

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Provencher v. Bimbo Foods Bakeries Distribution LLC

Provencher · No. 24-3112-cv · Decided May 4, 2026

SUMMARY

The Second Circuit reversed a district court ruling that it had personal jurisdiction over Fair Labor Standards Act claims asserted by potential plaintiffs residing outside Vermont. The court held that, because the FLSA does not authorize nationwide service of process, each opt-in plaintiff’s claim must satisfy the applicable personal-jurisdiction requirements, and the record did not establish a sufficient connection between the out-of-state claims and Vermont. The case was remanded for further proceedings.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Gerard E. Lynch; Raymond J. Lohier Jr.; Margo K. Brodie Menashi
JURISDICTION	United States Court of Appeals for the Second Circuit
DECIDED	May 4, 2026
DOCKET	24-3112-cv
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendants took an interlocutory appeal under 28 U.S.C. § 1292(b) from the district court's ruling that it had personal jurisdiction over FLSA claims of potential collective-action plaintiffs residing outside Vermont and from the resulting authorization to notify those individuals.
STANDARD OF REVIEW	De novo review of the district court's legal conclusions regarding its power to exercise personal jurisdiction.
PRECEDENTIAL VALUE	precedential
PARTIES	Bimbo Foods Bakeries Distribution LLC, Bimbo Bakeries USA, Inc. v. Arthur Provencher, Michael McGuire

TOPICS

- personal jurisdiction
- flsa
- interlocutory appeal
- appellate procedure
- civil procedure

PRACTICE AREAS

civil procedure

employment law

Fair Labor Standards Act

personal jurisdiction

appellate procedure

QUESTIONS PRESENTED

1. Whether a federal district court may exercise personal jurisdiction over FLSA claims asserted by potential opt-in plaintiffs who reside and worked outside the forum state when the court has personal jurisdiction over similar claims brought by in-state plaintiffs.
2. Whether the FLSA, Federal Rule of Civil Procedure 4(k), the Fifth Amendment, or the collective-action structure permits a district court to avoid claim-specific personal-jurisdiction requirements for out-of-state FLSA collective-action plaintiffs.
3. Whether the district court could conditionally certify the FLSA collective action and authorize notice to out-of-state potential plaintiffs without ensuring personal jurisdiction over their claims.

HOLDINGS

1. A federal district court may not exercise specific personal jurisdiction over FLSA claims of out-of-state potential opt-in plaintiffs merely because it has personal jurisdiction over similar claims brought by in-state plaintiffs. Personal jurisdiction must be established with respect to each claim asserted.
2. An FLSA collective action remains a collection of individual claims, and conditional certification or service of the original complaint on the defendant does not confer personal jurisdiction over claims later asserted by out-of-state opt-in plaintiffs.

KEY QUOTATIONS

“before conditionally certifying an FLSA collective action and authorizing notification of potential plaintiffs who may opt in, a district court must ensure its personal jurisdiction over the defendant with regard to the claims of those to be notified.” (at 23)

“service of process does not by itself confer personal jurisdiction over a defendant.” (at 21)

FACTUAL BACKGROUND

Provencher and McGuire reside in Vermont and worked as Bimbo delivery distributors, loading products at Bimbo's Vermont warehouse and delivering them to Vermont retailers. They alleged that they routinely worked more than forty hours per week without overtime compensation because Bimbo classified them as independent contractors rather than FLSA-protected employees. They sued on behalf of themselves and similarly situated distributors, and sought notice to potential distributors in Vermont, Connecticut, and New York.

PROCEDURAL HISTORY

Vermont distributors Arthur Provencher and Michael McGuire filed an FLSA collective action and related Vermont-law class claims against Bimbo in the District of Vermont. The district court concluded that it had personal jurisdiction over the claims of out-of-state potential opt-in plaintiffs and authorized notice to

distributors in Vermont, Connecticut, and New York. It stayed its ruling, certified the personal-jurisdiction question for interlocutory appeal, and the Second Circuit accepted the appeal.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings consistent with the opinion, including proceedings recognizing that the district court lacks personal jurisdiction over the claims of the Connecticut and New York distributors.

CASES CITED

- Scott v. Chipotle Mexican Grill, Inc., 954 F.3d 502, 510, 513-15, 518-21 (2d Cir. 2020)
- Bristol-Myers Squibb Co. v. Superior Court of California, 582 U.S. 255, 259, 261-69 (2017)
- Kernan v. Kurz-Hastings, Inc., 175 F.3d 236, 240 (2d Cir. 1999)
- NLRB v. Universal Smart Contracts, LLC, 166 F.4th 304, 314 (2d Cir. 2026)
- Brown v. Lockheed Martin Corp., 814 F.3d 619, 624, 634 n.13 (2d Cir. 2016)
- Sullivan v. UBS AG, 149 F.4th 206, 217 (2d Cir. 2025)
- State v. Meta Platforms, Inc., 346 A.3d 489, 498 (Vt. 2025)
- Fuld v. Palestine Liberation Organization, 606 U.S. 1, 16 (2025)
- Palmore v. United States, 411 U.S. 389, 401 (1973)
- Omni Capital International, Ltd. v. Rudolf Wolff & Co., Ltd., 484 U.S. 97, 102-04 (1987)
- Vanegas v. Signet Builders, Inc., 113 F.4th 718, 723 (7th Cir. 2024)
- Canaday v. Anthem Cos., Inc., 9 F.4th 392, 397 (6th Cir. 2021)
- Vallone v. CJS Solutions Group, LLC, 9 F.4th 861, 865-66 (8th Cir. 2021)
- Fischer v. Federal Express Corp., 42 F.4th 366, 370, 375 (3d Cir. 2022)
- Waters v. Day & Zimmermann NPS, Inc., 23 F.4th 84, 92, 94, 96 (1st Cir. 2022)
- Sosna v. Iowa, 419 U.S. 393, 399, 401 (1975)
- Genesis Health Corp. v. Symczyk, 569 U.S. 66, 73-75 (2013)
- Campbell-Ewald Co. v. Gomez, 577 U.S. 153, 162 (2016)
- Gibbons v. Equitable Life Assurance Society of United States, 173 F.2d 337, 339 (2d Cir. 1949)
- Klein v. Qlik Technologies, 906 F.3d 215, 224 (2d Cir. 2018)
- Steele v. Guaranty Trust Co. of New York, 164 F.2d 387, 388-89 (2d Cir. 1947)
- Eisen v. Carlisle & Jacquelin, 391 F.2d 555, 560 (2d Cir. 1968)
- Hall v. Hall, 584 U.S. 59, 66 (2018)
- York v. Guaranty Trust Co. of New York, 143 F.2d 503, 512 (2d Cir. 1944)
- Zahn v. International Paper Co., 414 U.S. 291, 296-98 (1973)
- Exxon Mobil Corp. v. Allapattah Services, Inc., 545 U.S. 546, 566-67 (2005)

- In re Indiana Transportation Co., 244 U.S. 456, 458 (1917)

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