

World & Arbitration & Mediation Report



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Covering Dispute Resolution in the United States and Around the World

September 2005

HIGHLIGHTS

The **U.S. Supreme Court** has granted *certiorari* in *Cardegna v. Buckeye Check Cashing, Inc.* *Buckeye* was decided in late January 2005 by the Florida state Supreme Court. The question before the U.S. Supreme Court is whether the Federal Arbitration Act allows a party to avoid arbitration by claiming that the underlying contract is illegal and void. Although it was distinguished away by the Florida court, the *Prima Paint doctrine* appears to govern the resolution of the case. It seems likely that the Court will reverse the state court and confirm the continued vitality of *Prima Paint*. (Story on page 265.)

A proposed **NASD Rule**, issued by the **Securities and Exchange Commission** for public comment, attempts to regulate the increasingly controversial issue of **multi-jurisdictional practice** in arbitration. (Story on page 265.)

In July 2005, the **California state Supreme Court** refused to extend its ruling in *Armendariz* to common law claims, *e.g.*, torts, contract, and business disputes, despite its earlier application of the ruling to nonwaivable nonstatutory employment claims based on fundamental public policy. (Story on page 266.)

The **Baker & McKenzie Arbitration Group** has made a number of contributions to this issue of **WAMR** dealing with **international arbitral developments at home**. The Baker & McKenzie contributions address primarily the enforcement of

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international arbitral awards in U.S. federal courts and relate to such issues as the impact of nonsignatory status, the constitution of the arbitral tribunal, local public policy, and employment status upon enforcement. (The *International Developments At Home* section begins on page 269.)

The **White & Case Arbitration Group** has also written several contributions for this issue of **WAMR**. The *News Abroad* reports

explain the content and significance of the French Court of Cassation's recent ruling in *State of Israel v. NIOC*, the English courts' newly found and strikingly interventionist support for mediation, and the substance of the new CIETAC Arbitration Rules. (The *News Abroad* section begins on page 267.)

The **National Arbitration Forum (NAF)** continues to provide its thorough and informative *Case Summaries*. This issue of **WAMR** contains some twenty-five case summaries that describe the most recent judicial pronouncements on the domestic U.S. law of arbitration. (The *NAF Case Summaries* begin on page 274.)

Lastly, but certainly not least, **WAMR** Investment Arbitration Editor, **Frédéric Bachand**, writes an outstanding evaluation of an English High Court opinion that addresses the topic of the "nature of investment treaty arbitration." (Professor Bachand's *Commentary* begins on page 287.)

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