Updates

On May 16, 2024, in *Smith v. Spizzirri*, the Supreme Court of the United States resolved a long-standing circuit split that affects motions to compel arbitration in federal court.

Specifically, the Court answered whether Section 3 of the Federal Arbitration Act (FAA), 9 U.S.C. § 3, permits a federal district court to dismiss a case, as opposed to staying it, when the action is subject to arbitration and a party requests a stay pending arbitration. Justice Sonia Sotomayor, writing for the unanimous Court, succinctly explained that the statute "does not" permit dismissal. Instead, when a motion to compel arbitration is granted, the district court must enter a stay.

Brief Factual Background

The petitioners in this case (the plaintiffs below) are current and former delivery drivers for an on-demand delivery service operated by the respondents. Petitioners sued respondents in Arizona state court alleging violations of federal and state employment laws. Respondents removed the case to federal court, where they also moved to compel arbitration and to dismiss the case. Although the parties agreed that the claims were arbitrable, petitioners argued that Section 3 required the district court to stay the action pending arbitration, whereas respondents argued that the district court should dismiss the action.

Supreme Court's Decision

Section 3 of the FAA provides that in any case subject to mandatory arbitration, the district court "shall ... stay the trial of the action until such arbitration has been had." The federal courts of appeals had long been split over whether that text permits a district court ordering arbitration not only to stay the action, but also to dismiss it. The U.S. Courts of Appeals for the Second, Third, Sixth, Tenth, and Eleventh Circuits had held that Section 3 means a district court may only stay the case pending arbitration, whereas the U.S. Courts of Appeals for the First, Fifth, and Ninth Circuits held that courts still retained authority to dismiss the suit. The Supreme Court resolved that split in *Smith*, holding in a concise, unanimous opinion that the plain language of Section 3 requires the district courts to stay cases subject to mandatory arbitration and does not permit dismissal. Justice Sotomayor's majority opinion explained, "When §3 says that a court 'shall . . . stay' the proceeding, the court must do so. Just as 'shall' means 'shall,' 'stay' means 'stay.'"

The Supreme Court's opinion also explains that permitting dismissal under Section 3 would frustrate the intended appellate procedure. Section 16 of the FAA, 9 U.S.C. § 16, authorizes an immediate interlocutory appeal of an order denying a request for arbitration but not of an order granting such a request. If a court ordered the dismissal of a case subject to arbitration, then it would create an appealable order not intended under the FAA. By foreclosing such dismissal orders, the Court's opinion ensures only that orders denying requests for arbitration are immediately appealable—as Congress intended. This result favors parties seeking to arbitrate by affording them an interlocutory appellate right that is not available to parties seeking to avoid arbitration.

Key Takeaways

Businesses and employers with arbitration agreements should be aware of the Supreme Court's ruling and discuss with their counsel the procedural impact of moving to compel arbitration in federal court.

Authors

Michael R. Huston

Partner
MHuston@perkinscoie.com 202.434.1630

Brittany A. Sachs

Counsel
BSachs@perkinscoie.com 310.788.3341

David Watnick

Counsel
DWatnick@perkinscoie.com 503.727.2196

Elizabeth Holland

Associate
EHolland@perkinscoie.com

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