

CALIFORNIA LITIGATION NO LONGER AUTOMATICALLY STAYED DURING APPEAL THANKS TO NEW LAW JUST SIGNED BY GOVERNOR

Insights
Oct 15, 2023

Governor Gavin Newsom just signed into law a bill which provides that California trial court proceedings are not automatically suspended during the appeal of an order dismissing or denying a petition to compel arbitration. Effective January 1, 2024, this new law will allow courts the discretion to decide whether a case can proceed while an appeal is heard. What do employers need to know about this significant change?

What Changed?

The passage of [Senate Bill 365](#) changes existing law in California. Currently, the law generally requires trial court proceedings to be automatically suspended (or “stayed”) pending the appeal of an order dismissing or denying a petition to compel. This falls in line with the June 2023 ruling by the U.S. Supreme Court in [Coinbase, Inc. v. Bielski](#), holding that the trial court proceedings are stayed pending the appeal of an order dismissing or denying a petition to compel arbitration.

However, once the new law takes effect on January 1, 2024, the law in California will veer from current standards and federal law.

What’s the Impact?

By allowing litigants to continue trial court proceedings pending appeal, we could see substantial judicial inefficiencies that arguably undercut the benefits of arbitration. The theory supporting arbitration is that it can

Related People



Hannah Sweiss

Partner

[818.230.4255](tel:818.230.4255)

Service Focus

[Litigation and Trials](#)

Related Offices

[Irvine](#)

[Los Angeles](#)

[Sacramento](#)

[San Diego](#)

provide a more efficient – and in some instances a less financially burdensome – alternative to litigation in court.

San Francisco

Woodland Hills

Arbitration is generally favored in state and federal court. In fact, the Federal Arbitration Act (FAA) promotes arbitration as it facilitates efficient resolution of legal disputes. The Supreme Court has consistently supported a federal policy favoring arbitration by broadening the scope and applicability of the FAA.

What Does the Future Hold?

The new California law, if challenged in court, may be preempted by the FAA. Some believe it possibly discriminates against and stands as an obstacle to arbitration – a practice that has been unequivocally struck down by the U.S. Supreme Court.

While this bill won't go into effect until January 1, 2024, there is an open question as to what will happen with ongoing cases that are pending appeal as of the effective date.

Conclusion

If you have any questions about the impact of this case on your litigation, please contact your Fisher Phillips attorney, the authors of this insight, or any of our attorneys in [our California offices](#). Make sure you subscribe to [Fisher Phillips' Insight System](#) to gather the most up-to-date information on the workplace.