleventh Circuits are the only ones that have gone that far. If you're a fan of a broad interpretation of "interstate commerce" the *Escobedo* case is a big win.

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Class certification was not at issue on appeal. It appears the class was certified, because at no point in the case history was certification discussed at length. The only real mention of the issue is in the district court's initial opinion, in which they ordered Ace to respond to the class certification motion by December 8, 2022. *See Escobedo v. Ace Gathering, Inc.*, No. 22-CV-538, 2022 WL 16857009, at *4 (W.D. Tex. Nov. 10, 2022).

²

Escobedo v. Ace Gathering, Inc., 109 F.4th 831, 835 (5th Cir. 2024) (footnote omitted).

³

Escobedo v. Ace Gathering, Inc., No. 23-20494, 2024 WL 5443121, at *3 (5th Cir. Sept. 30, 2024) (Oldham, J., dissenting).

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Escobedo v. Ace Gathering, Inc., No. 23-20494, 2024 WL 5443121, at *3 (5th Cir. Sept. 30, 2024) (Oldham, J., dissenting) ("While the MCA's text explicitly requires movement of commerce across state lines, our precedent explicitly does not.").

⁵

See 29 C.F.R. § 782.2(a)(2).

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