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**Case Name and Number:** *Smith v. Spizzirri*, No. 22-1218

**Introduction:** Today, the Supreme Court held in a unanimous decision that Section 3 of the Federal Arbitration Act (FAA) mandates a stay of litigation, and does not permit courts to dismiss the case instead, when the dispute filed as part of a lawsuit in court is subject to arbitration and a party has requested a stay.

**Background:** Section 3 of the FAA specifies that, when a dispute filed in court is subject to arbitration, the court “shall on application of one of the parties stay the trial of the action until [the] arbitration” has concluded. Petitioners worked as delivery drivers for an on-demand delivery service owned by respondents. After petitioners sued respondents for violating state and federal employment laws, respondents removed the case to federal court and moved to compel arbitration and to dismiss the lawsuit. Petitioners conceded that their claims were arbitrable but requested a stay under Section 3 of the FAA rather than a dismissal.

The district court compelled arbitration and dismissed the case. The Ninth Circuit affirmed, acknowledging that the plain text of Section 3 appeared to mandate a stay but nevertheless holding, based on its prior Circuit precedent, that district courts had the discretion to order a dismissal instead.

**Issue:** Whether Section 3 of the FAA permits a court to dismiss (rather than stay) a lawsuit when the dispute is subject to arbitration and a party requests a stay pending arbitration.

**Court’s Holding:** In a unanimous opinion authored by Justice Sotomayor, the Supreme Court held that Section 3 of the FAA requires a stay of pending litigation when the underlying dispute is subject to arbitration and a party requests a stay.

The Court noted that the “text, structure, and purpose” of the FAA “all point to the same conclusion”: if a party requests a stay, Section 3 overrides courts’ discretion to dismiss the case instead. The Court emphasized that Section 3 uses the mandatory “shall,” and so courts cannot deviate from that statutory instruction.

The Court also explained that a mandatory stay furthers the appellate regime Congress crafted in Section 16 of the FAA, which authorizes an immediate interlocutory appeal from an order denying arbitration, but not from an order compelling arbitration. To allow dismissals rather than stays would effectively create an end-run around that regime by turning an order compelling arbitration into a final appealable order. The Court noted that a stay rather than a dismissal also gives effect to other sections of the FAA that contemplate ongoing judicial involvement in an arbitration, such as appointing an arbitrator, enforcing subpoenas issued by arbitrators, or facilitating recovery on an arbitration award.

Finally, the Court erected important guardrails around its holding. Because Section 3 requires a stay only “on application of one of the parties,” the Court was careful to describe its holding as requiring a stay only “when a party has requested a stay of the court proceeding pending arbitration.” In addition, footnote 2 of the opinion notes that courts retain the ability to dismiss a case “if there is a separate reason to dismiss, unrelated to the fact that an issue in the case is subject to arbitration”—for example, if “the court lacks jurisdiction.”

Mayer Brown filed an *amicus* brief in support of neither party on behalf of the Chamber of Commerce of the United States of America; the brief argued, among other things, that the text of Section 3 requires a stay.

Read the opinion [here](#).