

# 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 rendered its opinion in *Pacificare Health Systems, Inc. v. Book*, 123 S.Ct. 1531 (Apr. 7, 2003). The Court reversed the ruling of the Eleventh Circuit U.S. Court of Appeal by holding that HMOs could compel the arbitration of the doctors' **RICO claims** even though the applicable arbitration agreements could be interpreted as limiting the arbitrator's authority to award treble damages under RICO. The agreements specifically precluded the arbitrator from awarding punitive damages. (Story begins at page 187.)

The **U.S. Supreme Court** has heard arguments in *Green Tree Fin. Corp. v. Bazzle*. The question being considered is whether a broad arbitration agreement impliedly allows for **class action arbitration**. (Story begins at page 189.)

The **RUAA** has been adopted in **North Dakota**. It is the fifth state to adopt the uniform legislation since it was proposed by the NCCUSL in August 2000. Two other states (Hawaii and Utah) also adopted the RUAA without modification. The additional adopting states made modifications to the statute. A dozen more states are considering the adoption of the uniform law. (Story begins at page 189.)

The **California state Supreme Court** has undertaken to resolve the debate among lower state courts as to whether arbitration agreements that preclude the **recourse to class actions** are **enforceable** under California contract law. (Story at page 189.)

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In *The Florida Bar v. Rapoport*, the **Florida state Supreme Court** has held that an attorney who is not licensed in Florida cannot perform the traditional tasks of legal representation in **security arbitration** proceedings. In the high court's view, a non-Florida-licensed attorney is a nonlawyer in Florida. Representing clients in a security arbitration, therefore, constituted

the **unlicensed practice of law**. (Story begins at page 193.)

The **Sixth Circuit** has developed a new approach to determining the **enforceability of cost allocation provisions** in arbitration agreements. The court held that, in discrimination litigation involving statutes like Title VII, "potential litigants must be given an opportunity, prior to arbitration on the merits, to demonstrate that the potential costs of arbitration are great enough to deter them and **similarly situated individuals** from seeking to vindicate their federal statutory rights in the arbitral forum." (Emphasis added.) (Case summary on page 196.)

**Arnold Zack**, a member of **WAMR's** Advisory Board and a highly regarded mediator and arbitrator of labor-management disputes, offers an article entitled *On Arbitration and ADR, International Labor Disputes, and the Permanent Court of Arbitration*. He proposes the creation of an international conciliation-mediation institution under the administration of the PCA. (The *Perspectives* section begins on page 205.)

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