May 23, 2024

Supreme Court Unanimously Rules That District Courts Must Stay, Rather Than Dismiss, Cases Pending Arbitration

On May 16, 2024, the Supreme Court unanimously held in *Smith* v. *Spizzirri*, No. 22-1218, 601 U.S. __ (May 16, 2024), that the Federal Arbitration Act (FAA) requires district courts to stay litigation subject to a potential arbitration, rather than dismiss such claims. The decision requires district courts to retain jurisdiction over a matter that is subject to arbitration, which has important implications for which court will ultimately supervise and/or confirm or vacate an arbitration award.

Background

In 2021, the petitioners, delivery drivers for an on-demand delivery service, brought a suit in state court alleging that the service violated multiple federal and state employment laws by misclassifying them as independent contractors and failing to pay minimum wages and sick leave.[1] The respondent removed the case to federal court and then moved to compel arbitration under the FAA.[2]

The FAA provides that a district court "shall on application of one of the parties stay the trial of the action until such arbitration has been had in accordance with the terms of the agreement."[3] Notably, the provision mandating a stay is only triggered "on application" of a party. Nevertheless, relying on Ninth Circuit precedent, the district court exercised its discretion to dismiss petitioner's complaint in whole.[4]

On appeal, the Ninth Circuit affirmed the district court's decision to dismiss the lawsuit, noting that "[a]lthough the plain text of the FAA appears to mandate a stay pending arbitration upon application of a party, binding precedent establishes that district courts may dismiss suits when, as here, all claims are subject to arbitration."[5] In a concurring opinion, two judges from the panel encouraged the Supreme Court to grant review to settle a circuit split on this issue.

The Ninth Circuit decision reaffirmed a widespread conflict among the various circuit courts of appeals on this critical issue under the FAA of whether courts have discretion to dismiss if an entire dispute is subject to arbitration. Prior to the Supreme Court opinion, six circuit courts of appeal had held that a stay is mandatory once a court compels arbitration, whereas four circuits (including two divided panels) squarely held the opposite, and adopted a "judicially-created exception" to Section 3 of the FAA.[6] The Supreme Court granted review to resolve the circuit split.[7]

Significance of The Issue

The decision to stay or dismiss litigation involving arbitrable claims has at least three important ramifications for litigants. First, as the petitioners observed in *Spizzirri*, if the court stays the litigation pending the outcome of the arbitration, the court will

retain jurisdiction to decide important disputes that may arise during the pendency of the arbitration, including a motion for interim relief, and, potentially, whether to confirm or vacate the arbitration award when it concludes.[8] Second, a dismissal could allow the party who seeks to avoid an arbitration to immediately appeal the dismissal to an appellate court.[9] In contrast, a stay of litigation pending the outcome of an arbitration is not immediately appealable as of right. And third, granting a stay allows for efficient management of disputes in case an arbitrator ultimately determines that a case is not arbitrable.[10]

Supreme Court Decision

In a unanimous opinion written by Justice Sonya Sotomayor, the court held that district courts must stay proceedings pending the outcome of an arbitration. The Court reasoned that the language of Section 3 of the FAA is mandatory. In particular, the FAA states that the district court "shall" stay a case pending the outcome of arbitration. The Court also dismissed the respondent's argument that dismissing a case has the same effect of a stay, which is to "stop parallel in court litigation."[11] The Court explained: "[j]ust as 'shall' means 'shall,' 'stay' means 'stay.'"[12]

The Court further reasoned that the FAA's structure and purpose "confirm that a stay is required." In particular, the Court emphasized that a dismissal would permit a litigant to immediately file an appeal, even though a different provision of the FAA provides that an order to compel arbitration is not immediately appealable.[13] The Court also noted that staying a suit "comports with the supervisory role that the FAA envisions for the courts," including by permitting the court to "assist parties in arbitration by, for example, appointing an arbitrator… enforcing subpoenas . . . and facilitating recovery of an arbitration award."[14]

Thus, the Court concluded that, upon an application of a party, a district court must stay, and not dismiss, a case when a party seeks to compel arbitration.

Implications

Spizzirri is another in a line of cases in which the Supreme Court has adopted a rule to facilitate alternative dispute resolution. For example, in a similar case decided just last year, the Supreme Court held in *Coinbase* v. *Bielski* that a district court proceeding must be stayed pending resolution of an interlocutory appeal of the denial of a motion to compel arbitration under Section 16(a) of the FAA. The case will also have important implications for litigants seeking to establish one particular forum for the enforcement and supervision of the arbitration. Litigants who seek to compel arbitration should also make sure to include a request for a stay in any application to compel arbitration to ensure that the district court's order compelling arbitration does not become immediately appealable.

* * *

This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

H. Christopher Boehning
+1-212-373-3061
cboehning@paulweiss.com

Walter Brown
+1-628-432-5111
wbrown@paulweiss.com

Geoffrey R. Chepiga
+1-212-373-3421
gchepiga@paulweiss.com

Andrew J. Ehrlich
+1-212-373-3166
aehrlich@paulweiss.com

Andrew G. Gordon
+1-212-373-3543
agordon@paulweiss.com

Gregory F. Laufer
+1-212-373-3441
glaufer@paulweiss.com

Kannon K. Shanmugam
+1-202-223-7325
kshanmugam@paulweiss.com

Aidan Synnott
+1-212-373-3213
asynnott@paulweiss.com

Daniel J. Toal
+1-212-373-3869
dtoal@paulweiss.com

Liza M. Velazquez
+1-212-373-3096
lvelazquez@paulweiss.com

Associates Carter Greenbaum, William T. Marks and Cesar Riviere contributed to this Client Memorandum.

---

1 *Smith* v. *Spizzirri,* No. 22-1218, 2024 WL 2193872 (U.S. May 16, 2024) ("Slip. Op.").

2 *Forrest* v. *Spizzirri*, No. CV-21-01688-PHX-GMS, 2022 WL 2191931, at *1 (D. Ariz. June 17, 2022), *aff'd*, 62 F.4th 1201 (9th Cir. 2023), *cert. granted sub nom*. *Smith* v. *Spizzirri*, 144 S. Ct. 680, 217 L. Ed. 2d 341 (2024), *and rev'd and remanded sub nom*. *Smith* v. *Spizzirri*, No. 22-1218, 2024 WL 2193872 (U.S. May 16, 2024).

3 9 U.S.C. § 3.

4 *Forrest*, 2022 WL 2191931, at *1 (citing *Johnmohammadi* v. *Bloomingdale's, Inc.* 755 F.3d 1072, 1074 (9th Cir. 2014).

5 *Forrest*, 62 F.4th 1201 (9th Cir. 2023).

6 *Green* v. *SuperShuttle Int'l, Inc.*, 653 F.3d 766, 769-770 (8th Cir. 2022) (describing 6-4 circuit conflict).*See also Anderson* v. *Charter Comm'n, Inc.* 860 F. App'x 374, 379 (6th Cir. 2021 ("the question has split the circuits"); *Aggarao* v. *MOL Ship MgMt. Co.*, 675 F.3d 355, 376 n.18 (4th Cir. 2012) ("Our sister circuits are divided"); *Lloyd* v. *HOVENSA, LLC*, 369 F.3d 263, 268-69 (3d Cir. 2004) (circuits "have reached different resolutions").

7 Slip. Op. at 2.

8 *Forrest* v. *Spizzirri*, No. CV-21-01688-PHX-GMS, 2022 WL 2191931, at *1 (D. Ariz. June 17, 2022), *aff'd*, 62 F.4th 1201 (9th Cir. 2023), *cert. granted sub nom*. *Smith* v. *Spizzirri*, 144 S. Ct. 680, 217 L. Ed. 2d 341 (2024), *and rev'd and remanded sub nom*. *Smith* v. *Spizzirri*, No. 22-1218, 2024 WL 2193872 (U.S. May 16, 2024).

9 *Katz* v. *Cellco Partnership*, 794 F.3d 341, 346 (2d Cir. 2015).

10 *Arabian Motors Grp. W.L.L.* v. *Ford Motor Co.*, 19 F.4th 938 (6th Cir. 2021).

11 Slip. Op. at 4.

12 *Id*.

13 *Id*. at 6 (citing 9 U.S.C. § 16(b)).

14 *Id*.