THE**RECORDER**

(l-r) U.S. Ninth Circuit judges Mary Margaret McKeown, Lucy Koh, and Anthony Johnstone. Photos: ALM

Coinbase Scores Arbitration Win Under New Federal Precedent

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gone to arbitration and obtained a decision on the merits."

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Cryptocurrency

By Michael A. Mora

What You Need to Know

- The U.S. Court of Appeals for the Ninth Circuit ruled in favor of Coinbase Global Inc. in a case involving a class action in excess of $5 million.
- The ruling clarified a precedent set by the Supreme Court in Forrest v. Spizzirri.
- The plaintiffs' attorney, Frederick Rispoli at Hodl Law, disagreed with the ruling.

In entering a ruling this week in favor of Coinbase Global Inc. involving a class action in excess of $5 million, the U.S. Court of Appeals for the Ninth Circuit clarified a recent U.S. Supreme Court precedent finding that when a party requests a stay in a dispute subject to arbitration, the district court has no discretion to deny it.

Steven Ragland, a partner and associate general counsel at <u>Keker, Van Nest & Peters</u>, represents the defendant, Coinbase, in a case that the plaintiffs, Dallas Woody and Peter Hrehorovich, appealed to the U.S. District Court for the Northern District of California over its ruling compelling arbitration.

"In the time since the plaintiff filed his complaint, nearly two years have passed," a Coinbase spokesperson said in a statement. "During this time, he could have gone to arbitration and obtained a decision on the merits. Instead, he wasted these years litigating in court whether the case should be in arbitration in the first place. We look forward to resolving this matter swiftly in arbitration."

Frederick Rispoli, a partner at Hodl Law based in Ladera Ranch, California, who represents the plaintiffs, disagreed with the ruling. Rispoli said that this application of the Supreme Court decision in *Forrest v. Spizzirri* would require that if a party is fighting arbitration, the party would have to wait until the arbitration is complete before filing an appeal granting the arbitration.

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"It's going to make arbitration much more one-sided in the result, and the person pushing to compel is in a better position to have it granted," Rispoli said. "Even if there is an appeal after the arbitration, courts are going to be hard-pressed to find any reason to uphold the grant under arbitration because not doing so will render all of the arbitration a waste of time."

The dispute in this case involves a complaint against Coinbase by Woody and Hrehorovich related to the timing of an "airdrop" of new cryptocurrencies Flare and Songbird. An airdrop occurs when a digital asset is deposited with people who have digital wallets. The method allows users of new cryptocurrencies to build a larger network of users more quickly.

However, the plaintiffs claimed that Coinbase refused to distribute the cryptocurrencies and, as a result, unjustly converted their property and injured a potential class of crypto investors in excess of $5 million. But, the plaintiffs' case hit a roadblock when the district court dismissed the action, leading to the appeal.

The Ninth Circuit, in the opinion, wrote that Federal Arbitration Act § 3 provides that, when a district court finds an issue "referable to arbitration," the court "shall on application of one of the parties stay the trial of the action" pending arbitration. At the time of the district court's decision, the Ninth Circuit interpreted § 3 to give courts discretion either to stay or to dismiss a case.

However, during the pendency of the appeal, the Supreme Court clarified that § 3 is mandatory: "When a party requests a stay in a dispute subject to arbitration, the district court has no discretion to deny it," per the opinion. As a result, the district court, relying on a now-overruled

precedent in *Spizzirri*, erred in denying Coinbase's request for a stay under § 3.

Steven Ragland of Keker, Van Nest & Peters. Courtesy photo

Now, U.S. Ninth Circuit Judges Mary McKeown, Lucy Koh and Anthony Johnstone have vacated the district court's dismissal and remanded for issuance of a stay, pending arbitration. In doing so, the Ninth Circuit ruled in favor of Coinbase, even though the crypto exchange did not file a cross-appeal to challenge the district court's denial of its request for a stay pending arbitration under the FAA and dismissal of the action.

In reaching that ruling, the Ninth Circuit held that it has "broad power" to address an issue that was not cross-appealed "as justice requires," because here, "Coinbase had no basis for filing a cross-appeal until after the deadline to do so had lapsed."

Meanwhile, the Ninth Circuit declined to reach the plaintiffs' challenge to the district court's order compelling arbitration because reaching the substance of the challenge "would contravene the FAA's structure and purpose."

However, if Coinbase prevails at arbitration and the district court does not vacate the resulting award, the Ninth Circuit wrote that the plaintiffs could appeal the arbitration ruling "at that time, as Congress intended."

Read the Ruling

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 21 2024

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

DALLAS WOODY; PETER
HREHOROVICH, individually and on
behalf of all others similarly situated,

        Plaintiffs - Appellants,

  v.

COINBASE GLOBAL, INC.; COINBASE,
INC.; BRIAN ARMSTRONG,

        Defendants - Appellees.

No. 23-3584

D.C. No.
3:23-cv-00190-JD

MEMORANDUM*

Appeal from the United States District Court for the
Northern District of California
James Donato, District Judge, Presiding

Argued and Submitted October 8, 2024

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