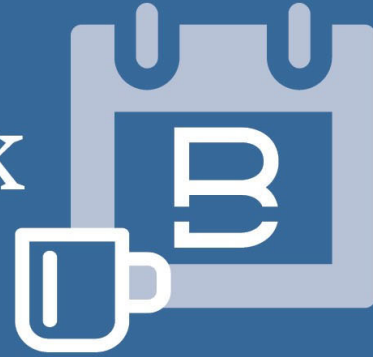


# The Work Week

Bassford Remele Employment Practice Group



**May 20, 2024**

Welcome to another edition of *The Work Week with Bassford Remele*. Each Monday morning, we will publish and send a new article to your inbox to hopefully assist you in jumpstarting your work week.

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## **Supreme Court Unanimously Rules that Courts Must Stay, Not Dismiss, Lawsuits During Arbitration**

[Michael J. Pfau](#)

On May 16, 2024, the United States Supreme Court unanimously held that Section 3 of the Federal Arbitration Act (“FAA”) does not permit a court to dismiss a case instead of issuing a stay when the dispute is subject to arbitration and a party requests a stay pending arbitration.

In [Smith v. Spizzirri](#), 601 U.S. – (2024), the petitioners were current and former delivery drivers for an on-demand delivery service. The drivers sued their employer in Arizona state court, alleging it misclassified them as independent contractors, failed to pay required minimum and overtime wages, and failed to provide paid sick leave. After removing the case to federal court, the company moved to compel arbitration and dismiss the lawsuit. The petitioners maintained that the case should have been stayed until the arbitration concluded.

Section 3 of the FAA, entitled “Stay of proceedings where issue therein referable to arbitration,” provides that, when any issue in a suit is subject to arbitration, the court:

“shall on application of one of the parties stay the trial of the action until such arbitration has been had in accordance with the terms of the agreement, providing the applicant for the stay is not in default in proceeding with such arbitration.”

The Court held that the use of the word “shall” mandates the courts to stay the proceeding and that staying rather than dismissing a suit comports with the supervisory role that the FAA envisions for the court.

Previously, there had been a circuit split on whether a case can be dismissed when the dispute was subject to arbitration. The Ninth, Eighth (which includes Minnesota), Fifth, and First circuits allowed the dismissal of disputes subject to mandatory arbitration agreements on the basis that the discretion to do so flows from the court’s inherent authority to manage their dockets. Meanwhile, the Eleventh, Tenth, Seventh,

Sixth, Third, and Second circuits held that courts should stay cases, when requested by a party, while arbitration proceeds. This ruling puts this circuit split to rest.

This ruling has implications for employment disputes, which are often subject to arbitration clauses. Previously, a suit could be dismissed when it is subject to arbitration in Minnesota federal court. That would give the party challenging the enforceability of the arbitration clause a right to an immediate appeal. Now if a party challenges the enforceability of an arbitration clause and the suit is stayed pending the proceeding, the party must go through the arbitration before it can challenge the enforceability of the arbitration clause. Additionally, the courts maintain jurisdiction over the disputes in the event the arbitration proceeding gets out of control and judicial intervention is necessary.

The Bassford Remele [Employment Law](#) practice group regularly assists with employment disputes, including advising on whether to include arbitration clauses in employment contracts. Please feel free to reach out to our team with any questions.

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