

FILED
United States Court of Appeals
Tenth Circuit

PUBLISH

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

September 1, 2026

Christopher M. Wolpert
Clerk of Court

CHIQUITA JOYNER; HELEN DIXON;
TAJAHNE HOBLEY, on behalf of
themselves and all others similarly situated,

Plaintiffs - Appellees,

v.

No. 25-1211

FRONTIER AIRLINES, INC., a Colorado
corporation; SIMPLICITY GROUND
SERVICES, LLC, a Delaware limited
liability company, d/b/a Menzies Aviation;
AIRCRAFT SERVICE
INTERNATIONAL, INC., a Delaware
corporation, d/b/a Menzies Aviation,

Defendants - Appellants.

Appeal from the United States District Court
for the District of Colorado
(D.C. No. 1:24-CV-01672-SKC-TPO)

Christopher Ward, Foley & Lardner LLP, Los Angeles, California (Michael F. Ryan,
Foley & Lardner LLP, Denver, Colorado, with him on the briefs), for Defendants-
Appellants.

Shelby Woods (Abigail Zinman with her on the briefs), HKM Employment Attorneys,
Denver, Colorado, for Plaintiffs-Appellees.

Before **TYMKOVICH**, **MURPHY**, and **BACHARACH**, Circuit Judges.

MURPHY, Circuit Judge.

I. INTRODUCTION

Chiquita Joyner, Helen Dixon, and Tajahne Hobley (collectively, the “Employees”) are current or former employees of Menzies Aviation (“Menzies”) and Frontier Airlines, Inc. (“Frontier”). The Employees filed, individually and on behalf of similarly situated class members, a complaint against Menzies and Frontier asserting various causes of action based on Colorado state wage laws. Menzies and Frontier moved, pursuant to the Federal Arbitration Act (“FAA”) and Colorado law, to compel arbitration based on mandatory arbitration clauses in the Employees’ employment contracts. The Employees countered that they were transportation workers and, thus, members of a “class of workers engaged in foreign or interstate commerce.” App. Vol. I at 128, 260 (quoting 9 U.S.C. § 1); *see id.* at 126-39, 255-68. Thus, they claimed the FAA did not apply to their employment contracts. *Cf. Cir. City Stores, Inc. v. Adams*, 532 U.S. 105, 119 (2001) (holding § 1’s class-of-workers clause “exempts from the FAA only contracts of employment of transportation workers”). As to Colorado law, the Employees claimed Colorado’s Wage Act, Colo. Rev. Stat. § 8-4-101 *et seq.*, voids agreements purporting to waive rights thereunder, including arbitration agreements waiving the right to bring Wage Act claims in court. After holding an evidentiary hearing, the district court denied Menzies’s and Frontier’s motions to compel. Focusing narrowly on the work performed by the Employees, the district court ruled they were exempt from application of the FAA because they were transportation workers. *See Joyner v. Frontier Airlines, Inc.*, No.

1:24-cv-01672-SKC-TPO, 2025 WL 1503141, at *2 (D. Colo. May 19, 2025). The district court did not address Menzies’s and Frontier’s motions to compel arbitration under Colorado law. *See generally id.* at *1-4.

Menzies and Frontier assert on appeal that the district court made several errors in denying their FAA-based motions to compel.¹ This court concludes one of those asserted errors is dispositive and requires reversal: in ruling that the Employees are transportation workers, the district court focused exclusively on the work the Employees perform, rather than on the work performed generally by the class of workers to which the Employees belong. *See Sw. Airlines Co. v. Saxon*, 596 U.S. 450, 456 (2022) (holding that, in defining a “class of workers,” courts must look to “the actual work that the members of the class, as a whole, typically carry out”). Because this error leaves us without a properly defined class of workers, the necessary first step under the test set out in *Saxon*, we decline to resolve any of the other various

¹ Menzies and Frontier also claimed the district court erred in denying, sub silentio, their alternative requests to compel arbitration under Colorado law. *Cf. Volt Info. Scis., Inc. v. Bd. of Trs. of Leland Stanford Jr. Univ.*, 489 U.S. 468, 479 (1989) (“Where . . . the parties have agreed to abide by state rules of arbitration, enforcing those rules according to the terms of the agreement is fully consistent with the goals of the FAA . . .”). This court ordered Menzies and Frontier to address whether we have jurisdiction to review the district court’s interlocutory refusal to compel arbitration under Colorado law. *See* 10th Cir. Dkt. No. 39 (citing *Brock v. Flowers Foods, Inc.*, 121 F.4th 753, 770-72 (10th Cir. 2024)). In response, they conceded “this Court likely does not have appellate jurisdiction to consider” the issue and “withdr[e]w their arguments.” *See* 10th Cir. Dkt. No. 40. Thus, we do not consider the matter further. *See Zen Magnets, LLC v. Consumer Prod. Safety Comm’n*, 968 F.3d 1156, 1164 (10th Cir. 2020) (“Every appellant bears the burden of proving appellate jurisdiction by demonstrating the finality of the challenged decision or identifying a specific grant of jurisdiction.”).

arguments and contentions raised by the parties on appeal. This court exercises jurisdiction over this interlocutory appeal pursuant to 9 U.S.C. § 16(a). The order of the district court denying the motions to compel is **reversed** and the matter is **remanded** to the district court for further proceedings consistent with this opinion.

II. BACKGROUND

A. Legal Background

Section 1 exempts from FAA’s coverage “contracts of employment of seamen, railroad employees, or *any other class of workers engaged in foreign or interstate commerce.*” 9 U.S.C. § 1 (emphasis added). The any-other-class-of-workers language is commonly referred to as § 1’s residual clause. *Cir. City*, 532 U.S. at 114-15; *Brock v. Flowers Foods, Inc.*, 121 F.4th 753, 760 (10th Cir. 2024). *Saxon* set out a two-part framework for determining whether an employment contract containing a mandatory arbitration clause is exempt from the FAA’s purview under the residual clause. 596 U.S. at 455; *Brock*, 121 F.4th at 760 (“The Supreme Court employs a two-step framework to analyze whether an individual falls within this clause (and therefore falls within the exemption).”). “First, we must define the relevant class of workers to which the individual belongs. Second, we must determine whether that class of workers is engaged in foreign or interstate commerce.” *Brock*, 121 F.4th at 760 (quotations, citation, and alterations omitted). As to the first step, the relevant metric is the “actual work that the members of the class, as a whole, typically carry out.” *Saxon*, 596 U.S. at 456. That an employee works for a transportation company does not necessarily mean the employee is a transportation worker. *Id.* at 455-56 (rejecting

industrywide approach to defining the relevant class of workers). As to the second step, a class of workers is engaged in foreign or interstate commerce only if its members “play a direct and necessary role in the free flow of goods” across borders. *Id.* at 458 (quotation omitted). That is, “transportation workers must be actively engaged in transportation of those goods across borders via the channels of foreign or interstate commerce.” *Id.* (quotation omitted); *see also Flowers Foods, Inc. v. Brock*, 146 S. Ct. 1358, 1365 (2026) (citing *Saxon* for the following proposition: “[W]e have held that the phrase ‘engaged in’ interstate commerce in § 1 denotes a ‘direct,’ ‘necessary,’ and ‘active’ role in moving goods across borders.” (alteration omitted)).

B. Procedural Background

Frontier is a commercial airline operating out of, *inter alia*, the Denver International Airport (“DIA”). Menzies provides “ground, fuel, and air cargo support services to airlines, including passenger services such as ticketing, check-in, and boarding.” App Vol. I at 33, 37. Menzies provides these services to Frontier at DIA. The Employees began working for Menzies in 2022 as customer service agents (“CSAs”). Joyner and Dixon worked at Frontier’s ticket counters; Hobley worked at Frontier’s boarding gates. In their complaint, the Employees alleged Menzies and Frontier “routinely and improperly deducted time from their worked hours for lunch breaks they did not receive, forced them to work through rest breaks, failed to pay them overtime wages for hours worked over 40 per week, and didn’t pay them the commissions they earned.” *Joyner*, 2025 WL 1503141, at *1.

Menzies filed a motion to compel arbitration, *see* 9 U.S.C. § 3, noting the existence of mandatory arbitration provisions in each of the Employees’ employment contracts and preemptively arguing § 1’s residual clause did not apply. Menzies argued, *inter alia*, DIA-based CSAs were not transportation workers because they only handled interstate cargo (i.e., passenger luggage) on an incidental or infrequent basis.² In support, Menzies submitted job descriptions signed by each of the Employees. It also submitted a declaration from Trissa Moreo, who trains and supervises CSAs and performs CSA duties herself. Finally, Menzies submitted three

² As to the duties performed by CSAs, Menzies focused on how that work was undertaken at DIA. App. Vol. I at 74 (“[T]he work performed by Menzies’ CSAs *in Denver* bear **none** of the hallmarks of the duties necessary for qualification as a transportation worker” (first emphasis added)). The record indicates Frontier’s baggage operations at DIA are, at least in theory, designed to minimize the need for CSAs to lift or move passenger luggage. Consistent with their focus on the particular tasks they, as individuals, performed as part of their job duties, the Employees have not argued the appropriate class of workers at *Saxon*’s first step is all of Menzies’s CSAs, no matter the geographic location of their employment. *Cf. Sw. Airlines Co. v. Saxon*, 596 U.S. 450, 454, 455-56 (2022) (noting geographic location of plaintiff’s employment but evaluating work of “ramp supervisors” across employer’s entire operation); *cf. also Singh v. Uber Techs., Inc.*, 67 F.4th 550, 556 (3d Cir. 2023) (“To decide whether Plaintiffs are members of a class of workers engaged in foreign or interstate commerce, a court must first define the ‘class of workers’ at issue. We agree with the District Court that the class should be defined as nationwide Uber drivers. We begin, as the Supreme Court has instructed, by examining the types of workers specifically mentioned in the FAA’s text—‘seamen’ and ‘railroad employees.’ As those terms contain no geographic limitations, the most natural inference is that Congress intended those terms to encompass *all* seamen and railroad employees nationwide. We give the residual clause the same national scope.” (quotations, citations, and footnote omitted)). Nor have the Employees argued the appropriate class of workers is composed of all CSAs at all airlines across the entire nation. *See Singh*, 67 F.4th at 556 n.4. This court does not consider these matters further.

videos purporting to show what CSAs do during their regular, daily duties.³ Attached to the Employees' response were their declarations and three video recordings representing a day during which Joyner consistently handled passenger luggage. Dixon and Joyner, who worked at the ticketing area, averred that, even in the face of Frontier's self-service infrastructure, they "directly received, handled, lifted, loaded, and controlled the cargo transported on the airplanes flying in and out of DIA" every day. App. Vol. I at 144, 154. Joyner and Dixon further declared that the way they performed their duties was consistent with the way other CSAs at DIA worked. *Id.* at 145-49; 155-57. Hobley, who worked as a gate-agent CSA, averred she "directly and necessarily controlled and physically transported cargo during 100% of" her shifts by carrying passenger items up and down the jet bridge. *Id.* at 159-60. Hobley noted she and other gate-agent CSAs operated in this fashion based on instructions they received from Menzies and Frontier management. *Id.* at 161 ("Defendants' management frequently instructed me and other gate CSAs to focus on controlling passenger cargo they intended to bring on the airplane as their 'personal items.' Defendants' management told me that Frontier had a quota, in that they wanted us to get at least three items of cargo checked per flight (i.e., identify at least three items of cargo as too big to be a carry-on)."). In replies in support of their motions to compel, Menzies and Frontier asserted the duties performed by CSAs as a class, rather than

³ Frontier filed a similar motion to compel. For purposes of this appeal, the arguments in Frontier's motion are not meaningfully distinct from those advanced by Menzies. Thus, this court limits its description to Menzies's motion to compel.

by particular employees within that class, controlled the analysis. Frontier submitted an additional video recording which showed check-in-area CSAs performing their duties without ever touching a passenger bag.

The district court held an evidentiary hearing, at which it received testimony from Joyner, Dixon, Hobley, and Moreo. At the outset, the district court directed the parties to focus on “a finite issue”: “a disputed issue of fact as to how frequently” CSAs manipulated passenger baggage.⁴ App. Vol II at 380. Joyner was the first witness to testify. During her cross-examination, the district court made clear it considered irrelevant evidence about how typical CSAs performed their duties. When

⁴ The district court stated as follows:

And as I view it, I think we’re dealing with a very finite or at least specific issue and it is: What do the plaintiffs do with respect to ultimately baggage or any other form of cargo. And specifically I’m less interested in what they do in terms of attaching a ticket to a bag. I am—there’s a disputed issue of fact as to how frequently—well, whether they touch the bags at all; whether they actually lift a bag at all; whether they lift it and they set it on a conveyor belt or they walk it down the breezeway. But that’s—there’s the disputed issue of fact.

So part of why I wanted to have the hearing is I may need to make credibility findings, so ideally hopefully the plan is that each of the plaintiffs will testify. But I really think I’m dealing with a finite issue here: I want to know, and I want evidence on, what are they actually doing with the bags? I’ve read the declarations. There’s some indication from the declarations. Some of what’s stated there is a bit vague; it’s a bit broad-based, you know, “We touch bags, we move bags.” I’d like to—if the evidence can be more specific than that, that will be helpful. But I think that’s really what the issue is before the Court is flushing out what is actually happening with these bags.

App. Vol. II at 380-81.

Menzies and Frontier attempted to impeach Joyner with video evidence showing a CSA performing duties differently than claimed by Joyner, the district court stated:

[C]ounsel, just in case you're going to have a series of things like this, the issue before the Court is what these plaintiffs actually do with their work. So if other employees were doing it differently, I don't find that persuasive of anything that I need to decide. The issue is how did these plaintiffs do their work.

Id. at 426. After each of the Employees testified, Menzies and Frontier presented Moreo's testimony. Moreo testified that she regularly performs CSA duties and, in addition, is responsible for supervising CSAs in the performance of their duties. Moreo further testified that CSAs at DIA, whether working at check-in areas or passenger gates, do not regularly pick up or move passenger luggage.

During closing arguments, the district court acknowledged that Menzies and Frontier believed evidence of how the entire class of DIA-based CSAs performed their job was important. The district court concluded, however, that the relevant question was how Joyner, Dixon, and Hobley performed their duties. It noted "[w]e have a theory of the case over here that's in part about what the expectations are, and then over here we have, well, that might be the expectations but here's what we [i.e., the Employees] actually do." App. Vol. III at 568. Menzies and Frontier asserted in response that what the Employees do, or say they do, does not control the first step of *Saxon's* framework. Instead, they argued,

[T]he *Saxon* analysis doesn't depend on what the named plaintiffs say they do; it depends on what the class of workers does.

So if they are acting somewhat out of the norm of what is supposed to be the normal process, we need to look at what the normal process is

because that's what the *Saxon* test requires, is focusing on the class, not focus on the named plaintiffs.

Id. at 578.

The district court issued a written order denying the motions to compel. Consistent with the views it expressed during the evidentiary hearing, the district court focused narrowly on the work performed by the Employees in determining whether those individuals were transportation workers. *Joyner*, 2025 WL 1503141, at *2-3. For instance, the district court rejected as irrelevant Menzies's and Frontier's evidence regarding how work was supposed to be performed by CSAs because it did not relate to the Employees' "'actual work.'" *Id.* at *2 (quoting *Saxon*, 596 U.S. at 456); *see also id.* (giving no weight to Moreo's testimony "regarding her understanding of how the CSA jobs were to be performed" because Moreo "admitted she never supervised or observed the three Plaintiffs in the performance of their day-to-day duties"). Thus, the district court concluded Menzies's and Frontier's "evidence [was] of little assistance in determining whether [the Employees] are transportation workers." *Id.* On the other hand, the district court found that the Employees adduced credible evidence proving they "actually and routinely" handled passenger luggage. *Id.*⁵ Given this state of affairs, the district court found Joyner and

⁵ As to the work performed by the Employees, the district court found as follows:

Ms. Joyner and Ms. Dixon assist passengers with their ticketing and luggage needs. They check passenger identification, tag bags, and place or reposition bags on the conveyor belt to ensure their proper transport. They also check car seats, strollers, and other unorthodox items to ensure

Dixon belonged to a class of workers defined by the duties they particularly performed:

Ms. Joyner and Ms. Dixon belong to a class of workers who lift, weigh, inspect, and tag luggage, and move it to conveyor belts or carts en route to a destination aboard passenger aircraft. In addition, this class of workers oversee passengers while they place their bags on the conveyor belts to ensure passengers do it properly, and they readjust luggage while it is on the conveyor belt to ensure its ultimate transport to the airplane.

Id. Likewise, the district court found Hobley belonged to a class of workers defined by the particular duties she performed:

Ms. Hobley belongs to a class of workers who evaluate all passengers' carry-on luggage to determine whether it must be checked or whether passengers will be permitted to carry it onto the airplane. In the event the baggage must be checked, these workers check and tag bags at the gate.

there is no hidden or unauthorized cargo. And when conveyor belts malfunction, they manually load luggage onto porter carts for transport through the airport to be loaded onto the airplane. Ms. Joyner and Ms. Dixon also monitor luggage weights and, when bags are too heavy, they require passengers to redistribute or remove items or pay a fee prior to accepting those bags as properly checked items for the aircraft.

In her work at the Frontier Airlines gates, Ms. Hobley—while boarding passengers—ensures each passenger only has one personal item of the designated size. When passengers have more than one allotted bag or a noncompliant item, Ms. Hobley checks these additional or oversized items into the cargo hold of the plane. And Ms. Hobley testified she is required to identify at least three carry-on items per flight to be checked into the cargo hold of the airplane. Ms. Hobley also walks non-luggage items (such as strollers and wheelchairs) down the jet bridge to the plane when necessary and, when late flights arrive, she retrieves luggage and brings it up the bridge to reunite with passengers.

Joyner v. Frontier Airlines, Inc., No. 1:24-cv-01672-SKC-TPO, 2025 WL 1503141, at *2 (D. Colo. May 19, 2025) (record citation omitted).

In addition, these workers periodically carry baggage, strollers, and wheelchairs across the jet bridge.

Id. at *3. Finally, emphasizing that it defined the class of workers for purposes of *Saxon*’s first step around the work performed by the Employees—rather than making any findings as to whether the ways in which the Employees performed their duties was consistent with the work of all of Menzies’s and Frontier’s CSAs—the district court ruled that any potential future class would be composed only of those CSAs “who perform the same duties as [the Employees].” *Id.* at *4 n.2. Having described the relevant classes of workers by reference to the Employees, the district court moved on to conclude those classes fell within the residual clause. *Id.* at *4 (“Interstate transportation of goods is enmeshed in the work performed by [the Employees] and it is difficult to divorce them. Because a central aspect of the duties performed by these workers involves the interstate transportation of goods, namely luggage and personal belongings, the Court finds Ms. Joyner, Ms. Dixon, and Ms. Hobley are ‘transportation workers’ within the meaning of the FAA.”).

III. ANALYSIS

A. Standard of Review

Menzies and Frontier argue the district court’s analysis is flawed at the root because it improperly defined the relevant class of workers for purposes of the first step of the *Saxon* framework. *See* Appellant’s Opening Br. at 38 (“The upshot of incorrectly performing the first step of the *Saxon* analysis by

misunderstanding how to assess the class of worker is that any and all derivative factual and legal conclusions . . . are unavoidably and incurably tainted.”). This court reviews this question de novo. *See Russell v. Driscoll*, 157 F.4th 1348, 1350 (10th Cir. 2025) (reviewing de novo assertion district court misinterpreted Supreme Court precedent); *see also Zink v. Merrill Lynch Pierce Fenner & Smith, Inc.*, 13 F.3d 330, 333 (10th Cir. 1993) (reviewing de novo the district court’s interpretation of the FAA).⁶

B. Discussion

As explained above, the first step of the *Saxon* analysis is to identify the “relevant ‘class of workers.’” 596 U.S. at 455. Consistent with § 1’s focus on a “class of worker,” as opposed to any particular worker, *Saxon* focused on “the actual work

⁶ The Employees argue that because the district court’s construction of the relevant class is based on its factual findings, the appropriate standard of review is clear error. This argument is unconvincing. It is true that in addition to their challenge to the legal propriety of building a class around a select subgroup of plaintiff CSAs, Menzies and Frontier challenge the district court’s findings as to the work actually performed by the Employees. If it was necessary to reach the issue, we would review for clear error the district court’s findings regarding how the Employees in particular perform their duties. *See Brock*, 121 F.4th at 759. The same would be true as to any finding, although none was made, that the Employees’ performance of their duties is typical of all of Menzies’s and Frontier’s DIA-based CSAs. *See id.* at 759-61. Here, on the other hand, the question is whether the relevant class of workers at *Saxon*’s first step is properly understood by reference to the typical work of only a select few workers or is, instead, properly understood by reference to the typical work of all employees that generally undertake a given function for a given employer. This question is, undoubtedly, one of law subject to de novo review. *See Saxon*, 596 U.S. at 455-56 (rejecting, as a matter of law, an “industrywide approach” to defining the relevant class of workers, while accepting the airline’s factual concession an employee “belong[ed] to a class of workers who physically load and unload cargo on and off airplanes on a frequent basis”).

that the members of the class, *as a whole*, typically carry out.” *Id.* at 456 (emphasis added). On that point, *Saxon* noted the employer did not meaningfully contest that all employees belonging to the relevant class of workers frequently load and unload cargo from airplanes. *Id.* at 456. Thus, the Court “accept[ed]” that the employee “belongs to a class of workers who physically load and unload cargo on and off airplanes on a frequent basis.” *Id.*

The language employed by the Supreme Court makes it abundantly clear that in constructing the relevant class at *Saxon*’s first step, courts must focus on the work performed by a typical member of the class, not on the work performed by any particular employee. *See id.* (beginning the analysis at the second step by noting “the parties dispute whether *that class of airplane cargo loaders* is ‘engaged in foreign or interstate commerce’ under § 1” (emphasis added)).⁷ As far as this court can tell,

⁷ That is not to say the way in which the Employees perform their work is irrelevant. As *Menzies* and *Frontier* recognized during the relevant proceedings below, the way the Employees perform their work can be a telling datapoint as to how other members of the class likely perform their work. App. Vol. III at 578-79. In so doing, however, they emphasized that the ultimate question required findings regarding the typical work of the class, not the individual Employees. *Id.* And those findings depend on a consideration of all evidence bearing on that question, specifically including evidence like that which the district court refused to consider, including the testimony of a supervisor assertedly familiar with how a typical member of the class performs her duties and evidence about systemic design of the workplace for the purpose of minimizing CSA interaction with cargo. Again, however, as *Menzies* and *Frontier* recognized at the evidentiary hearing, this type of evidence is no more determinative of the nature of the duties of the class than is testimony of the Employees as to how they particularly perform their work functions. *Id.* at 579 (“If the Court finds that it’s credible that the way they say they do it is the way all the CSAs do it, then that goes to the class as a whole. And I understand that, like, how they do it versus expectation they do it. If all of the employees aren’t

every circuit to have addressed the question has so concluded. *See, e.g., Wallace v. Grubhub Holdings, Inc.*, 970 F.3d 798, 800 (7th Cir. 2020) (“[T]he first thing we see in the text of the residual category is that the operative unit is a ‘class of workers.’ So we know that in determining whether the exemption applies, the question is ‘not whether the *individual worker* actually engaged in interstate commerce, but whether *the class of workers to which the complaining worker belonged* engaged in interstate commerce.’” (quoting *Bacashihua v. U.S. Postal Serv.*, 859 F.2d 402, 405 (6th Cir. 1988))); *Singh v. Uber Techs., Inc.*, 939 F.3d 210, 227 (3d Cir. 2019) (holding that courts must “look to classes of workers rather than particular workers”); *see also Grice v. U.S. Dist. Ct. for the Cent. Dist. of Cal. (In re Grice)*, 974 F.3d 950, 956-58 (9th Cir. 2020) (synthesizing the relevant case law). Because, as cataloged above, the district court failed to properly define the work routinely undertaken by the class of workers to which the Employees belong, the district court erred.⁸

following the expectations, then the expectations become less relevant. I do agree with the Court on that.”).

⁸ This failing also dooms the Employees’ alternate argument for affirmance. The evidentiary hearing focused narrowly on whether the Employees frequently lifted or moved customer luggage. Ultimately, however, the district court concluded the Employees also fell within the residual clause because they play a “gatekeeping function” in making sure passenger luggage makes it onto airplanes. *Joyner*, 2025 WL 1503141, at *3-4. This gatekeeping description of the duties performed by the “class” of workers, no less than the handling-of-cargo description, is confined to the work performed by the Employees, not necessarily the typical work of all DIA CSAs. Should the district court find on remand that typical members of the class serve this gatekeeping function, it can move on to the legal question of whether such a class is engaged in commerce under *Saxon*’s second step. 598 U.S. at 455.

Having concluded the district court erred in defining the attributes of the work performed by the relevant class of workers, this court declines to address the various other arguments advanced by Menzies and Frontier on appeal. As they correctly noted in their opening brief on appeal, a conclusion that the district court erred in defining the working attributes of the relevant class renders moot all the district court's subsequent findings and conclusions. *See Appellant's Opening Br.* at 38

For their part, Menzies and Frontier assert the gatekeeping function described by the district court does not satisfy *Saxon's* second step. The issue is, however, purely hypothetical until the district court finds the characteristics of the properly constructed class of workers. And, although the district court leaned on a gatekeeping function as a basis for its decision, the parties did not fully ventilate the issue in either their district court filings or their arguments during the evidentiary hearing. Accordingly, the district court's analysis is limited. This court is "a court of review, not first view." *CGC Holding Co., LLC v. Hutchens*, 974 F.3d 1201, 1216 (10th Cir. 2020). As a consequence, we do not resolve this issue.

This approach is particularly appropriate because there exists substantial uncertainty surrounding the question whether a class of workers can only be engaged in commerce if they handle cargo. In arguing in favor of the must-handle-cargo requirement, Menzies and Frontier emphasize the Supreme Court's direction that the residual clause "be afforded a narrow construction." *Cir. City Stores, Inc. v. Adams*, 532 U.S. 105, 118 (2001). Recently, however, the Court cautioned against giving the clause an unduly cramped reading. *Flowers Foods, Inc. v. Brock*, 146 S. Ct. 1358, 1363 (2026) ("In recent years, we have had occasion to address the scope of § 1's exemption no fewer than three times. In each case, we have rejected efforts to cabin its reach. . . . Make this case the fourth."); *see also Waithaka v. Amazon.com, Inc.*, 966 F.3d 10, 24 (1st Cir. 2020) ("[T]he FAA's pro-arbitration purpose cannot override the original meaning of the statute's text."). Moreover, there exists caselaw offering some support for the notion that classes of workers playing a "central part" in the interstate movement of goods or people fall within the ambit of § 1 even if those classes of workers do not handle cargo as a central aspect of their duties. *Cf. Grice v. U.S. Dist. Ct. for the Cent. Dist. of Cal. (In re Grice)*, 974 F.3d 950, 955-56 (9th Cir. 2020); *Wallace v. Grubhub Holdings, Inc.*, 970 F.3d 798, 801-02 (7th Cir. 2020). As the foregoing should make clear, it is best to leave the gatekeeping issue for the parties and district court to further develop on remand.

(“The upshot of incorrectly performing the first step of the *Saxon* analysis by misunderstanding how to assess the class of worker is that any and all derivative factual and legal conclusions . . . are unavoidably and incurably tainted.”).

Furthermore, depending on further factual development, many of these issues may not recur. Resolving hypotheticals is not a beneficial expenditure of this court’s resources. This specifically includes Menzies’s and Frontier’s request that this court hold, in the abstract, that only classes of workers that frequently move or manipulate cargo fall within the ambit of the residual clause. *See Fraga v. Premium Retail Servs., Inc.*, 61 F.4th 228, 237 (1st Cir. 2023) (“[W]e decline to venture any further refinement of the frequency requirement in the abstract, without the benefit of factual findings that would provide a context for any such refinement.”).

IV. CONCLUSION

For those reasons set out above, the order of the district court denying the motions to compel is **REVERSED** and the matter is **REMANDED** to the district court for further proceedings consistent with this opinion.