Coinbase, Inc. v. Bielski: Interlocutory Appeals on the Question of Arbitrability Automatically Stay District Court Proceedings

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On Friday, the Supreme Court ruled five to four that a district court is required to stay pre-trial and trial proceedings while a decision on interlocutory appeal as to the question of arbitrability is ongoing.[1] In an opinion by Justice Brett Kavanaugh, the Court resolved a circuit split over whether a district court must stay proceedings pending interlocutory appeal.

Background

Respondent Abraham Bielski (Bielski) filed a class action complaint against Petitioner Coinbase, Inc. (Coinbase), alleging violations of the Electronic Funds Transfer Act and Regulation E after a scammer transferred assets out of his Coinbase account.[2] Coinbase moved to compel arbitration based on an agreement to arbitrate disputes over the account present in the Coinbase user agreement.[3] The District Court denied the motion after finding the agreement unconscionable, and Coinbase exercised its right to interlocutory appeal provided by Section 16(a) of the Federal Arbitration Act (FAA)[4] and sought a stay of proceedings pending appeal, which the District Court denied. On appeal before the Ninth Circuit, Coinbase again sought a stay of the District Court proceedings. First, Coinbase urged the Ninth Circuit to reconsider its 1990 decision that refused to grant automatic stays pending interlocutory appeals on arbitrability.[5] Second, Coinbase argued that it satisfied the four-factor standard that governs discretionary stays.[6] The Ninth Circuit denied the motion for a stay pending appeal, and Coinbase filed a petition for *certiorari*.

Prior to Friday's decision, the circuits were split over whether to grant automatic stays pending appeals related to arbitrability. The minority position, first adopted in 1990 by the Ninth Circuit, held that district court proceedings could move forward while an interlocutory appeal over arbitrability was ongoing unless the district court, in its discretion, granted a stay.[7] The Second and Fifth Circuits adopted this position, reasoning that, as "[a]n appeal of a denial of a motion to compel arbitration does not involve the merits of the claims pending in the district court," the district court retains jurisdiction despite the appeal.[8] The Seventh Circuit was the first to articulate the majority position in a 1997 decision, reasoning that "[w]hether the litigation may go forward in

1 *Coinbase v. Bielski*, 599 U.S. ___ (2023).

2 *Bielski v. Coinbase*, No. C 21-07478 WHA, 2022 WL 1062049, at *1 (N.D. Cal. Apr. 8, 2022) (denying motion to compel arbitration).

3 *Id.* at *2.

4 9 U.S.C. § 16(a)

5 *Britton v. Co-op Banking Grp.*, 916 F.2d 1405 (9th Cir. 1990),

6 The four-factor discretionary test considers (1) the likelihood of success on the merits; (2) the prospect of irreparable injury absent a stay; (3) the balance of the equities; and (4) the public interest. *Nken v. Holder*, 556 U.S. 418, 433 (2009).

7 *Id.*

8 *Weingarten Realty Invs. v. Miller*, 661 F.3d 904, 909 (5th Cir. 2011); *Motorola Credit Corp. v. Uzan*, 388 F.3d 39, 53-54 (2d Cir. 2004).

the district court is precisely what the court of appeals must decide," such that the appeal divests the court of jurisdiction pending a decision.[9] The Third, Fourth, Tenth, Eleventh, and D.C. Circuits all adopted this position.[10] The Supreme Court granted cert to resolve the split and heard oral argument on March 21, 2023.

An Interlocutory Appeal Under Section 16(a) of the FAA Automatically Stays District Court Proceedings

Reversing the Ninth Circuit's decision and adopting the majority position, the Supreme Court held that an interlocutory appeal on the question of arbitrability automatically stays district court proceedings. In reaching its decision, the Court relied on the "*Griggs* principle," which states that an appeal "divests the district court of control over those aspects of the case involved in the appeal."[11] Here, the Court found that "[b]ecause the question on appeal is whether the case belongs in arbitration or instead in the district court, the entire case is essentially 'involved in the appeal.'"[12]

The Court further reasoned that this rule "reflects common sense" because allowing district court proceedings to continue pending appeal would mean that "many of the asserted benefits of arbitration (efficiency, less expense, less intrusive discovery, and the like) would be irretrievably lost — even if the court of appeals later concluded that the case actually had belonged in arbitration all along."[13]

Impact

As a result of the Court's decision, parties seeking to enforce arbitration agreements across the country will now be automatically entitled to a stay of proceedings pending an interlocutory appeal on the question of arbitrability. Given the prevalence of arbitrations in the three circuits advancing the minority position, the decision has real impact in removing the possibility that parties could be forced to engage in active litigation pending appeal.

Responding to concerns that an automatic stay might encourage frivolous appeals, the Court pointed to "robust tools" available to courts of appeals to prevent this, noting that a party can ask a court to summarily affirm, expedite a decision or dismiss an appeal as frivolous.[14]

In dissent, Justice Ketanji Brown Jackson argued that the decision whether to grant a stay in these circumstances should instead lie within the discretion of the district court.[15]The dissent cautioned that the majority's approach could encourage parties to seek automatic stays pending the appeals of motions to compel, for example, forum-selection clauses on the basis that the appeal similarly posed the question of "whether the litigation may go forward in the district court."[16] Justice Jackson acknowledged that the majority's decision was limited to appeals under § 16(a) of the FAA and discouraged further expansion.

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[9] *Bradford-Scott Data Corp. v. Physician Comput. Network, Inc.*, 128 F.3d 504, 506 (7th Cir. 1997).

[10] *Ehleiter v. Grapetree Shores, Inc.*, 482 F.3d 207, 215 n.6 (3d Cir. 2007); *Levin v. Alms and Assocs., Inc.*, 634 F.3d 260, 263-266 (4th Cir. 2011); *McCauley v. Haliburton Energy Servs., Inc.*, 413 F.3d 1158 (10th Cir. 2005); *Blinco v. Green Tree Servicing, LLC*, 366 F.3d 1249, 1251-52 (11th Cir. 2004) (per curiam); *Bombardier Corp. v. Nat'l R.R. Passenger Corp.*, 333 F.3d 250, 252 (D.C. Cir. 2003)

[11] *Griggs*, 459 U.S. at 58.

[12] *Coinbase*, 599 U.S. ___ (2023) (quoting *Griggs v. Provident Consumer Discount Co.*, 459 U. S. 56, 58 (1982)).

[13] *Id.*

[14] *Id.*

[15] *Id.* (J. Jackson, dissenting).

[16] *Id.*

CONTACTS

For more information, please contact your Katten attorney or any of the following Financial Markets Litigation and Enforcement attorneys.

David L. Goldberg
+1.212.940.6787
david.goldberg@katten.com

J Matthew W. Haws
+1.312.902.5319
matthew.haws@katten.com

Anna Porter
+1.312.902.5498
anna.porter@katten.com

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