

WORLD ARBITRATION & MEDIATION REPORT

Vol. 14, No. 6

Covering Dispute Resolution in the United States and Around the World

June 2003

HIGHLIGHTS

The **U.S. Supreme Court** has denied *certiorari* in *Westmoreland*, a case in which the U.S. Fifth Circuit Court of Appeals held that a **nonsignatory** to an arbitration agreement could not compel arbitration even though the nonsignatory had acted as an agent for one of the signatories. (Story at page 159.)

In a recent opinion, the **French Court of Cassation** has maintained a firm boundary between the authority of contract in arbitration law and mandatory rules of law that flow from the statute on arbitration. France's highest court for civil and criminal matters ruled that arbitrators could not themselves extend the **time-limit** for the rendition of the arbitral award even though the parties had granted them that power in the arbitration agreement. Accordingly, the proper procedure was to have the arbitrators file a motion before a duly authorized court and request the court's permission to extend the time-limit. (Story at page 160.)

This issue signals the beginning of the more extensive treatment of domain name awards from the **National Arbitration Forum (NAF)**. The *Documentary Resources* section includes not only a summary of various awards, but also the actual text of the determinations. The materials are provided by **Timothy S. Cole, Director, Internet Dispute Solutions, National Arbitration Forum (NAF)**. (The *Documentary Resources* section begins on page 172.)

In the *Perspectives* section, the **Editor** provides an account of the emergence, growth, and development of arbitration in the U.S. legal system. Entitled *The Story of*

Arbitration Law, the article addresses and underscores a number of basic features of the law. It proposes a program of educational certification for arbitrators and other participants in the arbitral process, noting that the deregulatory approach to arbitration may no longer be a sufficient form of regulation. It examines the distinction between arbitration and mediation and explores the political underpinnings of the contemporary U.S. judicial doctrine on arbitration. It proposes an alteration of the Federal Arbitration Act to align the statutory law with the evolution and current content of the decisional law.

Reflecting the substance of the remarks the **Editor** made on the occasion of his investiture as the *Orlando Distinguished Professor of Law* at Penn State's Dickinson School of Law, he concludes that "arbitration functions as guarantor of a portion of the Bill of Rights. In a complex configuration of contract, politics, and regulatory rights, it provides access to a workable process of adjudication, the operation and results of which are generally fair, responsible, and reasonable." In the **Editor's** view, arbitration "deliver[s] on the promise of American citizenship." (The *Perspectives* section begins on page 162.)

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The Dickinson
School of Law

Juris Publishing, Inc., Huntington, NY, USA.

Published in conjunction with Penn State University's
Dickinson School of Law, Carlisle, PA, USA

EDITORIAL STAFF**Editor-in-Chief:**

Thomas E. Carbonneau
Penn State University's
Dickinson School of Law

Senior Editor:

Kimberly A. Koko, Research
Tulane University School of Law

Editors:

Nadja Alexander, International Mediation
T.C. Beirne School of Law, University of
Queensland (Australia)

James Coben, Domestic Mediation
Dispute Resolution Institute,
Hamline University School of Law

Robert Ackerman and Nancy Welsh,
Domestic Mediation,
Penn State University's
Dickinson School of Law

Paul Friedland, International Arbitration
White & Case LLP (New York)

Production Manager:

Michael Murphy
Juris Publishing, Inc.

Editors-At-Large:

William W. Park
Boston University School of Law

Jan Paulsson
Freshfields (Paris)

Editorial Assistants:

Kathleen Caggiano Janice Sayas
Gregg Hilzer Paul Toner
Pamela Kayatta
Gene Molino

**Publication and Subscription
Information**

The WORLD ARBITRATION AND MEDIATION REPORT is published monthly by Juris Publishing, Inc., 71 New Street, Huntington, New York 11743; telephone: (631) 673-3330; fax: (631) 673-9117; (800) 887-4064; e-mail: subscriptions@jurispub.com. Visit our website at <http://www.jurispub.com>. The Report is distributed worldwide by Juris Publishing, Inc. Subscription price: In North America: \$535.00 yearly; outside North America: \$595.00 yearly. Prices include shipping and handling. ISSN # 0960-0949.

Submission Information

Editorial correspondence should be directed to Professor Thomas Carbonneau, Editor, *World Arbitration and Mediation Report*, 71 New Street, Huntington, New York 11743 (USA), or Penn State's Dickinson School of Law, 150 South College Street, Carlisle, PA 17013-2899. You may call him at (717) 240-5153; email: tec10@psu.edu.

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