

# Pratt's Journal of Bankruptcy Law

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Victoria Prussen Spears

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# *Coinbase v. Bielski*: U.S. Supreme Court Authorizes Automatic Stays Pending Decision of Arbitrability

*By Katie L. Viggiani and Diana Cummiskey\**

*In this article, the authors examine a recent decision by the U.S. Supreme Court holding that an appeal on arbitrability is essentially a question to the appellate courts on whether a case belongs in court at all and, therefore, that automatically staying the case is appropriate.*

In a recent 5-4 decision reversing the U.S. Court of Appeals for the Ninth Circuit and settling a circuit court split, the Supreme Court of the United States in *Coinbase v. Bielski* held that a district court must stay its proceedings while an interlocutory appeal on the question of arbitrability is ongoing.

The Court's decision reflects the majority view of the circuit split, where courts granted the stays automatically, while the Ninth Circuit was one of three circuit courts that left the decision of the stay to the discretion of the district judge or court of appeals.

Calling it a "common sense" decision, the Justices noted that if a district court could move forward with pre-trial and trial proceedings while the appeal on arbitrability was ongoing, the continuation of proceedings in the district court largely defeated the point of the appeal.

## THE DECISION

The case concerned a putative class action filed against Coinbase, an online platform on which users can buy and sell cryptocurrencies and government-issued currencies. The class action alleged that Coinbase failed to replace funds fraudulently taken from the users' accounts.

The district court denied Coinbase's motion to compel arbitration. Coinbase then filed an interlocutory appeal on arbitrability in the Ninth Circuit under 9 U.S.C. § 16(a). Section 16(a) expressly authorizes an interlocutory appeal from the denial of a motion to compel arbitration. Coinbase also moved to stay district court proceedings pending resolution of the arbitrability appeal. Both the district court and the Ninth Circuit declined to stay the proceedings.

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The Supreme Court reversed the Ninth Circuit, finding that because an appeal on arbitrability is essentially a question to the appellate courts on whether a case belongs in court at all, automatically staying the case is appropriate.

In reaching its decision, the Court depended on its precedent in *Griggs v. Provident Consumer Discount Co.*<sup>1</sup> The Court emphasized that the “clear background principle” stated in *Griggs* describes a longstanding precedent: an appeal, including an interlocutory appeal, “divests the district court of its control over those aspects of the case involved in the appeal.”

Describing this as “the *Griggs* principle,” the Court stated that “[b]ecause the question on appeal is whether the case belongs in arbitration or instead in the district court, the entire case is essentially ‘involved in the appeal.’” The Court also noted that congressional history indicated that an automatic stay was appropriate because Congress, when authorizing an interlocutory appeal and the accompanying automatic stay, need not explicitly discuss a stay. In comparison, when Congress wants to authorize an interlocutory appeal but not to automatically stay district court proceedings, Congress typically says so in a statutory “non-stay” provision.

The Court also noted that the benefits of arbitration – efficiency, less expense, and less intrusive discovery – would all be lost by forcing a case to move forward with pre-trial and trial proceedings.

Further, absent a stay, parties could potentially be forced to settle to avoid the district court proceedings that they contracted to avoid through arbitration. The Court noted that class actions were particularly susceptible to this coercion.

The Supreme Court rejected all five of Bielski’s arguments against the *Griggs* principle, finding that:

- First, automatic stays would not encourage frivolous appeals that would improperly delay district court proceedings. The Court emphasized that Bielski did not establish that frivolous appeals frequently occur in circuits with the automatic stay rule, nor did Bielski argue that Coinbase’s appeal was frivolous. Further, the courts of appeals have tools to deter frivolous interlocutory appeals.
- Second, explicit stay requirements in other statutes were either explicit stay requirements pending arbitration, not appeals, or express requirements added to avoid misinterpretation due to preexisting language.
- Third, the minority approach taken by the Ninth Circuit would

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<sup>1</sup> *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982).

disfavor arbitration, whereas the majority approach would simply subject arbitrability appeals to the same stay principles courts apply in other analogous contexts where an interlocutory appeal is authorized, for example, qualified immunity and double jeopardy.

- Fourth, the Court rejected Bielski's argument that the discretionary stay factors would adequately protect parties' rights on the basis that district courts and courts of appeals applying the discretionary stay standard often deny stays in arbitrability appeals because courts do not often consider litigation-related burdens to constitute irreparable harm.
- Fifth, and finally, the Court noted that Bielski's reliance on a prior Court case where the Court stated questions of arbitrability are "severable from the merits of the underlying disputes," did not address the sole issue in the present case.

The Court noted, and Coinbase conceded, that the district court may still proceed with matters that are not involved in the appeal, such as the awarding of costs and attorneys' fees.

Justice Ketanji Brown Jackson, joined in full by Justices Sonia Sotomayor and Elena Kagan, and in part by Justice Clarence Thomas, dissented, emphasizing that Section 16(a) does not explicitly authorize an automatic stay, and arguing that where Congress is silent, the job of managing litigation "belongs to the judge closest to a case."

## CONCLUSION

The Federal Arbitration Act allows for interlocutory appeal when a motion to compel arbitration is denied but does not explicitly require litigation be stayed. This led district courts and some circuit courts to be hesitant to stay litigation when arbitrability was being determined.

The *Bielski* decision implements a common-sense automatic stay, allowing parties to save costs and time while determining whether the case belongs in court at all. This will broadly affect parties that use arbitration clauses in their contracts and has clarified an issue that has long affected businesses with large customer bases.