

# World Arbitration & Mediation Report



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Covering Dispute Resolution in the United States and Around the World

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## HIGHLIGHTS

The **U.S. Supreme Court** has denied *certiorari* in two arbitration cases. First, in *Pieper v. AAA*, the Court let stand a **Sixth Circuit** decision in which the appellate court held that the *Rooker-Feldman* doctrine applied to a case involving an order to compel arbitration. *Rooker-Feldman* generally prohibits federal courts from reviewing state court judgments. Therefore, a federal district court could not review a state court decision ordering the parties to arbitrate their dispute. (Story on p. 95.)

Second, in *infoUSA v. Schoch*, the Court let stand an **Eighth Circuit** ruling in which the appellate court rejected challenges to the enforceability of an arbitral award. The Eighth Circuit also affirmed its reluctance to endorse “**opt-in**” provisions for judicial review by stating that provisions for a form of heightened judicial review must contain “crystal-clear language” to that effect. (Story on p. 95.)

The **ABA House of Delegates** has approved a **new Code of Ethics for Commercial Arbitrators**. The new code creates a **presumption of neutrality** that applies to all arbitrators, including party-appointed arbitrators. It also strengthens neutrality and disclosure requirements. **Canon X**, however, contains exemptions to the presumption of neutrality. (Story on p. 96; *Commentary* on p. 104.)

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The “**Fairness Act**” has been introduced in the U.S. Congress. It would amend the FAA by excluding **employment contracts** from the scope of the statute and by prohibiting employees from requiring employees to sign arbitration agreements relating to **discrimination claims**. (Story on p. 97.)

**Nadja Alexander**, WAMR’s Editor for International Mediation and newly appointed Professor of Dispute Resolution at the Australian Centre for Peace and Conflict Studies (Queensland), has conducted an extensive interview with **Jernej Sekolec**, Secretary of UNCITRAL and Chief of the International Trade Law Branch of the UN Office of Legal Affairs in Vienna, Austria. The interview provides invaluable and unique insights into the drafting of the **UNCITRAL Model Law on International Commercial Conciliation** and the intent that underlies its central provisions. There are also interesting comparative references to the Uniform Mediation Act. (The text of the interview begins on p. 105.)

**Kimberly Koko**, Senior Editor of the WAMR, provides a thorough accounting of the new work on arbitration and ADR. (The *Bibliographic Resources* begins on p. 117.)

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