

## Supreme Court Holds District Court Proceedings Must be Stayed During Appeal of Order Refusing to Enforce an Arbitration Agreement

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On June 23, the Supreme Court held that proceedings in federal district court must be stayed during an interlocutory appeal from an order declining to enforce an arbitration agreement. Such an order can be appealed immediately under section 16(a) of the Federal Arbitration Act (FAA), 9 U.S.C §16(a). *Coinbase, Inc. v. Bielski*, \_\_\_ U.S. \_\_\_, No. 22-105.

The appellant, Coinbase, Inc., is an online platform on which users can buy and sell cryptocurrencies. Coinbase requires its customers to sign a user agreement mandating arbitration of disputes arising out of the agreement. Bielski, a Coinbase user, filed a putative class action complaint in the U.S. District Court for the Northern District of California, alleging that Coinbase failed to replace funds fraudulently taken from his and other users' accounts. The district court denied Coinbase's motion to compel arbitration, and Coinbase filed an appeal to the Ninth Circuit under §16(a). Coinbase filed motions in the district court and in the Ninth Circuit requesting a stay of proceedings during the appeal, but both motions were denied.

In an opinion for the Court authored by Justice Brett Kavanaugh, the five-justice majority noted that §16(a), signed into law by President Ronald Reagan in 1988, is one of the rare statutes that allows an immediate appeal from a non-final district court order. While §16(a) does not say whether district court proceedings must be stayed during the appeal, several other circuits had held that §16(a) requires a stay of proceedings during an interlocutory appeal on the issue of arbitrability. The majority found the question was resolved by its earlier decisions holding that the filing of a notice of appeal generally divests the district court of jurisdiction, notably *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982). The Court reasoned that absent a stay, the right to an interlocutory appeal granted by Congress "would be largely nullified," as "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." Indeed, the parties could even "be forced to settle to avoid the district court proceedings they contracted to avoid through arbitration," a risk that is particularly significant in a class action. Finally, allowing a case to proceed in district court during an appeal risks the "waste [of] scarce judicial resources." Expressing confidence that Coinbase's interlocutory appeal could be handled with "appropriate expedition," the Court reversed and remanded.

Justice Ketanji Brown Jackson dissented, joined by Justices Sonia Sotomayor and Elena Kagan, and in substantial part by Justice Clarence Thomas. The dissent pointed to other statutes in which Congress explicitly allowed for a stay of proceedings during an interlocutory appeal, emphasizing that such language is missing from §16(a).

Should you wish to discuss the impact of this decision or other matters related to arbitration, please contact your Miller Canfield attorney or the authors of this alert.