


# World Arbitration & Mediation Report



Vol. 17, No. 2

Covering Dispute Resolution in the United States and Around the World

February 2006

## HIGHLIGHTS

The U.S. Fourth Circuit has reinforced the position that the **adhesionary character** of an arbitration agreement does not prevent its enforcement. In *American General Life & Accident Insurance Co. v. Wood*, the court ruled that, because “the bulk of contracts signed in this country, if not every major Western nation, are adhesion contracts, a rule automatically invalidating adhesion contracts would be completely unworkable.” A party opposing the enforcement of an arbitration clause must show more than adhesion to establish **unconscionability**. The clause must deprive a party of **available remedies** or **statutory rights**. (Story begins on page 35.)

The **Skadden, Arps Newsletter** provides a comprehensive account of **Chief Justice Roberts’** experience with the U.S. law on arbitration. As an appellate advocate, Chief Justice Roberts provided legal representation in the litigation that led to the U.S. Supreme Court decision in *First Options of Chicago, Inc. v. Kaplan*. As a judge, he authored important arbitration-related decisions at the U.S. Court of Appeals for the District of Columbia Circuit, including *Booker v. Robert Half International, Inc.* (Story begins on page 36.)

In May 2005, an **ICSID Tribunal** rendered a \$133 million plus interest **award** in favor of a private litigant against

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**Argentina.** The dispute related to the privatization of Argentina’s oil and gas transmission industry and the economic measures taken by the Argentine government in 2001-2002 in regard to foreign investment. The award was protective of the **rights of international investors** and may have an impact upon pending arbitration cases against Argentina. (Story begins on page 38.)

**Lucy V. Katz**, Robert C. Wright Professor of Law, Ethics, and Dispute Resolution at Fairfield University, provides a *Perspectives* piece on the developing topic of **International Business Mediation**. She addresses rule-making in the area by examining the rules promulgated by UNCITRAL, the EU, NGOs, and private service-providers. Professor Katz concludes that, while formal rules converge on a similar model, actual mediations may vary considerably depending upon where they are held because of nationality and cultural differences. (The *Perspectives* section begins on page 42.)

**James Coben**, Director of **Hamline’s Dispute Resolution Institute** and WAMR Editor for Domestic Mediation, provides his annual review of *Mediation Case Law*. (The *2005 Mediation Case Law Review* begins on page 52.)

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**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 Dickinson School of Law, 150 South College Street, Carlisle, PA 17013-2899. You may call him at (717) 240-5153; email: [tec10@psu.edu](mailto:tec10@psu.edu).