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Practice Update

The Supreme Court Ends Practice of Dismissing, Rather Than Staying, Lawsuits Compelled to Arbitration

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On May 16, 2024, the Supreme Court unanimously decided in *Smith v. Spizziri* that the Federal Arbitration Act (FAA), 9 U.S.C. § 3, divests federal district courts of any discretion to dismiss arbitrable claims that are compelled to arbitration.[1] Rather, a claim that is found to be arbitrable must be stayed by the district court, pending final completion of arbitration.[2] This decision resolves a Circuit split and reverses a prior Ninth Circuit case which afforded district courts discretion to dismiss a lawsuit that consisted entirely of claims that the district court compelled to arbitration.[3]

The Court, focusing on language in Section 3 of the FAA providing that a district court "shall ... stay the trial of the action until ... arbitration has been had," reasoned that Congress' use of the word "shall" in the FAA "creates an obligation impervious to judicial discretion."[4] The Court rejected an argument that the word "stay" could be interpreted broadly enough to include dismissal of an action.[5] The Court observed that the FAA's language contemplated that a proceeding would still exist and be pending in district court, so that if arbitration failed to resolve the dispute, the parties would still have an option of returning to district court to litigate. According to the Court, if a case were dismissed, the option to return to district court would be foreclosed contrary to the

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language and intent of Section 3 of the FAA.[6] Accordingly, the Court held that when a district court finds that a claim involves an arbitrable dispute, the FAA requires the court to stay proceedings as to any such claim that is found to be arbitrable and compelled to arbitration.

The Court further reasoned that the framework for appealing a decision compelling arbitration also supported an interpretation of the FAA which denied district courts discretion to dismiss a suit consisting entirely of arbitrable claims.[7] That is because a stay of claims pending arbitration generally is not immediately appealable, but dismissal of claims is immediately appealable.[8] Thus, the Court reasoned that allowing dismissal and appeal of arbitrable claims would be contrary to the established legal framework regarding the appealability of orders compelling arbitration. The Court further reasoned that staying the case, instead of dismissing it, would be more consistent with the policy underpinnings of the FAA.

Practical Implications

From a procedural perspective and for parties who favor arbitration as a means for dispute resolution, the decision is helpful as it potentially eliminates avenues for appeal (and associated delays and costs) for parties seeking to resist arbitration. As the Court noted in its opinion, orders dismissing a case and denying a motion to compel arbitration are appealable orders, whereas, generally, an order either granting a motion to compel arbitration or an order staying a case and compelling arbitration is not.[9] The Court's decision, as it notes, vindicates the FAA's goal of moving "parties to an arbitrable dispute out of court and into arbitration as quickly and easily as possible."[10]

A stay pending arbitration also removes administrative hurdles that may arise if a party requires relief in the district court from matters related to the arbitration — for example, contesting

or confirming any arbitration award after the arbitration has concluded. The parties need not open a new case but simply raise their request for relief in the existing case that is stayed.

Another advantage of this decision is that it removes any doubt as to whether a claim will be extinguished on account of the "statute of limitation" or "prescription." The fact that the district courts will be forced to stay a case sent to arbitration will stop the running of the clock regarding its extinguishment due to the passage of time. The statute of limitation will generally stop running as of the filing of the case,[11] thereby removing doubts as to whether any lawsuit asserting the claims was timely filed within the limitations period. [12]

The Court, aware that district courts prefer to clear cases from their docket, rather than leave them in a holding pattern for an extended period of time pending arbitration, offers the suggestion that such courts "can ... adopt practices to minimize any administrative burden caused by the stay that [the FAA] requires."[13] District courts are familiar with and able to manage cases that are stayed for lengthy periods of time. It will be interesting, however, to see if any district courts adopt new practices as a solution to deal with administrative burdens caused by an increase of stayed cases on their dockets resulting from staying, rather than dismissing, suits compelled to arbitration.

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[1] *Smith v. Spizziri*, 601 U. S. ____ (2024), Slip Op. at 1, *available at https://www.supremecourt.gov/opinions/23pdf/22-1218_5357.pdf*

[2] *Id.*

[3] *See id.* at 2.

[4] *Id.* at 4.

[5] *Id.* at 4-5.

[6] *Id.* at 5.

[7] *Id.*

[8] *Id.*

[9] *See Coinbase, Inc. v. Bielski*, 599 U.S. 736, 740 (2023) ("Notably, Congress provided for immediate interlocutory appeals of orders denying—but not of orders granting—motions to compel arbitration.").

[10] *Supra* note 1 at 5-6.

[11] *E.g.*, *Mission W. Properties, L.P. v. Republic Properties Corp.*, 197 Cal. App. 4th 707, 720, 129 Cal. Rptr. 3d 14, 25 (2011) ("Unquestionably, the limitations period for breach of contract was tolled between the imposition of the stay on May 15, 2001 and the order lifting the stay, which apparently occurred on July 10, 2006.")

[12] *Compare* Fl. Stat. § 718.1255(4)(i) ("The filing of a petition for arbitration shall toll the applicable statute of limitations."), *with Zarecor v. Morgan Keegan & Co.*, 801 F.3d 882, 892 (8th Cir. 2015) ("As with the federal claim, we conclude that Arkansas law does not provide for tolling based on the pursuit of an arbitration.), *and U.S., for & on behalf of Portland Const. Co. v. Weiss Pollution Control Corp.*, 532 F.2d 1009, 1013 (5th Cir. 1976) ("A demand for arbitration does not toll the statute of limitations."), *accord Fonseca v. USG Ins. Servs., Inc.*, 467 F. App'x 260, 261 (5th Cir. 2012).

[13] *Supra* note 1 at 6.

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