

World Arbitration & Mediation Report



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Covering Dispute Resolution in the United States and Around the World

September 2003

HIGHLIGHTS

Richard Chernick of JAMS has been named **Chair** of the ABA's **Section of Dispute Resolution**. (Story at 243.)

The **ICC International Court of Arbitration** and the **U.S. Council for International Business** are sponsoring a major arbitration conference, entitled *International Commercial Arbitration in Latin America: The ICC Perspective*. The conference will be held on October 26-28, 2003 in Miami, Florida. Its purpose is to highlight aspects of international commercial arbitration that are particularly relevant to Latin America. (Story at page 245.)

Two **U.S. Courts of Appeals** have ruled recently on the question of the **evident partiality** of arbitrators. In *JCI Communications, Inc.*, the **First Circuit** held that the mere fact that business rivals of one of the arbitrating parties are members of the arbitral tribunal does not constitute evident partiality. According to the court, evident partiality applies in circumstances in which a "reasonable person would have to conclude that an arbitrator was partial to one party to an arbitration." In *Sphere Drake Ins. Ltd.*, the **Seventh Circuit** held that a party-appointed arbitrator need not be disqualified because he served as full-time legal counsel for the appointing party in an unrelated insurance arbitration that occurred four years earlier. In its reasoning, the court stated that the standard expectation was that party-appointed arbitrators were *supposed* to advo-

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cate for the appointing party. (Case summaries in *Case Digest* at 243 and 244.)

The **U.S. Supreme Court** denied a petition for *certiorari* in *Davis v. Southern Energy Homes, Inc.* In *Davis*, the **Eleventh Circuit** held that the **Magnuson-Moss Act** permitted the arbitrability of disputes involving written warranties. (Story at page 246.)

The *Perspectives* section contains two articles on topics in international mediation. The articles were written under the supervision of **Professor Nadja Alexander**, WAMR's Editor for International Mediation and Director of the Dispute Management Centre at the T.C. Beirne School of Law, University of Queensland, Australia. Professor Alexander is a leading expert on international mediation. In the articles, Professor **Richard Birke** of the Willamette University College of Law addresses the topic of "Standardizing Mediation Confidentiality in the United States." Professor **Mohamad Palekerb** of the University of Cape Town (Department of Private Law) assesses "Court-Connected ADR in Civil Litigation" and argues that it is "The Key to Access to Justice in South Africa." (The *Perspectives* section begins on page 249.)

In the *Documentary Resources* section, **Timothy S. Cole** of the **National Arbitration Forum** has provided the text of and commentary upon recent domain name awards. (The *Documentary Resources* section begins on page 255.)

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