

Stop the Case: SCOTUS Resolves Circuit Split on Stays Pending Appeal of Arbitration Decision

June 28, 2023

Resolving a circuit split, the Supreme Court ruled that litigation, including discovery, is automatically stayed when a party appeals the denial of a motion to compel arbitration under the Federal Arbitration Act (FAA).

[*Coinbase, Inc. v. Bielski*](#) was a putative class action brought against an online currency platform for allegedly failing to replace funds fraudulently taken from users' accounts. Coinbase, under the underlying user agreements, sought to compel arbitration of the putative class action. The district court denied the motion, and so Coinbase appealed. At the same time, it sought a stay of all litigation, including discovery, pending its interlocutory appeal. The district court denied the stay request, and the Ninth Circuit affirmed that decision. The Supreme Court agreed to hear Coinbase's appeal.

In a 5-4 decision, Justice Kavanaugh, writing for the majority, found that while §16 of the FAA (which permits interlocutory appeals of a denial of an arbitration motion) does not explicitly say district court proceedings must be stayed pending appeal, the history and background of the FAA, along with Supreme Court precedent, mandate such an outcome. As Justice Kavanaugh noted:

The common practice of staying district court proceedings during the pendency of an interlocutory appeal taken under §16(a) reflects common sense. If the district court could move forward with pre-trial and trial proceedings while the appeal on arbitrability was ongoing, then many of the asserted benefits of arbitration (efficiency, less expense, less intrusive discovery, and the like) would be irretrievably lost—even if the court of appeals later concluded that the case actually had belonged in arbitration all along. Absent a stay, parties also could be forced to settle to avoid the district court proceedings (including discovery and trial) that they contracted to avoid through arbitration.

Justice Kavanaugh also noted that this common sense approach comports with Congress's common practice. When Congress wants to authorize an interlocutory appeal and automatically stay litigation, the Justice noted, it need not say anything specific about a stay. Conversely, when Congress intends not to permit an automatic stay pending an interlocutory appeal, it specifically says as much.

The Court likewise rejected the arguments to the contrary raised by the appellee. For instance, Justice Kavanaugh noted that automatically staying litigation pending appeal would not result in unwarranted delay or encourage frivolous appeals as courts of appeals possess numerous tools to prevent such gamesmanship. He also rejected the claim that such a ruling created a "special" arbitration rule, noting that it "simply subjects

arbitrability appeals to the same stay principles that courts apply in other analogous contexts where an interlocutory appeal is authorized.”

Justice Jackson led the dissent and noted that the majority approach impedes the discretionary decision-making conferred upon a district court to determine whether a stay pending an interlocutory appeal is proper. Justice Jackson further contended that the majority opinion also “invents” a new rule specifically for arbitration-related litigation, which, she argued, “has such significant implications for federal litigation that the majority itself shies away from the Pandora’s box it may have opened.”

Bielski has significant implications for defendants seeking to compel arbitration of putative class actions. Now, if a defendant is unsuccessful in compelling arbitration, it can seek interlocutory review of that decision without having to worry about handling expensive (and all-encompassing) discovery during the pendency of the appeal.

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