

## U.S. Supreme Court Holds That an Appeal of the Denial of a Motion To Compel Arbitration Automatically Stays Lower Court Litigation

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In a 5-4 decision, the United States Supreme Court (Supreme Court), on June 23, 2023, held that an appeal of the denial of a motion to compel arbitration will automatically stay district court proceedings on the underlying case pending resolution of the appeal.

### The Road to the Supreme Court Decision

In the matter of *Coinbase Inc. v. Bielski*, No. 22-105, the petitioner, Coinbase, Inc., (Coinbase), a cryptocurrency platform, had filed a motion to compel arbitration against the respondent, Abraham Bielski, a Coinbase account holder, based on the terms of its user agreement. However, the U.S. District Court for the Northern District of California (Northern District) denied Coinbase's motion to arbitrate because it considered the arbitration agreement to be unconscionable.

Coinbase filed an interlocutory appeal of the Northern District's decision with the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) and also filed a motion to stay the underlying action in the Northern District pending the appeal. However, the Ninth Circuit denied Coinbase's motion for a stay of proceedings pending appeal based on its longstanding view, which is shared by the Second and Fifth Circuits, that an appeal of the denial of a motion to compel arbitration does not result in an automatic stay of proceedings pending appeal.

In response, Coinbase petitioned the Supreme Court on the question of whether a non-frivolous appeal of the denial of a motion to compel arbitration would override a district court's jurisdiction to proceed with litigation pending a decision on the appeal, or whether the district court may decide, at its discretion, to proceed with litigation while the appeal is pending. On December 9, 2022, the Supreme Court granted certiorari and subsequently heard arguments on the question from Coinbase and the respondent on March 21, 2023.

### Implications of the Court's Decision

On June 23, 2023, the Court entered its [decision](#). Justice Kavanaugh, writing for the Court, held that "the answer is yes" on the sole question of "whether a district court must stay its proceedings while the interlocutory appeal on arbitrability is ongoing."

The Supreme Court rested its decision on a general principle derived from its ruling in *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (the Griggs Principle) that "an appeal, including an interlocutory appeal, 'divests the district court of its control over those aspects of the case involved in the appeal.'" *See* Slip Op. 3. The Court reasoned that this approach is the "common sense" approach which is supported by the longstanding practice of Congress and other appeals courts and preserves the "asserted benefits of arbitration" including "efficiency, less expense, less intrusive discovery, and the like." *See* Slip op 5-6. The Court further reasoned that "absent a stay, parties also could be forced to settle to avoid the district court proceedings (including discovery and trial) that they contracted to avoid through arbitration" and that the "potential for coercion is especially pronounced in class actions, where the possibility of colossal liability can lead to ... 'blackmail settlements.'" *See Id.* According to the Court, continuing proceedings in the district court "largely defeats the point of the appeal" and "creates the possibility that the district court will waste scarce judicial resources — which could be devoted to other pressing criminal or civil matters — on a dispute that will ultimately head to arbitration in any event." *See* Slip Op. 6.

The Supreme Court's decision represents a significant change for the Second, Fifth, and Ninth Circuits, which unlike their other counterparts had refused to grant such automatic stays. This decision is thus a significant landmark victory for defendants who

appeal the denial of a motion to compel arbitration in the three circuits that share the minority view. Importantly, however, the Court's decision provides participants in an arbitration, including those in international arbitration forums, with the certainty that they would not be compelled to incur the burden and cost of additional proceedings in a litigation while the question of the jurisdiction and arbitrability of the underlying action is still undecided.

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