CLIENT ALERTS & INSIGHTS

“Stay Awhile”: Supreme Court Tells District Courts Not to Dismiss Claims Pending Arbitration

MAY 17, 2024

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In Smith v. Spizzirri, the Supreme Court unanimously held that federal district courts lack the power to dismiss a case sent to arbitration. Instead, under the Federal Arbitration Act, if a party moves to compel arbitration and requests a stay, the district court must stay the case. This client alert provides an overview of the case and how it affects cases moving forward.

Smith v. Spizzirri

Until Thursday, federal circuits have been split on whether a district court can dismiss a case sent to arbitration. Section 3 of the Federal Arbitration Act (“FAA”) states that when a case must be arbitrated, district courts “shall on application of one of the parties stay the trial of the action until [the] arbitration” is finished. Several circuits-including the Second, Third, Sixth, Seventh, Tenth, and Eleventh-have held that this language means a district court may *only* stay the case pending arbitration. Other circuits-the First, Fifth, Eighth, and Ninth-have held that courts still have the inherent power to dismiss suits.

Smith v. Spirizziri resolved that split.

In this case, an on-demand-delivery-service operator classified its drivers as independent contractors, rather than employees. A group of those drivers sued in Arizona state court to challenge that classification. The defendants removed the case to federal court and then moved to compel arbitration and dismiss the suit. The plaintiffs agreed that the suit must be arbitrated, but disagreed that the court could dismiss the case. They argued that FAA § 3 requires courts to stay cases pending arbitration, not dismiss them.

The district court compelled arbitration and dismissed the case without prejudice. The Ninth Circuit affirmed, adhering to its binding precedent. In a concurrence, however, one judge questioned that precedent and urged the Supreme Court to take up the question. The Supreme Court accepted the case.

On May 16, 2024, the Supreme Court resolved the split, siding with the drivers: “When a federal court finds that a dispute is subject to arbitration, and a party has requested a stay of the court proceeding pending arbitration, the court does not have discretion to dismiss the suit on the basis that all the claims are subject to arbitration.”

The Supreme Court based its ruling on its interpretation of the words “shall” and “stay” in section three. The Supreme Court stated that the word “shall” creates an obligation that eliminates judicial discretion. And the word “stay” means that legal proceedings are suspended, not ended.

Accordingly, when § 3 states that courts "shall on application of one of the parties stay the trial," it means that staying the case pending arbitration is the court's only option.

The Supreme Court reasoned that this holding comports with the FAA's structure and purpose. While the FAA permits immediate appeals of orders denying arbitration, it does not allow immediate appeals from orders compelling arbitration. This disparity, according to the Court, shows that the FAA exists to get the parties to arbitration quickly. Dismissing a case subverts that purpose because the dismissal "triggers the right to an immediate appeal where Congress sought to forbid such an appeal."

Further, staying cases promotes the "supervisory role that the FAA envisions." Dismissing a case would deprive courts of jurisdiction, undermining their role as a backstop to facilitate resolution if any difficulties arise during the arbitration.

Takeaways

For defendants seeking to enforce arbitration provisions, dismissing a pending case in court may seem superficially attractive-after all, dismissals are better than stays as a general matter. On balance, however, *Smith*'s rule requiring stays should benefit those seeking to arbitrate. As the Supreme Court noted, dismissals invite direct appeals, which creates the risk of a dispute proceeding before two tribunals (an appellate court and an arbitrator) at once. That duplication breeds confusion and inefficiency. *Smith* nullifies that risk. Parties seeking to avoid arbitration now must complete the arbitration process before they appeal the order compelling arbitration.

This case also leaves open a few possibilities for those who may still want to pursue dismissal. ***First***, the Supreme Court's ruling is limited to situations where a party *seeks* a stay. It does not address a court's options when a party moves to compel arbitration but does not seek a stay. While courts will likely stay such cases, they at least theoretically retain the inherent authority to dismiss those cases.

Second, the Supreme Court, in a footnote, explicitly stated that parties can still seek dismissal on grounds other than arbitrability. This footnote leaves the door open for seeking dismissal based on lack of jurisdiction or even failure to state a claim. But this tactic risks waiving the right to arbitrate, as some courts have held that asking a court to address the merits of a claim by moving to dismiss is incompatible with enforcing a right to arbitrate. The degree of that risk varies from case to case, as waiver is a fact-specific inquiry. How and whether the Supreme Court's footnote affects the waiver doctrine remains unclear.

In all, many tactics remain available to avoid district court litigation either through arbitration or through dismissal after *Smith*. We will be monitoring how they play out in its aftermath.

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