

Supreme Court Holds that Trial-Level Proceedings Must Be Stayed Pending Arbitration Appeals

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KEY TAKEAWAYS

- The Court held that district courts must stay litigation in cases where a party appeals from an order denying a motion to compel arbitration under the Federal Arbitration Act.
- Parties who appeal the denial of arbitration will not incur the costs and discovery burdens that would otherwise result from having to litigate in district court while the appeal is resolved.
- The Court's opinion may reduce settlement pressure on parties seeking arbitration and prompt more requests for expedited treatment of arbitration appeals.

In enacting the Federal Arbitration Act, Congress allowed for immediate appeal from orders denying motions to arbitrate. The statute is silent as to whether the litigation in the trial court can proceed while the appeal is pending. Circuits have split on the issue, which has increased litigation burdens and settlement pressures on parties in those jurisdictions that did not recognize an automatic stay.

The Supreme Court of the United States recently resolved this issue. In *Coinbase, Inc. v. Bielski*, the Court held that proceedings in district courts must be stayed while a party appeals the denial of a motion to compel arbitration. The Court reached its conclusion by relying on general principles of appellate procedure, as well as practical considerations and a firm understanding of the benefits of arbitration.

APPEALS AND STAYS UNDER THE FEDERAL ARBITRATION ACT

Section 16(a) of the Federal Arbitration Act creates an exception to the general rule that a party may not appeal a case until a final judgment is entered. It allows an immediate appeal from an order *denying* a motion to compel arbitration, but not from an order *granting* a motion to compel arbitration.

The statute is silent as to whether a district court must stay its proceedings on the merits while an appeal is pending from an order denying a motion to compel arbitration. The federal courts of appeals have disagreed on this issue. A majority of courts (the Third, Fourth, Seventh, Tenth, Eleventh, and District of Columbia Circuits) have held that a district court must stay its proceedings while an appeal is pending. By contrast, a minority (the Second, Fifth, and

Ninth Circuits) held that a stay is a matter of the district court's discretion. The *Coinbase* case allowed the Supreme Court to resolve the circuit split.

COINBASE, INC. v. BIELSKI

Coinbase operates an online platform for users to buy and sell digital assets. When creating an account, Coinbase users must agree to Coinbase's User Agreement, which includes an arbitration provision. Plaintiff Abraham Bielski, a Coinbase user, filed a putative class action against Coinbase in the Northern District of California, alleging that Coinbase failed to replace funds fraudulently taken from users' accounts. The district court denied Coinbase's motion to compel arbitration, and Coinbase appealed under Section 16(a). Both the district court and the Ninth Circuit refused to stay the case during the appeal.

The Supreme Court reversed the Ninth Circuit's order. In doing so, the Court first noted the "clear background principle" of law that an appeal "divests the district court of its control over those aspects of the case involved in the appeal." Applying this principle, the Court explained that in an appeal from an order denying a motion to compel arbitration, the question before the court of appeals is whether the case belongs in the district court at all, or whether it belongs in arbitration. Accordingly, the entire case is "involved in the appeal," and the district court should thus lose control of the entire case while the appeal is pending.

The Court then noted that most courts of appeals and leading treatises had reached the same conclusion, favorably quoting a Seventh Circuit opinion that explained that "it makes no sense for trial to go forward while the court of appeals cogitates on whether there should be one," and an Eleventh Circuit opinion agreeing that "it makes little sense for the litigation to continue in the district court while the appeal is pending." The Court further explained that the majority position matches with common sense, because without an automatic stay of district court proceedings, the asserted benefits of arbitration—such as efficiency, lower expenses, and less extensive discovery—would be lost, even if the court of appeals later concludes that the case had belonged in arbitration from the outset. Moreover, absent a stay, parties could be forced into coercive settlements to avoid the costs and inefficiencies of court proceedings that they contracted to avoid through arbitration. An automatic stay also allows the district court to preserve scarce judicial resources by avoiding expending time and work on cases that could ultimately head to arbitration after an appeal.

Next, the Court noted that its conclusion comported with Congress's usual practice. The Court explained that under the normal rule divesting a district court of jurisdiction over matters involving an appeal, Congress need not say anything when it wants to authorize an interlocutory appeal and stay district court proceedings. By contrast, if Congress wants to authorize an interlocutory appeal but allow the district court proceedings to continue, it typically includes a "non-stay" provision in the relevant statute. Congress's silence about a stay in Section 16(a) reflects the common practice and supports the Court's holding.

Finally, the Court rejected Bielski's various arguments against a stay. First, the Court concluded that its holding would not increase the number of frivolous appeals of orders denying motions to compel arbitration, because there was no showing that frivolous appeals frequently occur in circuits agreeing with the Court's position, and because courts of appeals have "robust tools" to deter frivolous appeals. Second, the Court distinguished two statutory provisions where Congress authorized a stay pending appeal—Section 3 of the Federal Arbitration Act, which authorizes a stay pending the results of arbitration, and 28 U.S.C. § 1292(d)(4), which authorizes a stay of proceedings pending an appeal of an order transferring certain cases to the Court of Federal Claims. The first provision does not implicate appeals at all, and the second provision was necessary to clarify Congress's intent because a separate subsection expressly made stays of proceedings in other situations discretionary rather than mandatory. Third, the Court rejected Bielski's argument that its holding would create a special rule favoring arbitration, explaining that the Court subjected arbitrability appeals to the same principles as other appeals, while the minority rule effectively disfavored arbitration. Fourth, the Court disagreed with Bielski's argument that district courts could adequately protect an appealing party's rights simply by applying the ordinary factors governing a request for a discretionary stay pending appeal, as courts applying the discretionary-stay factors usually do not view the burdens of continued district court litigation as an irreparable harm favoring a stay. Lastly, Bielski noted that in the past, the Court observed that questions of arbitrability are separate from the merits of disputes. The Court explained that its past observation has no bearing on the relevant issue here, which is whether the district court's authority to

consider a case is “involved in the appeal” when an appeals court reviews whether the case must be sent to arbitration.

On this basis, the Court held that the district court must stay the case during the appeal. The Court noted, however, that it anticipated that the appeal would move forward “with appropriate expedition.”

WHAT THIS MEANS

Coinbase is a welcome development for parties that contract for the benefits of arbitration. The Court recognized that such benefits must be protected by both the right to appeal an order denying arbitration and a stay pending appeal. As the Court observed, a right to appeal an order denying a motion to compel arbitration without an automatic stay is “like a lock without a key, a bat without a ball, a computer without a keyboard—in other words, not especially sensible.”

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