

May 17, 2024

# Supreme Court Rules Courts Must Stay, Rather than Dismiss, Cases in Which All Claims Are Subject to Arbitration

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## SUMMARY

On May 16, 2024, the Supreme Court in *Smith v. Spizzirri* clarified one procedural question concerning a U.S. court's role in compelling parties to arbitrate claims: When a court is faced with a case that is subject to arbitration based on the parties' written arbitration agreement, should the court stay the case pending arbitration or dismiss the case outright?<sup>1</sup> The Supreme Court unanimously held that the Federal Arbitration Act (FAA) requires courts to stay, rather than dismiss, cases that are subject to arbitration. The decision resolves a federal court circuit split and may make it more difficult to immediately appeal a decision compelling parties to arbitration.

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## BACKGROUND

The FAA grants courts authority to enforce arbitration agreements, including when one party to an arbitration agreement attempts to bring claims in court that are subject to arbitration.<sup>2</sup> According to Section 3 of the FAA, when a court determines that a dispute is subject to arbitration, the court "shall on application of one of the parties stay the trial of the action until such arbitration" has concluded.<sup>3</sup> A majority of federal circuit courts had held that Section 3 of the FAA only permits courts to stay, while a minority of circuits, including the Ninth Circuit, had held that courts retained discretion to decide whether to stay or dismiss a case where all claims are subject to arbitration.<sup>4</sup>

In *Spizzirri*, petitioners were delivery drivers who sued respondents' delivery service in Arizona state court, alleging violations of federal and state employment laws.<sup>5</sup> After removing the case to federal court, respondents moved to compel arbitration and asked the court to dismiss the case.<sup>6</sup> The petitioners agreed to pursue arbitration, but argued that the district court could only stay — not dismiss — the action pending arbitration, pointing to Section 3 of the FAA.<sup>7</sup>

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Relying on Ninth Circuit precedent, the district court issued an order compelling arbitration and dismissed the suit without prejudice.<sup>8</sup> The Ninth Circuit affirmed, noting that “this court has long carved out an exception” to the language of Section 3 when, as here, “all claims are subject to arbitration.”<sup>9</sup> In a concurring opinion, Judge Graber, joined by Judge Desai, urged the Supreme Court “to take up this question, which it has sidestepped previously, and on which the courts of appeals are divided.”<sup>10</sup>

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### THE SUPREME COURT’S DECISION

In a unanimous opinion, the Supreme Court reversed, and held: “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.”<sup>11</sup> The Supreme Court found that the statute’s text, structure, and purpose all supported this conclusion.

The Supreme Court reasoned that use of the words “shall” and “stay” in Section 3 left no room for discretion: “When § 3 says that a court ‘shall . . . stay’ the proceeding, the court must do so.”<sup>12</sup> The respondents argued that, notwithstanding the text of the FAA, district courts retained inherent authority to dismiss proceedings subject to arbitration. However, the Supreme Court held that the “plain meaning” of Section 3 “overrides any discretion a district court might otherwise have had.”<sup>13</sup> The Court noted that courts may still dismiss a case if there are independent reasons to do so, which are “unrelated to the fact that an issue in the case is subject to arbitration.”<sup>14</sup>

The Supreme Court further found that a stay pending arbitration was consistent with other provisions of the FAA, including the appeal regime and the “supervisory role” granted to courts under the FAA “to assist parties in arbitration” in various ways.<sup>15</sup> With respect to appealing a court’s decision to compel or not compel parties to arbitration, the FAA reflects an asymmetry concerning the availability of appeals: “When a court *denies* a request for arbitration, § 16 of the FAA authorizes an immediate interlocutory appeal. . . . When a court *compels* arbitration, by contrast, Congress made clear that, absent certification of a controlling question of law . . . the order compelling arbitration is not immediately appealable.”<sup>16</sup> The Court found that allowing courts to dismiss a case where the parties are compelled to arbitration would afford parties seeking to avoid arbitration the opportunity to immediately appeal, an outcome that would conflict with the statutory scheme.<sup>17</sup>

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### IMPLICATIONS

Although the Supreme Court’s ruling in *Spizzirri* was narrow and dealt only with one provision of the FAA (Section 3), the decision is likely to make it more difficult to immediately appeal a court’s ruling compelling arbitration. Under federal law, with limited exceptions, parties cannot appeal from an interlocutory stay order, whereas a final dismissal of a case is immediately appealable. Thus, where a court erroneously

orders a dispute to arbitration, a party opposing arbitration may be required to complete an arbitration process before commencing an appeal.

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ENDNOTES

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- 1 *Smith v. Spizzirri*, 601 U.S. slip op at \_\_\_\_ (2024).
- 2 9 U.S.C. § 9.
- 3 9 U.S.C. § 3.
- 4 *See Forrest v. Spizzirri*, 62 F.4th 1201 at 1206 (2023); *see also Spizzirri, supra* n.1, at n.1.
- 5 *Spizzirri, supra* n.1, at 1.
- 6 *Id.*
- 7 *Id.* at 1-2.
- 8 *Id.* at 2.
- 9 *Forrest, supra* n.4, at 1204.
- 10 *Id.* at 1206; *see also Spizzirri, supra* n.1, at n.1.
- 11 *Spizzirri, supra* n.1, at 3 (emphasis added).
- 12 *Id.* at 4. As noted above, the text of Section 3 states that where a dispute is subject to arbitration, “the court in which such suit is pending, . . . 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, providing the applicant for the stay is not in default in proceeding with such arbitration.” (emphases added).
- 13 *Spizzirri, supra* n.1, at 5.
- 14 *Id.* at n.2.
- 15 *Id.* at 6.
- 16 *Id.* (emphases added), referring to 9 U.S.C. § 16(a)(1)(C) and 9 U.S.C. § 16(b).
- 17 *Spizzirri, supra* n.1 at 6. *See also* the Brief of the Chamber of Commerce of the United States of America as *Amicus Curiae* in Support of Neither Party (No. 22-1218, March 2024), at 2, 7-8.

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