Questions About This Publication

For assistance with shipments, billing or other customer service matters, please call our Customer Services Department at:

1-631-350-2100

To obtain a copy of this book, call our Sales Department:

1-631-351-5430
Fax: 1-631-351-5712

Toll Free Order Line:
1-800-887-4064 (United States & Canada)

See our web page about this book:
http://www.arbitrationlaw.com
EDITORIAL BOARD

From the American Arbitration Association
Ted E. Pons, Vice President of Publications
Susan C. Zuckerman, Supervising Editor

From the Fordham International Law Journal
Amanda C. Fried, ADR Editor, vol. 21
Melissa L. Fleming, ADR Editor, vol. 21
Hoyoon Nam, ADR Editor, vol. 22
Allison Maimona, ADR Editor, vol. 22

From the Fordham Urban Law Journal
Sonal Gupta, ADR Editor, vol. 21
John Schivickas, ADR Editor, vol. 21
David Reichenberg, ADR Editor, vol. 22
Marisa Pizzolato, ADR Editor, vol. 22

The ADR Editors wish to extend their thanks to the following individuals for their assistance with ADR & the Law:

Shari Alexander
Robin Boucard
Lauren Gans
Carson Pulley
Myka Todman
# TABLE OF CONTENTS

Preface to the 21st Edition .......................................................... v

Introduction to the 21st Edition .................................................... xv

Part I. ALTERNATIVE DISPUTE RESOLUTION
IN THE UNITED STATES .......................................................... 1

Chapter 1. Significant Decisions by Federal and State Courts in 2004 .......................................................... 3

Case Digests ........................................................................... 3

Federal Appeals Court Decisions .......................................... 3

Commercial—Second Circuit ................................................ 3

Consumer/Class Action/Telecommunications—
Fifth Circuit ....................................................................... 5

Consumer/Lending—Fifth Circuit ........................................ 6

Employment—Third Circuit, Sixth Circuit ......................... 7

Intellectual Property—Seventh Circuit, Ninth Circuit ......... 11

Labor/Construction—Fifth Circuit, Seventh Circuit .......... 14

Personal Injury—Third Circuit ............................................. 16

Securities—Second Circuit, Fourth Circuit, Sixth Circuit .... 17

Sports/Olympics—Second Circuit ...................................... 21

Statutory Claims—Ninth Circuit .......................................... 22

State Court Decisions ............................................................ 23

Commercial/Media—California, Massachusetts, Tennessee .. 23

Commercial/Real Estate—New York ................................. 26

Construction—Arkansas ....................................................... 28

Consumer—Kentucky .......................................................... 29

Consumer/Construction—Nevada ...................................... 31

Employment—Arizona, California ..................................... 32

Labor—Illinois ................................................................. 33

Personal Injury—Automobile—Illinois ............................... 34

Personal Injury/Health Insurance—Tennessee ................... 35

Securities—Arizona ............................................................ 36
<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Employment</td>
</tr>
<tr>
<td>Commentary</td>
<td>39</td>
</tr>
<tr>
<td></td>
<td>Negotiating Enduring Corporate Change: How the Task Force on Equality and Fairness in <em>Roberts v. Texaco</em> Helped to Facilitate Corporate Change</td>
</tr>
<tr>
<td></td>
<td><em>Cathy Cronin-Harris and David M. White</em></td>
</tr>
<tr>
<td>3</td>
<td>Labor</td>
</tr>
<tr>
<td>Commentary</td>
<td>83</td>
</tr>
<tr>
<td></td>
<td>The Long-Term Effects of Grievance Mediation</td>
</tr>
<tr>
<td></td>
<td><em>Stephen B. Goldberg</em></td>
</tr>
<tr>
<td>4</td>
<td>Education</td>
</tr>
<tr>
<td>Commentary</td>
<td>101</td>
</tr>
<tr>
<td></td>
<td>Alternative Dispute Resolution Instruction in U.S. Business Schools: A Comparison of Corporate Practice and Business Curriculum Content</td>
</tr>
<tr>
<td></td>
<td><em>David B. Stephens, Robert D. Stephens and John P. Kohl</em></td>
</tr>
<tr>
<td>5</td>
<td>Mediation</td>
</tr>
<tr>
<td>Commentary</td>
<td>115</td>
</tr>
<tr>
<td></td>
<td>Evidence Issues in Mediation: Evidence Issues in Mediation: Implications for the Private and Public Sectors</td>
</tr>
<tr>
<td></td>
<td><em>Beryl Blaustone</em></td>
</tr>
<tr>
<td>6</td>
<td>Judicial Review</td>
</tr>
<tr>
<td>Commentary</td>
<td>147</td>
</tr>
<tr>
<td></td>
<td><em>Adriana Dulic</em></td>
</tr>
<tr>
<td>7</td>
<td>Domestic Alternative Dispute Resolution Legislation</td>
</tr>
<tr>
<td>Federal Developments</td>
<td>177</td>
</tr>
<tr>
<td></td>
<td>Eleventh Circuit Court of Appeals, Private Mediator Procedures for Mediation of Appeals, October 2004</td>
</tr>
<tr>
<td>State Developments</td>
<td>192</td>
</tr>
<tr>
<td>California</td>
<td>192</td>
</tr>
<tr>
<td></td>
<td>Common Interest Developments—Dispute Resolution Procedure</td>
</tr>
<tr>
<td></td>
<td>Court Rule Amendments</td>
</tr>
<tr>
<td></td>
<td>193</td>
</tr>
<tr>
<td>Topic</td>
<td>Page</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Colorado</td>
<td>193</td>
</tr>
<tr>
<td>Revised Uniform Arbitration</td>
<td>193</td>
</tr>
<tr>
<td>Florida</td>
<td>193</td>
</tr>
<tr>
<td>Condominium &amp; Community Associations</td>
<td>193</td>
</tr>
<tr>
<td>Mediation Confidentiality and Privilege Act</td>
<td>198</td>
</tr>
<tr>
<td>Georgia</td>
<td>203</td>
</tr>
<tr>
<td>Building Construction; Alternative Dispute Mechanism</td>
<td>203</td>
</tr>
<tr>
<td>New Jersey</td>
<td>204</td>
</tr>
<tr>
<td>Uniform Mediation Act</td>
<td>204</td>
</tr>
<tr>
<td>N.J. Medical Care Access and Responsibility and Patients First Act</td>
<td>204</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>205</td>
</tr>
<tr>
<td>Small Claims and Consumer Claims</td>
<td>205</td>
</tr>
</tbody>
</table>

**Part II. INTERNATIONAL ALTERNATIVE DISPUTE RESOLUTION**  

<table>
<thead>
<tr>
<th>Chapter 8. Significant Decisions by U.S. Courts Concerning</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>International Alternative Dispute Resolution</td>
<td>209</td>
</tr>
<tr>
<td>Case Digests</td>
<td>209</td>
</tr>
<tr>
<td>Federal Appeals Court Decisions</td>
<td>209</td>
</tr>
<tr>
<td>Commercial—District of Columbia, Second Circuit, Fifth</td>
<td>209</td>
</tr>
<tr>
<td>Circuit, Ninth Circuit</td>
<td>209</td>
</tr>
<tr>
<td>Intellectual Property/Patent Infringement—Federal Circuit</td>
<td>216</td>
</tr>
<tr>
<td>Reinsurance—Eleventh Circuit</td>
<td>218</td>
</tr>
<tr>
<td>Federal District Court Decisions</td>
<td>219</td>
</tr>
<tr>
<td>Construction/Bankruptcy—District of Delaware, District of Columbia</td>
<td>219</td>
</tr>
<tr>
<td>Reinsurance—Northern District of Illinois</td>
<td>222</td>
</tr>
<tr>
<td>Securities/Employment—Southern District of New York</td>
<td>223</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chapter 9. International Alternative Dispute Resolution Developments: IBA Guidelines</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commentary</td>
<td>225</td>
</tr>
<tr>
<td>The Concept of Ethical Rules or the New IBA Guidelines on Conflicts of Interest in International Arbitration Dana H. Freyer and Julie Bédard</td>
<td>225</td>
</tr>
<tr>
<td>The Role of Arbitrators as Settlement Facilitators Jenny Power</td>
<td>246</td>
</tr>
</tbody>
</table>
Chapter 10. Investment Arbitration
Commentary.......................................................... 259
Tokios Tokelës: Home Is Where Control Is?
................................................................. Caline Mouawad & Lara Karam 259

Chapter 11. International Arbitration in Specific Countries
Commentary.......................................................... 283
Recent Developments in Singapore International Arbitration
.................................................................... Koh Kok Wah and John Choong 283
Commercial Arbitration in Mexico: To Choose or
Not To Choose .................................................. Stacy Rentner 304

Chapter 12. New International Alternative Dispute Resolution
Legislation and Rules .......................................................... 321
Arbitration Law of Chile (2004)............................................. 321
European Union Directive on ADR........................................... 340
United Kingdom Employment Act 2002 (Dispute Resolution)
Regulations 2004.......................................................... 355

APPENDICES .......................................................... 375
American Arbitration Association: A Brief Overview ............... 377
Information on the Joint Venture with the Fordham
International Law Journal and the Fordham
Urban Law Journal .................................................. 378
Information on the Fordham International Law Journal
and the Fordham Urban Law Journal .................................. 379

INDEX ........................................................................ 385

ADDITIONAL MATERIALS ........................................ CD-ROM

I. American Arbitration Association Regional Offices
II. American Arbitration Association Rules and Procedures
Arbitration Rules for the Real Estate Industry (including a
Mediation Alternative). Amended and effective September 15, 2005
Arbitration Rules for Wills and Trusts. Effective
September 15, 2005
Commercial Arbitration Rules and Mediation Procedures (including Procedures for Large, Complex Commercial Disputes). Amended and effective September 15, 2005

Construction Industry Arbitration Rules and Mediation Procedures (including Procedures for Large, Complex Commercial Disputes). Amended and effective September 15, 2005

Disaster Recovery Claims Mediation Procedures.

Dispute Resolution Rules for Professional Accounting and Related Services Disputes. Amended and effective September 15, 2005

International Dispute Resolution Procedures (including Mediation and Arbitration Rules). Amended and effective September 15, 2005

Labor Arbitration Rules (including Expedited Labor Arbitration Rules). Amended and effective July 1, 2005

National Rules for the Resolution of Employment Disputes. Amended and effective September 15, 2005

Procedures for Cases under the UNCITRAL Arbitration Rules. Effective September 15, 2005

Supplementary Rules for Class Arbitrations. Effective Date October 8, 2003

Supplementary Procedures for Consumer-Related Disputes. Effective September 15, 2005

Supplementary Procedures for Domain Name Disputes.


Supplementary Procedures for Online Arbitration. Effective July 1, 2001

Supplementary Procedures for Residential Construction Disputes. Effective September 15, 2005

Supplementary Procedures for the Resolution of Intra-Industry U.S. Reinsurance and Insurance Disputes. Amended and effective September 15, 2005

Wireless Industry Arbitration Rules (Sponsored by the Cellular Tele-communications Industry Association). Effective July 1, 2003
III. Codes, Protocols, Statements of Ethics
   American Arbitration Association Code of Ethics for Employees Statement of Ethical Principles for the American Arbitration Association, an ADR Provider Organization.
   Code of Ethics for Arbitrators in Commercial Disputes. Effective March 1, 2004
   Model Standards of Conduct for Mediators. September 2005
   A Due Process Protocol for Mediation and Arbitration of Statutory Disputes Arising out of the Employment Relationship.
   Consumer Due Process Protocol.
   eCommerce Dispute Management Protocol.

IV. American Arbitration Association Guides
   A Guide to the Management of Large, Complex Cases. Effective August 1, 2003
   Drafting Dispute Resolution Clauses — A Practical Guide. Amended and Effective July 1, 2004
   Resolving Commercial Financial Disputes — A Practical Guide (including Sample Clauses and Mediation and Arbitration Rules). Amended and Effective September 1, 2005
   Resolving Employment Disputes — A Practical Guide. Amended and Effective July 1, 2003
   Resolving Professional Accounting and Related Services Disputes — A Guide to Alternative Dispute Resolution.

V. American Arbitration Association Q & As
   Arbitrator Fees and Expenses in International Cases
   Award Preparation for International Cases
   Supplementary Procedures for Consumer-Related Disputes Q & A
   Disclosure and Challenge of an Arbitrator
   Disclosure and Challenge of an Arbitrator in International Cases
Table of Contents   xiii

Enhanced Neutral Selection Process for Large Complex Cases
How to Commence an AAA Arbitration
Locale Determinations
Locale Determinations in International Cases
Subpoenas
Arbitrating under the National Rules for the Resolution of Employment Disputes (NRRED).
Amended and effective September 15, 2005.

VI. American Arbitration Association Downloadable Forms
Labor and Employment Forms
Labor Arbitration Rules Demand for Arbitration
Employment Arbitration Rules Demand for Arbitration
California: Demand for Arbitration Form for Employment-Related Disputes
Commercial/Business Forms
Commercial Arbitration Rules Demand for Arbitration
Submission to Dispute Resolution-Mediation and Arbitration
Construction Industry Demand for Arbitration
California Forms: Supplementary Procedures for Consumer-Related Disputes Form
Demand for Arbitration
Request for Mediation
Subpoena
Subpoena Duces Tecum
Supplementary Procedures for Consumer-Related Disputes Form

VII. International Treaties
Inter-American Convention on International Commercial Arbitration (the Panama Convention)
North American Free Trade Agreement