

SCOTUS SAYS COURT SHOULDN'T HAVE DISMISSED SUIT WHILE CLAIMS WERE ARBITRATED: KEY FINDINGS + 4 PROACTIVE STEPS FOR EMPLOYERS

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When employers implement arbitration programs, they expect employees to file covered claims in arbitration – but employees often file those claims in court anyway. So, when an employee brings a claim to the courthouse that is covered by the arbitration agreement, employers will generally seek to quickly move those claims to the proper forum — arbitration. But the rules can get complicated as claims toggle between arbitration and litigation in court. For instance, can a judge dismiss a lawsuit when the court finds that the claims belong in the arbitration setting? Or must the judge merely press pause on the court proceedings while the arbitration is pending? In a recent case, the Supreme Court decided that a trial court judge was obligated to pause the court proceedings at a party's request while the arbitration played out, but the judge did not have the discretion to dismiss the claim altogether. Here's what you need to know about the ruling and four proactive steps you can take to ensure compliance with the latest arbitration developments.

SCOTUS Notes Potential Ongoing Role of Courts in Arbitration

In *Smith v. Spizzirri*, a group of delivery drivers claimed they were misclassified as independent contractors, and they filed a lawsuit seeking minimum wage, overtime premiums, and paid sick leave.

The businesses that retained their services sought to enforce arbitration agreements and dismiss the lawsuit. While the drivers acknowledged that all their claims were

Related People



Benjamin Dudek

Partner

803.255.0000



Matthew R. Korn

Partner

803.740.7652

subject to arbitration, they argued that the court could not dismiss the lawsuit altogether. Rather than dismiss the case entirely, the drivers claimed that the Federal Arbitration Act (FAA) requires a court to pause the case at a party's request while the arbitration is pending.

The Supreme Court agreed with the drivers. "When a federal court finds that a dispute is subject to arbitration, and a party has requested a stay of the court proceeding pending arbitration, the court does not have discretion to dismiss the suit on the basis that all the claims are subject to arbitration," Justice Sotomayor wrote in a unanimous decision issued on May 16.

"That is not to say that the court is barred from dismissing the suit if there is a separate reason to dismiss, unrelated to the fact that an issue in the case is subject to arbitration," Sotomayor noted. This is an important caveat that should be evaluated by employers seeking to enforce the parties' agreement to arbitrate.

SCOTUS pointed to the practical effects of the ruling:

- Staying rather than dismissing a suit aligns with the supervisory role that the FAA envisions for the courts during arbitration.
- The FAA provides mechanisms for courts with proper jurisdiction to assist parties in arbitration by, for example, appointing an arbitrator, enforcing subpoenas issued by arbitrators to compel testimony or produce evidence, and facilitating recovery on an arbitral award.

"Keeping the suit on the court's docket makes good sense in light of this potential ongoing role, 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," SCOTUS said, reversing and remanding a decision by the 9th U.S. Circuit Court of Appeals.

4 Proactive Steps for Employers

- 1. Review Your Agreements.** The case serves as a reminder to review your workplace arbitration agreements and ensure they are clear and enforceable, particularly with respect to provisions regarding stay or dismissal of court proceedings. Developing and maintaining well-drafted



J. Hagood Tighe

Partner and Co-Chair, Wage and Hour Practice Group

803.740.7655

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arbitration agreements is key, since complex issues with enforceability can arise under federal, state, and local laws.

2. **Monitor Litigation Activity.** You should note that rules on arbitration continue to evolve as courts respond to more-narrow questions. For example, SCOTUS handed employers some good news last year in the *Coinbase* case, [which you can read about here](#). SCOTUS held that 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. This ruling helps preserve the benefits of arbitration, including privacy, lower cost, and higher efficiency.
3. **Track Legislative Updates.** Lawmakers continue to consider limits on arbitration for certain employment claims. Notably, in February 2022, Congress [passed a law](#) amending the FAA to prohibit employers from unilaterally enforcing arbitration agreements for claims of sexual assault or sexual harassment. Employers should monitor federal and state proposals to further limit the scope of employment arbitration.
4. **Check State Law.** Depending on your location, you may have to account for nuances at the state level, which 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.