



# SCOTUS Ruling Protects Top 3 Benefits of Arbitration: Key Takeaways for Employers

Insights

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Employers seeking to move workplace claims from the courthouse to arbitration received some good news today from the U.S. Supreme Court. If a trial court denies a party's request to compel arbitration, the court must pause pre-trial and trial proceedings while the decision is appealed, according to today's 5-4 SCOTUS ruling. Why is the decision significant to employers? According to SCOTUS, many of the benefits of arbitration — such as efficiency and lower cost — could be lost if trial court proceedings continue, even if an appeals court ultimately finds that the case belongs in arbitration. Moreover, despite having an arbitration agreement in place, the employer could face significant pressure to settle claims to avoid such proceedings during the appeal. So, how did we do with our predictions in this case? Like the Justices, our attorneys were divided in their predictions, but FP Partner Matthew Korn was on point. He accurately predicted that Justice Kavanaugh would pen a 5-4 opinion reversing the 9th U.S. Circuit Court of Appeals and finding that trial court proceedings are automatically paused during the appeal. Although the case involves consumer arbitration agreements, the decision could reshape your approach to workplace litigation. Here are your key takeaways from the ruling in *Coinbase, Inc. v. Bielski* and a discussion of the top three arbitration benefits the ruling preserves.

## Quick Background: How'd We Get Here?

This case stems from two consumer class actions against Coinbase, a company that operates a cryptocurrency exchange platform. In one case, the plaintiff alleged that the company violated the Electronic Funds Transfer Act, and in the other, the plaintiffs alleged that it violated California's consumer protection laws.

SCOTUS was not asked to resolve these underlying issues. Instead, Coinbase sought to compel arbitration of the disputes on an individual — rather than class — basis. The company pointed to a user agreement that included an arbitration clause through which the plaintiffs agreed to individually arbitrate their claims.

The trial court denied the company's motion to compel arbitration — finding that the agreement was unconscionable because it was too one-sided in favor of the company. Coinbase appealed the order to the 9th Circuit and asked the trial court to pause the litigation procedures until the appellate court reached a decision. Both the trial court and the 9th Circuit refused to halt the litigation process during the appeal.

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Coinbase argued that it shouldn't be forced to engage in time-consuming and costly litigation — including class-wide discovery — if the case may ultimately proceed in arbitration.

## Key Points From the SCOTUS Ruling

SCOTUS agreed with Coinbase, noting that it makes no sense for a trial to go forward while the appeals court considers whether there should be a trial at all. “If the district court could move forward with pre-trial and trial proceedings while the appeal on arbitrability was ongoing, then 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,” Justice Kavanaugh wrote for the majority.

“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,” he wrote, adding that the “potential for coercion is especially pronounced in class actions.”

In a dissenting opinion, Justice Jackson noted that the trial judge typically reviews the facts and circumstances to determine whether the remaining parts of the case should proceed or be paused pending appeal. “This discretionary decision making promotes procedural fairness because it allows for a balancing of all relevant interests,” she wrote.

The majority, however, noted that “the question on appeal is whether the case belongs in arbitration or instead in the district court,” so “the entire case is essentially involved in the appeal.”

## Ruling Protects Top 3 Benefits of Arbitration

Businesses seeking to compel arbitration are successful in nearly half of all appeals. However, many of the benefits of alternative dispute resolution would be lost if trial judges had discretion to allow litigation to proceed during an appeal. Thus, by automatically pausing such proceedings, the SCOTUS ruling preserves the following three key benefits of arbitration:

1. **Privacy.** Disputes in court are a matter of public record, whereas those in arbitration tend to be more private, at least where the arbitration agreement includes a confidentiality clause. As a result, nearly any proceeding in trial court — including early discovery disputes — could lead to sensitive information and documents leaking to the public.
2. **Cost.** Litigation is expensive, and continuing trial litigation while an appeal is pending means costs will accrue faster. This is particularly true with class action claims because an arbitration agreement generally requires parties to arbitrate claims on an individual rather than a class basis. If the trial proceedings weren't paused during the appeal, employers would have to fight class discovery while seeking individual arbitration. Moreover, if the district court authorized notice to potential class or collective action members, and the appellate court later overturned the district court's order denying arbitration, the “bell” could not be “un-rung.” The plaintiffs’

attorneys would have access to significantly more information and a much larger group of employees, which could add pressure to settle the case. Many of these costs are avoided when litigation is automatically paused pending the appeal.

3. **Efficiency.** The SCOTUS ruling promotes efficiency, since the time spent litigating at the trial level would prove to be unnecessary if an employer ultimately prevailed on appeal — as roughly half do.

## What Should Employers Do?

While the ruling provides some good news for employers, the case serves as a reminder to review your arbitration agreements, particularly since myriad issues with enforceability can arise under federal, state, and local laws.

Despite this ruling, recent legislation limits arbitration for certain common employment claims. Specifically, in February 2022, Congress passed a law amending the Federal Arbitration Act (FAA) to prohibit employers from unilaterally enforcing arbitration agreements for claims of sexual assault or sexual harassment. Additionally, you may have to account for nuances at the state level.

All of this highlights the importance of working with your attorney to carefully draft compliant employment agreements.

## Conclusion

We will continue to monitor workplace law developments, so make sure you subscribe to Fisher Phillips' Insight System to get the most up-to-date information. If you have questions, contact your Fisher Phillips attorney or the authors of this Insight.

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