Frédéric Bachand, WAMR Editor for Investment Arbitration, provides an account of recent developments in NAFTA Arbitration, including a NAFTA Chapter 11 decision to consolidate three Softwood Lumber arbitrations. Professor Bachand also highlights the Supreme Court of Canada’s decision to hear the Dell Computer case, involving the enforceability of terms and conditions in a consumer contract. Finally, he notes that the Paris Court of Appeal has reaffirmed the French decisional view regarding the setting aside of decisions under Article V(I)(e) of the New York Arbitration Convention. The court found that these decisions have no transborder effect and have a bearing only within the legal system that gave rise to them. (International News begins on page 142.)

The U.S. Court of Appeals for the Tenth Circuit has reaffirmed its qualified support of the exercise of freedom of contract in regard to appellate remedies against arbitral awards. Here, the court endorsed a limitation of standard appeal procedures by the parties. (Story begins on page 145.)

The National Arbitration Forum (NAF) Case Summaries address a host of basic issues in arbitration law, including cases on the impact of arbitration agreements on bankruptcy proceedings. A Second Circuit opinion again demonstrates the liberalization of the use of arbitration in bankruptcy proceedings. In MBNA America Bank v. Hill, the court found that, even in cases involving core bankruptcy proceedings, bankruptcy courts do not have discretion to override arbitration agreements unless the proceedings are based on provisions of the Bankruptcy Code that “inherently conflict” with the FAA or would “necessarily jeopardize” the objectives of the Bankruptcy Code. (The Case Summaries begin on page 148.)

A U.S. Fourth Circuit decision once again tests the gravamen and range of the manifest disregard ground for vacating arbitral awards. The court appears simply to have disagreed with the arbitrator’s interpretation of the relevant contracts. Manifest disregard should require more than mere disagreement. (Story begins on page 139.)

The UMA is law in two more jurisdictions: Utah and the District of Columbia. Both adoptions incorporate the protections afforded by the UN Model Law on International Commercial Conciliation. (Story begins on page 139.)
IN THIS ISSUE

NEWS AT HOME
Fourth Circuit Invalidates Award for Manifest Disregard..................139
Utah Senate Passes the UMA.................................................................139
D.C. Adopts “Super” UMA......................................................................140
Pennsylvania Court of Common Pleas Rejects Ban on
Class Action Arbitrations.................................................................140
New Jersey Court Rules That a Mediator is Barred From
Testifying in a Subsequent Proceeding..............................................141

NEWS ABROAD
UK Court Upholds E-mail as Service of Process for an Arbitration......141

INTERNATIONAL NEWS
Developments in Investment Arbitration
by Frédéric Bachand............................................................................142

FEDERAL JUDICIAL DECISION
Tenth Circuit Reiterates That the Right of Appeal can be
Limited in Arbitration ........................................................................145

STATE JUDICIAL DECISIONS
Texas Court Finds That a Dispute Cannot be Sent to Mediation
When Valid Arbitration Agreement Exists......................................147
Ohio Court Rules That a Widow Need Not Arbitrate
Wrongful Death Claim........................................................................147
Pennsylvania State Supreme Court Invalidates Mandatory
Arbitration of Uninsured and Underinsured
Motorist Disputes................................................................................148

NATIONAL ARBITRATION FORUM (NAF) CASE SUMMARIES......148

COMMENT
Workplace Conflict: Orienting Law Firms Towards
Understanding and Resolution
by Wm. Bartlett Gabler........................................................................156

BIBLIOGRAPHIC RESOURCES
Recent Publications on Arbitration and ADR
by Gail A. Partin..................................................................................162

CALENDAR..........................................................................................165

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