Concerns about the fairness of consumer and employment arbitration continue to be present in arbitral law and practice.

For example, JAMS has announced that it will no longer administer arbitrations that arise from arbitral clauses that include waivers of class action relief. (Story on page 3.)

The NASD has amended its Code of Arbitration Procedure to afford investors greater protection against one-sided agreements to arbitrate security disputes. Brokers, for example, must notify investors that an arbitration agreement is included in the basic contract and explain its meaning and impact on their rights. (Story on page 3.)

Also, Texas state legislators are considering draft legislation that redresses the imbalance in contracts for mandatory consumer arbitration. When contracts are characterized by unequal bargaining power, consumers should maintain their access to courts, according to proposed legislation. (Story on page 4.)

In Worldwide Perspectives on Mediation, David Spencer and Nadja Alexander discuss the integration and operation of mandatory mediation in Australia. The authors distill a list of factors from the case law that courts consider in issuing orders that the parties mediate their dispute. (The Mediation Column begins on page 11.)

In a Perspectives piece, Professor Jean-François Gaudreault-DesBiens, Associate Professor, Faculty of Law, University of Toronto, explores the public law dimension of arbitration. He discusses faith-based arbitration in the context of a multicultural, democratic society. He advances the controversial idea that some form of merits review by courts of faith-based arbitral awards is necessary in order to protect the constitutional rights of members of minority groups. The standard form of lax or perfunctory judicial supervision of arbitral awards could allow “religious totalitarianism” to be practiced and to escape the restrictions of public law protections. Professor Gaudreault-DesBiens refers to the example of Sharia-based arbitration applying to family-related and personal-status-related disputes occurring in the province of Ontario. (The Perspectives section begins on page 18.)

Finally, Professor Frédéric Bachand, WAMR’s Investment Arbitration Editor, reports on an ICSID Discussion Paper meant to improve ISCID arbitration procedures and practices. The ICSID paper addresses interim measures, arbitrator disclosure requirements, expedited dispositions of cases, third-party access to proceedings, and the appeal of awards. (Story on page 6.)
NEWS AT HOME

NASD Imposes Disclosure Requirements for Arbitration Agreements

JAMS not to Administer Arbitrations That Preclude Class Action

Relief

New Jersey Adopts UMA

NASD Gives Arbitrators Power to Decide Claim Eligibility

Alabama State Supreme Court Rules That Arbitrators do not Need to be Lawyers

Schwarzenegger “Pumps Up” Disaster Relief Mediation

Texas Lawmakers View Mandatory Arbitration for Consumers With Suspicion

NEWS ABROAD

United Kingdom Implements New System of Statutory Dispute Resolution in the Workplace

INTERNATIONAL NEWS

Arbitral Oversight Suggested in Proposed Code of Conduct for Credit Agencies

ICSID Issues Discussion Paper on Possible Improvements to Investment Arbitration Framework by Frédéric Bachand

CPR Announces Survey Results on the Use of Commercial Mediation in Europe

JUDICIAL DECISIONS

Agreement to Arbitrate Upheld

STATE JUDICIAL DECISIONS

Ohio Supreme Court Holds Mandatory Arbitration of Fee Dispute Constitutional

Arizona Supreme Court Deals a Blow to Employment Arbitration

California Appellate Court Holds That Arbitration Providers are Immune from Civil Liability

WORLDWIDE PERSPECTIVES ON MEDIATION

Mandatory Mediation in Australia by David Spencer and Nadja Alexander

PERSPECTIVES

The Limits of Private Justice? The Problems of the State Recognition of Arbitral Awards in Family and Personal Status Disputes in Ontario by Jean-François Gaudreault-DesBiens

BIBLIOGRAPHY

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