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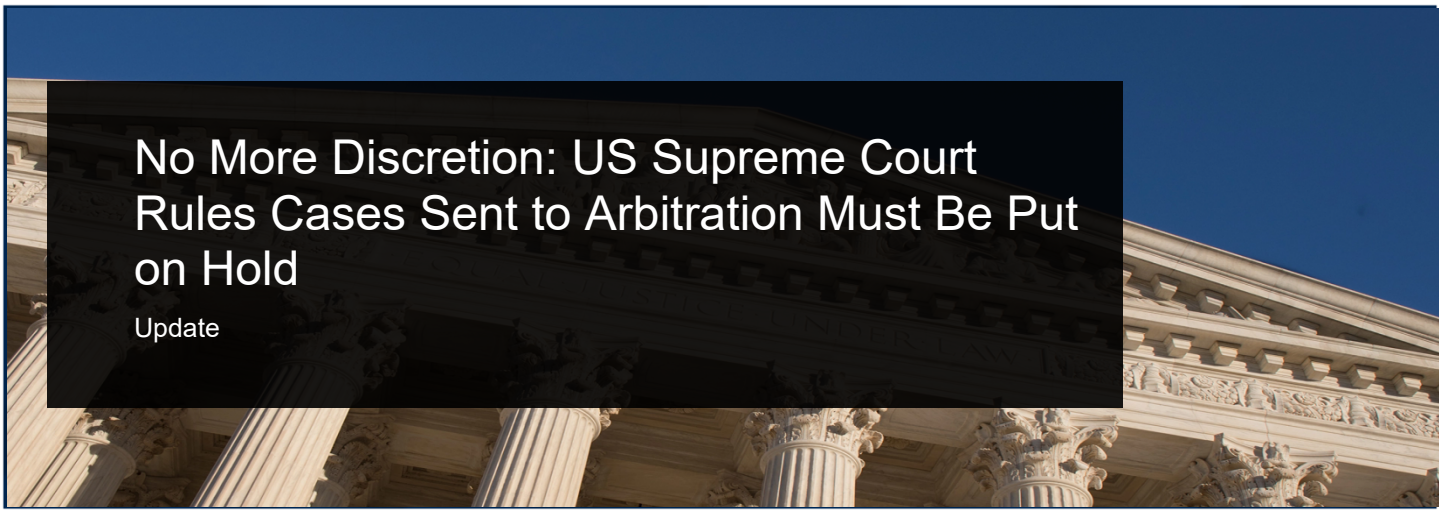

No More Discretion: US Supreme Court Rules Cases Sent to Arbitration Must Be Put on Hold

Update

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Do federal courts have the discretion to dismiss lawsuits once it is determined that all underlying claims are covered by mandatory arbitration agreements?

The answer is "no," according to the outcome of the unanimous decision from the US Supreme Court in *Smith v. Spizzirri*.

Specifically, the decision, authored by Justice Sonia Sotomayor, held that Section 3 of the Federal Arbitration Act (FAA) requires a district court to stay a case that it refers to arbitration, if a party so requests.[1]

The decision resolves a Circuit split existing since at least 2000 regarding whether district courts have the discretion to dismiss, rather than stay, an action upon finding it arbitrable.

Background: Employees or Independent Contractors?

The case followed the question of whether drivers for IntelliQuick, a delivery service operated by the respondents, were employees or were misclassified as independent contractors, thereby violating federal and state employment laws. Petitioners filed suit in Arizona state court. Respondents removed the case to federal court, after which they moved to compel arbitration and dismiss the suit.

The key: Petitioners conceded that their claims were arbitrable but requested that the case be stayed instead of dismissed based on Section 3 of the FAA.

Section 3 — entitled "Stay of proceedings where issue therein referable to arbitration" — provides that a court that refers a dispute to arbitration "shall on application of one of the parties stay the trial of the action until such arbitration has been had."

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The District Court compelled arbitration and, invoking its discretion, dismissed the case with prejudice. The Ninth Circuit affirmed.

The Decision: "Shall" Is Key

The Court found that Section 3 of the FAA — as its text, structure and purpose confirm — requires federal courts that refer a case to arbitration to stay the proceedings pending arbitration if a party so requests. Federal courts lack the discretion to dismiss the suit instead.

Citing the term "shall," the Court confirmed that Section 3 imposed a mandatory obligation that foreclosed judicial discretion to issue a stay, which the term "may" could have permitted.

As for the term "stay," the Court found that it denotes a "temporary suspension." The remainder of Section 3 authorizes such stay only until "such arbitration has been had" and as long as "the applicant for the stay is not in default" in the arbitration, thereby preserving the option of litigation should arbitration break down.

As such, Section 3 of the FAA's text overrides any inherent judicial authority to dismiss a suit.

Turning to the FAA's structure and purpose, the Court noted that Section 16 of the FAA allows an immediate appeal of a denial of a request for arbitration but not, without more, of an order compelling arbitration. Dismissing a case in the face of a request for a stay triggers an immediate right to appeal, which contravenes the FAA's purpose of facilitating arbitration.

Lastly, the Court noted that its reading of Section 3 allowed the courts to continue to assist the parties in arbitration. The Court relies on its 1983 opinion in *Moses H. Cone Memorial Hosp. v. Mercury Constr. Corp*. That's the first case acknowledging the "*federal policy favoring arbitration*."

Arbitration Without Court Involvement?

The *Smith v. Spizzirri* ruling principally embraces the work of arbitral tribunals without the distraction of possibly parallel appellate litigation.

The FAA envisions a court's continued involvement in a case when it's in arbitration, allowing the court to assist the arbitral proceedings, including with evidentiary issues. If the case is dismissed, that adds complications.

"Keeping the suit on the court's docket makes good sense in light of this potential ongoing role," Sotomayor wrote, "and it avoids costs and complications that might arise if a party were required to bring a new suit and pay a new filing fee to invoke the FAA's procedural protections."

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