"100+ Cases Resolved in N.Y. Settlement Week" Alternatives To the High Cost of Litigation October, 1990 V.8 N.10 p. 157 New York State held a week in which courts were closed and cases were redirected to mediation. The program resulted in settlements in almost one-third of the cases. MED: RELATED PROCESSES-GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ SUBJ MATTER: GENERAL/ COURT REFORM/ JUDICIAL PARTICIPATION/ RELATION TO ONGOING LITIGATION

"100+ Million Saved By SJT" Alternatives to the High Cost of Litigation May, 1990 V.8 N.5 p. 73 A two day summary jury trial resulted in a settlement of an antitrust suit that had cost the parties $60 million and nine years of work before the trial began. NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ SUBJ MATTER: ANTITRUST/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: AUTHORITY/ JUDICIAL PARTICIPATION


"A Kinder, Gentler Jurisprudence or the Fee Also Rises" Advocate (Idaho) March, 1990 V.33 N.4 pp. 5(2) A satirical look at the alternative dispute resolution process. SUBJ MATTER: PUBLIC POLICY/ 3RD PARTY: VOLUNTEER OF LAY PERSONS/ FAIRNESS/ FISS

"A Novel Twist For Ombuds" Alternatives to the High Cost of Litigation July, 1990 V.8 N.7 p. 105 This article discusses the advent of the "outside-ombuds" and relates the experience of an "outside-ombuds" in resolving a defense contracting dispute. MED: RELATED PROCESSES-GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T CONTRACTS

(N.Y. Ct. App. 7/10/90) holds that the Amex Constitution allows a customer the right to elect to arbitrate a dispute before the American Arbitration Association even when the broker-customer arbitration clause explicitly provides resolution only by NYSE, Amex, or NASD. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: STATUTORY OR RULES

"ABA and NAAG Now Studying, Promoting ADR Use Among States' Attorneys General" Alternatives to the High Cost of Litigation February, 1990 V.8 N.2 p. 23 This article discusses the efforts of the ABA to promote the use of ADR techniques among states' attorneys general. This effort is the result of a survey that found AG offices very interested in ADR. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: FARM/ SUBJ MATTER: GENERAL

"ACAS Calls for Greater Employee Involvement" (Advisory, Conciliation and Arbitration Service) (Great Britain) IRS Employment Trends May 22, 1990 V.4 N.64 pp. 3(2) This article summarizes the Advisory Conciliation and Arbitration's Annual Report which takes a broad look at trends of the 1980's, focusing on industrial relations in 1989. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ POWER IMBALANCE

"ACUS Advocates Broad U.S. Use of Ombuds By Agencies With Significant Public Dealings" Alternatives to the High Cost of Litigation November, 1990 V.8 N.11 pp. 171(3) This article evaluates the recommendation of the Administrative Conference of the United States for the use of ombuds in settling disputes with private citizens; the recommendation outlines the necessary factors for an effective ombudsmen. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ 3RD PARTY: CONFLICT OF INTEREST/ 3RD PARTY: LIABILITY & IMMUNITY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ CONFIDENTIALITY/ OMBUDSPERSON

"ADR Database" Alternatives to the High Cost of Litigation June, 1990 V.8 N.6 p. 96 The National Center for State Courts compiled a database on ADR programs operated by state courts across the country.
The database reveals that most states have ADR programs and use of the programs is being extended to non-traditional areas such as tort actions and contract disputes. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: OTHER TORTS

"ADR for Manufacturer - Dealer and Franchise Disputes" Alternatives to the High Cost of Litigation November, 1990 V.8 N.11 pp. 177(10) This committee report examines the nature of the disputes arising between dealers and franchises and discusses the suitability of various ADR methods in resolving them. NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

"ADR Franchise" Alternatives to the High Cost of Litigation October, 1990 V.8 N.10 p. 159 This article describes the substantial growth of United States Arbitration and Mediation, an alternative dispute resolution service company that now has thirty-five franchises. MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-GENERAL/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: INT'L

"ADR Success: The Farm Crisis" Alternatives to the High Cost of Litigation December, 1990 V.8 N.12 p. 197 This article explains the success that mediation has had in the numerous farmer-loan disputes which plague state and federal governments. It shows that ADR does work, and should be applied to other financial concerns. MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ INST NATURE: GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: FARM/ ECONOMIC ADVANTAGES OF ADR

"Agency May Close Grievance Hearings" News Media & The Law March 22, 1990 - Spring V.14 N.2 pp. 28-29 The Montana Supreme Court has ruled that grievance hearings concerning public officials may be closed as provided for in the Montana open meetings law if the need for privacy outweighs merits of disclosure. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: ENVIRONMENT/ AGREEMENT ON PROCEDURE

"Agreements to Arbitrate Claims Under the Age Discrimination in Employment Act" Harvard Law Review December, 1990 V.104
N.2 pp. 568-587 Though both employers and employees would benefit from arbitrating claims under the Age Discrimination in Employment Act, it must be recognized that employees face disadvantages. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ARB: DRAFTING ARB AGREEMENT/SUBJ MATTER: COMMERCIAL/SUBJ MATTER: CIVIL RIGHTS/SUBJ MATTER: LABOR-GENERAL/SUBJ MATTER: LABOR-DISCRIMINATION/SENIOR CITIZENS AS PARTIES


"AMEX Arbitration Provision Requires Proceedings in NYC, Second Circuit Rules" Tax Management Financial Planning Journal September 18, 1990 V.6 N.19 pp. 400(2) The American Stock Exchange (AMEX) constitutional provision giving customers the right to arbitrate disputes with member firms before the American Arbitration Association was found by the district court in New York to plainly mean that the dispute be arbitrated in New York; only a separate agreement between customer and broker may supersede the "AMEX Window." ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ORGANIZATION POLICIES AND RULES

"Arbitration and Judicial Review" Scots Law Times March 30, 1990 N.13 pp. 113(4) This article discusses various dicta from the Court of Sessions concerning the review of arbitral decisions and argues that there is no reason, either in the prior case law or the language of Rule of Court 260B, to exclude such decisions from judicial review. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ JUDICIAL PARTICIPATION


"Arbitrators Not Required to Give Reasons for Decision" Tax Management Financial Planning Journal June 26, 1990 V.6 N.13 pp. 275(1) The Fifth Circuit held that the American Arbitration Association’s Securities Arbitration Rule 42 does not require arbitrators to give an explanation for their decisions, for to do so would undermine arbitration’s purpose of providing a quick, effective, informal means of dispute resolution. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- APPELLATE
"Australian DR Group Grows" Alternatives to the High Cost of Litigation July, 1990 V.8 N.7 p. 106 The article highlights alternative dispute resolution activities in Australia in general, and the four-year old Australian Commercial Disputes Centre (ACDC) in particular. Several ACDC cases are summarized, and ACDC ADR education and training methods are examined. MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: INT’L/ COMPARISONS: CROSS-CULTURAL/ DISPUTE PREVENTION

"Banking: An Alternative Proves a Smart Way to Do Business" (ADR: A Special Report) (California Law Business) The Los Angeles Daily Journal July 9, 1990 V.103 N.136 p. S11 Although the banking industry originally turned to arbitration to resolve disputes relating to the lender liability crisis of the 1980's, the industry now recognizes arbitration as an excellent method of resolving many types of disputes due to its speed, privacy and expertise. ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: COMMERCIAL/ ECONOMIC ADVANTAGES OF ADR/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

"BBB Council Plans an Expanded ADR Effort" Alternatives to the High Cost of Litigation August, 1990 V.8 N.8 p. 123 This article notes the increasing alternative dispute resolution services being offered by the Better Business Bureau in order to help settle business-consumer disputes, including a mediation and arbitration discussion of services, high success rates, and strengths of the network. MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: CONSUMER/ SELECTION OF APPROPRIATE PROCESS

"Brokerage Did Not Waive Its Right To Arbitration" Tax Management Financial Planning Journal October 16, 1990 V.6 N.21 pp. 432(2) This article reports the outcome of a case from the Northern District of Alabama in which the court found no evidence of "stonewalling" by the defendant against plaintiff’s request for arbitration, and consequently held that the defendant had not waived its right to arbitrate before the New York Stock Exchange. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING
AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: SECURITIES

"Brookings Study Backs ADR; Calls For Court Experiments" Alternatives to the High Cost of Litigation January, 1990 V.8 N.1 p. 1 The report contains a detailed description of the findings of the Task Force on Civil Justice Reform and includes the Brookings report's strong recommendations that courts require parties to assess suitability and desirability of ADR procedures. INST NATURE: JUSTICE SYSTEM-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: MANDATE TO USE/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION/ MED: PRETRIAL CONF

"Calif. Court Grants Immunity to ADR Neutrals" Alternatives to the High Cost of Litigation September, 1990 V.8 N.9 p. 139 A California appeals court extended quasi-judicial immunity to mediators, conciliators, and other third party neutrals who conducted alternative dispute hearings, despite the fact that the neutral was selected and compensated by the parties and not supervised by the court in any way. SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: PUBLIC POLICY/ 3RD PARTY: LIABILITY & IMMUNITY

"Conciliation Perspectives: Alternate Dispute Resolution Program Directors Reveal Diverse Opportunities for Attorney Involvement" Quarterly (Christian Legal Society) June 22, 1990 - Summer V.11 N.2 pp. 9-11 Six attorneys describe diocese reconciliation ministry opportunities in law practice, ethnic neighborhoods, the church, public service, the judicial system, and international relations. MED: ENCOURAGING COMM AND NEG/ MED: COUNSELING/ MED: PSYCH FACTORS/ MED: REP OF A CLIENT DURING PROCESS/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: RELIGIOUS ORGANIZATIONS

"Court Blocks Florida Law Requiring Non-Industry Arbitration Forum Choice" Tax Management Financial Planning Journal November 13, 1990 V.6 N.23 pp. 481(1) The District Court placed temporary restraining order on implementation of Florida law that requires securities forms to provide customers the option of having any dispute heard before the American Arbitration Association or any other industry forum. ARB: SELECTION OF ARBITRATOR/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: STATUTORY OR RULES

"Court Enforces Arbitration Agreement's Exclusion of Federal Securities Claims" Tax Management Financial Planning Journal September 18, 1990 V.6 N.19 pp. 400(1) This article summarizes the district court's holding in Kelly v. Airbinder & Co., in which the court refused to alter the plain meaning of an arbitration clause solely because there was no longer a rule barring predispute arbitration provisions for federal securities claims. The court also refused to find that a broker, not a party to the original arbitration provision, may not enforce arbitration provision on third-party beneficiary principles. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES

"Creating Alternatives for Asbestos Claims" (interview) Arbitration Journal March, 1990 V.45 N.2 pp. 3-8 An interview of Kenneth R. Feinberg who, as special master of asbestos litigation for two separate courts, is responsible for developing a process to resolve the many thousand asbestos claims filed in each court. INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- SPECIAL MASTERS/ SUBJ MATTER: TOXIC TORTS/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: MANDATE TO USE/ COURT REFORM/ JUDICIAL PARTICIPATION/ RELATION TO ONGOING LITIGATION

"Customer's Fraud Claims Not Subject to Arbitration Contract" Tax Management Financial Planning Journal December 11, 1990 V.6 N.25 pp. 513(1) Storer v. Miller, 914 F.2d 215 (11th Cir. Fla. 1990) holds that an arbitration provision, which was agreed not to apply "under certain of the federal securities laws," ought to be read to deny defendant's motion to compel arbitration even though the clause was only giving notice to their existing Rule 15c2-Z of the Securities Exchange Act which has since been rescinded. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ

8
"DR Agreements Survive Bankruptcy: 3d Cir." Alternatives to the High Cost of Litigation March 1990 V.8 N.3 p. 41 The Third Circuit ruled in Hays & Co. v. Merrill Lynch, Pierce, Fenner & Smith Inc., 885 F.2d 1149 (3d Cir. 1989), that pre-bankruptcy mandatory arbitration clauses are enforceable, and that the trustee stands in the shoes of the debtor for the purpose of the arbitration clause and is bound to the same extent as the debtor. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB-GENERAL/ ARB: JUDICIAL REVIEW/ COMPLIANCE ISSUES

"Employment Termination Dispute Resolution Agreement and Procedure" Alternatives to the High Cost of Litigation December, 1990 V.8 N.12 p. 203 This article summarizes a recent development in the employment setting, namely arbitrating employee terminations. Utilizing a "Model Agreement" and "Model Procedure", the employer agrees to first turn to arbitration before pursuing termination matters in the courts. ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ AGREEMENT ON PROCEDURE


"Firm May Arbitrate Controversy Even Though Damages Not Sought"  
Tax Management Financial Planning Journal  July 24, 1990  V.6  N.15 pp. 319(2)  
McCowan v. Sears Roebuck & Co., No. 89-9089 (2d Cir. May 25, 1990), holds that a dispute between a customer and a brokerage firm is a "controversy" subject to arbitration even when damages are sought only against the brokerage firm's corporate parent. Thus, the brokerage firm's motion for stay of federal and state securities claims against it pending arbitration of state law claims is granted.  
SUBJ MATTER: CORPORATE/  SUBJ MATTER: PUBLIC POLICY/  SUBJ MATTER: SECURITIES/ ISSUE & CLAIM PRECLUSIVE EFFECTS

"FJC Studies Bankruptcy Appeals in 9th Cir."  
Alternatives to the High Cost of Litigation  February, 1990  V.8  N.2 p. 25  
This article is a summary of a Federal Judicial Center study suggesting the use of a specialized panel of bankruptcy judges to hear first level appeals rather than sending the case directly to the U.S. District Court. The study suggests that this will lower the costs of bankruptcy and help avoid delays.  
INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ COURT REFORM/ JUDICIAL PARTICIPATION

"Florida Sunshine Law, Mediation Law Collide: Can Government Agencies Mediate in Secret?"  
Alternatives to the High Cost of Litigation  October, 1990  V.8  N.10 p. 167  
This article discusses the conflict between Florida's sunshine laws, which require that certain meeting of governmental bodies be open to the public; and Florida's mediation law, which guarantees confidentiality to participating parties.  
MED: RELATED PROCESSES-GENERAL/  SUBJ MATTER: GOV'T/ CONFIDENTIALITY/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ JUDICIAL PARTICIPATION

Binding arbitration clauses in insurance and HMO contracts are now standard in the health care field, but courts continue to disapprove of their use by hospitals and doctors.  

"In Private and Public Fields, Ombuds Thrive"  
Alternatives to the High Cost of Litigation  June, 1990  V.8  N.6  p. 93  
This article foreshadows growth in the field of nonunion employee dispute resolution
and particularly the use of ombudsmen as a response to the need to retain and attract skilled employees.

"Investors Fail to Show Individual Waived Right to Arbitration, Court Rules" Tax Management Financial Planning Journal December 11, 1990 V.6 N.25 pp. 512(1) Britton v. Co-op Banking Group, No. 89-15143 (9th Cir. Oct. 11, 1990), holds that securities fraud by selling a fraudulent tax shelter does not necessarily waive the accused’s right to arbitration under an agreement to arbitrate. The Ninth Circuit remanded the cause and instructed that waiver is proper only when customers meet the "heavy burden" on discovering "whether the parties intended that a person in the (seller’s) position have the benefit of the arbitration provision." ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: CRIMINAL/ SUBJ MATTER: SECURITIES

"Investors: Choice of DR Forum" Alternatives to the High Cost of Litigation November, 1990 V.8 N.11 p. 170 This article notes a recent New York Court of Appeals decision finding that the standard arbitration language in many brokerage agreements in use today enables the investor to choose the forum for arbitration, rather than be limited to those administered by the NYSE, Amex or NASD. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES

"Judges’ Group, Congress Trade Court Bills; In Both, ADR to Help Cut Costs and Delay" Alternatives to the High Cost of Litigation July, 1990 V.8 N.7 p. 113 Federal judiciary policy makers have adopted a plan, the intent of which is to cut costs and delay. Although the plan is a reaction to a court reform bill that the policy makers disliked, it is important to note that both the plan and the bill feature a strong reliance on ADR.

"Labor Arbitration and the Law of Collective Bargaining Agreements" The Labor Lawyer June 22, 1990 - Summer V.6 N.3 pp. 805-838 The article discusses several factors that help employees obtain meaningful
redress of their employment disputes without the potential of costly and lengthy litigation. 


"Little Evidence of Companies Decentralizing Bargaining on Regional Basis." (Great Britain) IRS Employment Trends November 5, 1990 V.469 pp. 2(2) This is a summary of a report from the University of Cambridge finding that employers are moving organizations in the direction of decentralized multi-divisional structures, instead of regional factors, for the purpose of determining pay among the performance of specific business units. 


"Lower Court Properly Refused to Compel Arbitration of '34 Act Claims" Tax Management Financial Planning Journal November 13, 1990 V.6 N.23 pp. 481-482 Goldberg v. Bear, Stearns & Co., 912 F.2d 1918 (11th Cir. 1990), holds that a notice provision in an arbitration clause that can be attributed to then existing 15c2-2d of the Securities Exchange Act (which preserved the customer's right to pursue federal securities claims in Federal Court) is still enforceable, as the particular provision "unmistakably states that federal securities claims are not included within the scope of the (arbitration) agreement." 

ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: SECURITIES

"Mandatory Mediation and Summary Jury Trial: Guidelines for Ensuring Fair and Effective Processes" Harvard Law Review March, 1990 V.103 N.5 pp. 1086-1104 This article argues that Congress and State Legislatures should enact statutes enabling courts to mandate ADR more frequently in light of the judicial confusion and underuse of ADR. 


"Mass. Court Tries Conciliation" Alternatives to the High Cost of Litigation December, 1990 V.8 N.12 p. 194 This article describes a recent conciliation program launched by the Essex (Mass.) Superior
Court. Contracts, zoning, and other civil cases which have been on the
docket over 12 months are assigned to the program where local attorneys
volunteer to serve as conciliators and parties are ordered to attend.
MED: IND ATTY REVIEW/ NON-BINDING RECOMMENDATION
PROC- EARLY NEUTRAL EVAL/ SUBJ MATTER: GENERAL/ 3RD
PARTY: VOLUNTEER OF LAY PERSONS/ SETTLEMENT:
PRESSURES TO SETTLE/ REQUIREMENTS: STATUTORY OR
RULES/ COURT REFORM

"Mass. Plans to Institutionalize Mediation In Superfund Area" Alternatives
to the High Cost of Litigation May, 1990 V.8 N.5 p. 74 This
article summarizes the successful mediation program used in the Lowell,
Mass. waste site dispute which the state and Department of Environmental
Protection plan to implement in future disputes. MED: OPENING
AND SETTING GUIDELINES/ MED: RELATED
PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY
AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/
SUBJ MATTER: TOXIC TORTS/ CONFIDENTIALITY/ ECONOMIC
ADVANTAGES OF ADR

"Master In N.Y. Asbestos Cases" Alternatives to the High Costs of
Litigation April, 1990 V.8 N.4 p. 58 This article exposes the
reasoning of the federal and state judge who jointly appointed the special
settlement Master, including ripeness of cases, expertise of counsel, and
overload of dockets. SUBJ MATTER: TOXIC TORTS/ 3RD PARTY:
SELECTION/ SETTLEMENT: PRESSURES TO SETTLE/
REQUIREMENTS: MANDATE TO USE/ COURT REFORM

"Mediation and Criminal Justice." (book review) American Journal of
Criminal Law March 22, 1990 - Spring V.17 N.3 pp. 339(1) This
article is a book review of Mediation and Criminal Justice. The book
looks at the ethical and philosophical basis for mediation, practical realities
of mediation, and the desirable characteristics of existing mediation
models. MED: RELATED PROCESSES-GENERAL/ MED:
RELATED PURPOSES- THEORY AND STRATEGIES/ MED:
ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/
MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: CRIMINAL/
TYPE OF SOURCE: BOOK REVIEW

"Mediation of Civil Cases: Neither Panacea Nor Anathema" (A
Prescription for Changes in Procedural Rules) University of Detroit Law
Review June 22, 1990 - Summer V.67 N.4 pp. 531-580 An
analysis of alternative methods of dispute resolution aimed at facilitating
attorney negotiation in encouraging the prompt and fair resolution of cases. The author contends that expectations relating to the putative benefits of these programs have been inflated. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: NEGOTIATED RULE-MAKING/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ MED: PSYCH FACTORS/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: PRESSURES TO SETTLE/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS/ JUDICIAL PARTICIPATION

"Minitrial Resolves Major Federal Gas Case; Shows Valve of 'Private' Procedure in Court" Alternatives to the High Cost of Litigation May, 1990 V.8 N.5 p. 75 The use of cooperative discovery and an in-court non-binding minitrial help resolve a multimillion dollar contract dispute, reducing both the time and money spent reaching a resolution.

NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ INST NATURE: JUSTICE SYSTEM- GENERAL/ AGREEMENT ON PROCEDURE/ COURT REFORM

"NASD Arbitrators Tell Shearson to Pay Over $1 Million for Unauthorized Trading" Tax Management Financial Planning Journal April 3, 1990 V.6 N.7 pp. 141(2) This article discusses the National Association of Securities Dealers arbitration panel award in In Re the Arbitration Between Cox and Shearson Lehman Hutton. At over one million dollars, it is the third largest award granted by NASD.

ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: SECURITIES

"New Approach to Engineering and Construction Problems." (Australia) Law Institute Journal May, 1990 V.64 N.5 pp. 410-412 This article explains New South Wales' ADR system of handling technical engineering construction contract disputes, referral of the technical aspects to a referee, and referral to a court for resolution of the legal issues.

"Plaintiff Entitled to Court Decision on Validity of Its Arbitration Clause"
Tax Management Financial Planning Journal October 16, 1990 V.6 N.21 pp. 433(2) The Sixth Circuit ruled that a district court should first determine the validity of an arbitration clause where the plaintiff credit union has alleged that the contract and arbitration clause contained therein were fraudulently procured. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES

"Rules Changed to Make Written Findings Easier to Obtain in Larger Arbitrations" Tax Management Financial Planning Journal August 21, 1990 V.6 N.17 pp. 358-359 Representatives to the Securities Industry Conference on Arbitration have agreed to make it easier for parties to obtain written findings of fact and conclusions of law by modifying their uniform informational pamphlets that explain the procedures for arbitration proceedings. Since these will not be implemented as rule changes approval of the SEC will not be necessary. ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: SECURITIES/ AGREEMENT ON PROCEDURE

"SEC Okays NASD Proposal to Raise Fees to Discourage Arbitration Adjournments" Tax Management Financial Planning Journal July 24, 1990 V.6 N.15 pp. 320(2) The SEC's approval of NASD increase in fees for multiple adjournments of arbitration hearings is based on the NASD discovery that such adjournments are the single most significant cause of delays in arbitration resolution. Other members of SICA are expected to propose similar rules. ARB: SELECTION OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: SECURITIES

"SEC Staff Asks Markets to Mandate Use of Non-SRO Arbitration Forums" Tax Management Financial Planning Journal July 24, 1990 V.6 N.15 pp. 319(1) The SEC's urging of the security industry to mandate customers' rights to non-industry arbitration forums such as the American Arbitration Association is based on the problem of the NASD and NYSE shouldering an unfair portion of arbitration costs and expected benefits from increased competition between arbitration forums. ARB: SELECTION OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: SECURITIES
"Securities Dispute Returned to Arbitrators." (Pennsylvania) 
This article focuses on the decision of a 3rd circuit panel, which holds that a District Court overstepped its authority by reassigning a lawsuit scheduled for arbitration to its trial calendar without the presence of bad faith by one of the parties. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: CLIENT REP/ INST NATURE: GOV’T ENTITIES

"SIA Calls For Single Agency to Administer Arbitration System" Tax Management Financial Planning Journal February 6, 1990 V.6 N.3 pp. 83(1) This article discusses the Securities Industry Association’s push for continued improvement in its dispute resolution process. This push includes a single agency to administer its arbitration system and a larger, more knowledgeable pool of arbitrators. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: SECURITIES

"SIA Sues to Block Florida Law Requiring Non-Industry Arbitration Forum Choice" Tax Management Financial Planning Journal October 16, 1990 V.6 N.21 pp. 432(1) The article reports on the efforts of the Securities Industry Association (SIA) to challenge a Florida law which requires securities firms to offer customers the option of non-industry forums for arbitration of disputes. ARB: BINDING ARB- GENERAL/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ORGANIZATION POLICIES AND RULES

"Significant 1989 Court Decision" (Federal Securities Regulation) Business Lawyer May, 1990 V.45 N.3 pp. 1286 This article discusses a number of U.S. Supreme Court cases and their effects on arbitration, focusing on Rodriguez De Quijas v. Shearson/American Express, which provides that investors may be compelled to arbitrate claims under Sec. 12(2) of the Securities Act due to predispute arbitration agreements; and Gulfstream Aerospace Corp. v. Mayacamas Corp., which limited the appealability of arbitrated cases on equitable grounds. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW/ ARB: PRIVATE JUDGING/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ INST NATURE: GENERAL/ AGREEMENT ON PROCEDURE
"Soviets Push 'Multi-Step' ADR in Int'l Cases" Alternatives to the High Cost of Litigation January, 1990 V.8 N.1 p. 6 The report notes the Soviets recent call for multiple ADR steps to be implemented by the World Court in resolving international disputes between nations. ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ SUBJ MATTER: GOV'T


"State Court Rules on Mandatory Mediation" Alternatives to the High Cost of Litigation March, 1990 V.8 N.3 p. 43 The Iowa Supreme Court, in the case of Graham v. Henry, ruled that in the area of compulsory court ADR for farmer-creditor loan disputes the mere presence at the mediation was enough to satisfy requirements to obtain a mediation release. MED: RELATED PROCESSES-GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ JUDICIAL PARTICIPATION

"State Courts Scrutinize SJT in Cleveland, its Birthplace" Alternatives to the High Cost of Litigation August, 1990 V.8 N.8 p. 122 The Summary Jury Trial, recently used for the first time in a Cleveland state court, is receiving much acclaim for its many advantages: reducing costs and service time for jurors; potentially lowering insurance premiums; and when using two summary jury trial juries, increasing chances of settlements by providing two objective views to parties. NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ SETTLEMENT: PRESSURES TO SETTLE/ JUDICIAL PARTICIPATION

"Supreme Court Declines to Review Case on Lump-sum Arbitration Award" Tax Management Financial Planning Journal May 29, 1990 V.6 N.11 pp. 234(1) A summary of Sargent v. Paine-Webber Inc., which held that a lump sum arbitration award may not be remanded for an explanation absent facts indicating that the arbitrators acted in manifest disregard of the law. In addition, the article discusses the arguments on
the certiorari petition, and the fact that the Supreme Court refused to take the case. ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: SECURITIES/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COURT REFORM/ JUDICIAL PARTICIPATION

"Taking the Trauma Out of Custody Cases" McCall's April, 1990 V.117 p. 27 This brief article highlights The Justice Center in Atlanta as one of the most comprehensive conflict resolution centers in the nation. The center was established in 1979, offers free mediation to those who need it, settles more than 3,000 cases annually, and boasts a 70% success rate. MED: ENCOURAGING COMM AND NEG/ MED: COUNSELING/ MED: PSYCH FACTORS/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: FAMILY (DOMESTIC REL)

"The MAI Program" East Asian Executive Reports July 15, 1990 V.12 N.7 pp. 22(3) This article describes the implementation of the Multilateral Assistance Initiative in the Philippines, which was developed to create a more attractive environment for foreign investors. SUBJ MATTER: INT'L


"Unions and Pensions: Achievements of the 80s and Aims for the 90s." (Great Britain) IRS Employment Trends March 6, 1990 V.459 p. 8(4) This article is a review of key union policies and achievements, especially in the area of pensions. The review includes the findings of a survey of large labor unions regarding concerns and objectives for the future, such as the elimination of discrimination, stronger representation


Aarsvold, Patricia "L.A. Bar’s Programs Illustrate a Range of Options"
The Los Angeles Daily Journal July 9, 1990 V.103 N.136 p. 520
The article explains Dispute Resolution Services, Inc. (DSR), a service created by the L.A. County Bar Association that was designed to deal with a wide variety of areas using mediators in dispute resolution. MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS

Aarsvold, Patricia "Attorneys Ill-Informed on Arbitration Process"
(ADR: A Special Report) (California Law Business) The Los Angeles Daily Journal July 9, 1990 V.103 N.136 p. 59 Although arbitration has been noted for its potential ability to decrease the congestion of civil courts, many attorneys are uninformed about the advantages and procedures of the arbitration process. ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT’L/ CONFIDENTIALITY/ ECONOMIC ADVANTAGES OF ADR

Aarsvold, Patricia "Mediation is Extension of Negotiating Process"
(ADR: A Special Report) (California Law Business) The Los Angeles Daily Journal July 9, 1990 V.103 N.136 p. 516 The author contends that mediation is actually an extension of negotiation and discusses when parties will use it to settle a dispute. NEG: TACTICS,
STRATEGIES AND TECHNIQUES- GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED: CAUCISING


Abraham, Cecil "Malaysia." (Maritime Arbitration in the Asian Century) Tulane Maritime Law Journal March 22, 1990 - Spring V.14 N.2 pp. 297-306 An edited article from a symposium on the issue of maritime arbitration in the Pacific Rim Basin; this article provides a synopsis of maritime arbitration in Malaysia, and includes a brief discussion of the potential role Malaysia will play in future maritime arbitration disputes given the location there of the Regional Centre for Arbitration. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE


Adams Mastrofški, Jennifer "Mediation in Court - Based Systems: More Variations than Similarities" Negotiation Journal July, 1990 V.6 N.3 p. 257 Contrary to the theory that mediation in government is similar to private sector mediation and that the strategies are therefore closely related, the author notes that case studies in Pennsylvania indicate that not only does court-based mediation differ greatly from private sector mediation in terms of process, but also between courts themselves. Her study suggests that environmental differences such as policies and professional standards should shape the strategies to be used. MED:
1990 BIBLIOGRAPHY

RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ INST NATURE: JUSTICE SYSTEM- GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ JUDICIAL PARTICIPATION

Adler, Peter S. "Casting Sunshine on Negotiated Settlements" Negotiation Journal October, 1990 V.6 N.4 pp. 305-308 The author proposes that statutes or court rules requiring all civil settlements to be disclosed would provide guidance for other settlement negotiations and increase the efficiency of the courts as dispute resolution systems.


Allen, A. Dale, Jr. "What Constitutes Drug Possession: Arbitration Case Histories and Guidelines" Employee Relations Law Journal December 2, 1990 - Winter V.16 N.3 pp. 359-367 This article explores selected arbitration decisions in which the issue of what constitutes drug possession is determined through the eyes of labor arbitrators. The article sets up guidelines for employers to follow which are common threads running through those arbitration decisions.


Ancel, Bertrand "The 'Tronc Commun' Doctrine: Logics and Experience in International Arbitration" Journal of International Arbitration September, 1990 V.7 N.3 pp. 65-72 The author discusses the effect of the Tronc Commun Doctrine, essentially a conflict of laws resolution, on international arbitration. SUBJ MATTER: INT’L/ COMPARISONS: CROSS-CULTURAL/ AGREEMENT ON PROCEDURE/ SELECTION OF APPROPRIATE PROCESS

Anderson, Charles-Edward "The Gag is Removed; Clients May Disclose Grievances Filed Against Florida Lawyers" ABA Journal June, 1990 V.76 pp. 22(2) A discussion of the Florida Supreme Court’s recent abolishment of a rule which prohibited clients from disclosing the contents of grievances they had filed against Florida attorneys. SUBJ MATTER: OTHER PROF MALPRACTICE/ ETHICS: GENERAL

Anstead, Harry Lee "Mediation on Appeal; Early Results From the Fourth DCA's Experiment are Encouraging" Florida Bar Journal January, 1990 V.64 N.1 pp. 31-33 An evaluation of the 4th District Court of Appeal's program for mandatory settlement conferences as a prerequisite to civil appeals, including its effect upon the Florida dockets. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED:

Arkin, Harry. "New Opportunities for Arbitration in East/West Trade." The Transnational Lawyer September 22, 1990 - Fall V.3 N.2 pp. 495-520. The author analyzes the current state of international arbitration, including new concepts in East/West arbitration. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CONSUMER/ ECONOMIC ADVANTAGES OF ADR

Arul, C. "Singapore" (Maritime Arbitration in the Asian Century) Tulane Maritime Law Journal March 22, 1990 - Spring V.14 N.2 pp. 343-345. An edited article from a symposium on the issue of maritime arbitration in the Pacific Rim Basin, this article is a synopsis of maritime arbitration in Singapore, which compares Singapore and British laws, the enabling arbitration statutes, and procedures, awards and enforcement of arbitral judgments. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: MARITIME/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE

Asberry, Brian K. "When Your Law Firm Wants a Divorce: Mediating the Dissolution of Law Firms." Journal of Dispute Resolution 1990 V.1990 N.2 pp. 387-400. The author examines the use of ADR in law firm dissolutions and concludes that it is accomplishing its goals of providing a cost-effective, amenable dissolution and exposing attorneys to ADR in the hope that the attorneys will use ADR in other matters. SUBJ MATTER: CORPORATE/ TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT/ REQUIREMENTS: STATUTORY OR RULES/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ ROLE OF LAWYERS

Auerbach, Simon Legislating for Conflict This book examines the changes that occurred in industrial-conflict law in Great Britain during the 1980s, asserting that there was a great range and sophistication of influences that determined industrial-conflict law during the decade. MED: RELATED PROCESSES-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL/ LEGISLATION

Augustine, Patrick B. "Loan Documentation Clauses to Avoid Lender Liability" (Colorado) Colorado Lawyer November, 1990 V.19 N.11 pp. 2225(4) This article discusses provisions which lenders may include in agreements with borrowers that limit the risk of lender liability claims. These provisions include waiver of jury trial, arbitration clauses, limits on forum, and choice of law. ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: GENERAL/ SUBJ MATTER: CORPORATE/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ REQUIREMENTS: CONTRACTUAL CLAUSES

Avruch, Kevin; Black, Peter W. "Ideas of Human Nature in Contemporary Conflict Resolution Theory" Negotiation Journal July, 1990 V.6 N.3 pp. 221-228 The authors analyze two books dealing with the relationship between human nature and conflict resolution, and discuss the ultimate role of culture in ADR. SUBJ MATTER: COMMUNITY/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: PUBLIC POLICY/ COMPARISONS: CROSS-CULTURAL

Badami, Scott M. "Constitutionally Recognizing Court Mandated Arbitration: Paradise Found or Problems Abound?" Journal of Dispute
Resolution January, 1990 V.1990 N.1 pp. 179-187 This note supports the Colorado Mandatory Arbitration Act, which was a pilot program providing for mandatory arbitration in civil matters where money damages of $50,000 or less are sought. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ REQUIREMENTS: MANDATE TO USE/ COURT REFORM


Bakaly, Charles G., Jr. "Alternative Dispute Resolution of Employer-Employee Disputes in a Non-union Setting" Arbitration Journal September, 1990 V.45 N.3 pp. 47-49 This article discusses the employer benefits that can result from the use of ADR in employment disputes in a non-union organization. The author suggests that the use of ADR will help reduce costs and/or allow the employer to become better informed regarding decisions to litigate. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ NEG: PSYCH CONSIDERATIONS/ ARB: PRIVATE JUDGING/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ECONOMIC ADVANTAGES OF ADR/ ORGANIZATION POLICIES AND RULES/ PROVISIONAL REMEDIES

Barken, Marlene E. "Integrating Contract and Property Fundamentals with Negotiation Skills: A Teaching Methodology" The Journal of Legal Studies Education September 22, 1990 - Fall V.9 N.1 pp. 73-84

The author describes a project she developed whereby business law students actually negotiate a purchase agreement for residential real estate, thereby facilitating their understanding of how contract and property concepts relate and sharpening their negotiation skills. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: EDUCATION/ TEACHING


This article criticizes the Supreme Court's opinion in General Motors v. Abrams, which held that a Federal Trade Commission consent order overruled the New York state "Lemon Law", and predicts continued erosion of the independence of federal regulatory agencies as related to the industries they regulate. INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: REGULATORY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT


BARGAINING TEAMS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Baskin, Deborah R.; Sommers, Ira "Ideology and Discourse: Some Differences Between State-Planned and Community-Based Justice" Law and Human Behavior June, 1990 V.14 N.3 pp. 249-268 The author compares state-planned models of mediation with community based methods of mediation and concludes that these models and methods are often not seen as distinct entities but rather as on a continuum with formal judicial resolution. MED: PUBLIC POLICY DIALOGUE/ MED: OBTAINING AGREEMENT TO USE/ MED: ENCOURAGING COMM AND NEG/ MED: COUNSELING/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SETTLEMENT: PRESSURES TO SETTLE

Baxter, Ian F. G. "International Business Disputes" (Part 3) International and Comparative Law Quarterly April, 1990 V.39 N.2 pp. 288-299 The author asserts that the two "streams" of process for resolution of international business disputes - litigation and arbitration - need to be brought closer together. Since choices between the two usually are agreed to before the dispute arises, those involved may subsequently find the other process more suitable. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ SELECTION OF APPROPRIATE PROCESS


Becker, Joseph D. "Choice of Law and The Federal Arbitration Act: The Shock of Volt" Arbitration Journal June, 1990 V.45 N.2 pp. 32-37 A discussion of the U.S. Supreme Court's affirrnance of a California court's decision in Volt Information Sciences, Inc. v. Board of Trustees of Leland Stanford University, that a choice-of-law clause in a contract precluded the application of the FAA in favor of state law. The author argues the decision does not significantly threaten the efficacy of the FAA. NON-BINDING RECOMMENDATION PROC-
Bedell, Stephen P.; Bosch, Brian A. "The Rodriguez Decision: A New Tradition in the Arbitration of Securities Disputes" Securities Regulation Law Journal March 22, 1990 - Spring V.18 N.1 pp. 53-87 This article explains the history behind the courts' refusal to enforce arbitration clauses in securities disputes, and how the U.S. Supreme Court's decision in Rodriguez changed that. 


Bello, Judith H.; Holmer, Alan F. "Settling Disputes in the GATT: The Past, Present, and Future" (U.S. Trade Law and Policy Series No. 16) International Lawyer June 22, 1990 - Summer V.24 N.2 pp. 519-533 The article discusses and outlines the General Agreement on Tariffs and Trade (GATT) dispute settlement process which indicates a current trend towards enforcement of existing rules and continuing negotiations toward the improvement of dispute settlement procedures.

Bemmels, Brian "Gender Effects in Grievance Arbitration" Industrial Relations November 16, 1990 - Fall V.29 N.3 pp. 513-525 This study shows that while male arbitrators were much more likely to sustain the grievances of a female than a male, there is no evidence that female arbitrators treat grievants of different sexes differently. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ SUBJ MATTER: LABOR-DISCRIMINATION/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ FAIRNESS


Bentil, J. Kodwo "Non-Domestic Commercial Arbitration and Security for Costs" (Great Britain) Solicitors Journal February 2, 1990
This article analyzes the effectiveness of England’s Arbitration Act of 1979 and concludes that it lessens the superior court’s interference in the arbitration process.


Berkeley, Arthur Eliot  "The Medicant Neutral: Getting Paid After the Award"  Arbitration Journal  June, 1990  V.45  N.2  pp. 52-58  This article is a hypothetical letter from an arbitrator describing the problem arbitrators face when they are forced to collect their compensation. The author requests that advocates uphold their professional duty to pay the arbitrator in a timely fashion.

Bernstein, Aaron  "The Baseball Owners Get Beaned"  Business Week  October 15, 1990  V.3182  p. 122  Discussion of baseball club owners being hit with fines in an arbitration decision for collusion and violation of labor contracts of players in an attempt to control player salaries.

Billings, Anne E.  "The Public’s Need to Know vs. Effective Settlement Techniques: The First Amendment Confronts the Summary Jury Trial"  Journal of Dispute Resolution  January, 1990  V.1990  N.1  pp. 149-162  This note explains that the press does not have a First Amendment right to cover summary jury trials, and that such coverage would frustrate the goals of alternative dispute resolutions.

NON-BINDING RECOMMENDATION PROC- SUMMARY JURY
TRIAL/ INST NATURE: GENERAL/ INST NATURE: JUSTICE
SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ CONFIDENTIALITY


Bohlander, George W.; Behringer, Ken "Public Sector Nonunion Complaint Procedures: Current Research" Labor Law Journal August, 1990 V.41 N.8 pp. 563-568 This is a study of public sector
nonunion complaint procedures conducted in the southwest. It concludes that their success rests upon the frequency of use by agency employees.


Bowers, John W. "Management Decision Making and the Waiver of Statutory Bargaining Obligations: An Employer Perspective" The University of Toledo Law Review June 22, 1990 - Summer V.21 N.4 pp. 861-923 In this article the author analyzes company management "reserved" power to take unilateral action where no written restriction appears in the applicable collective bargaining agreement and urges the National Labor Relations Board to frequently waive this decision-making right in order to foster more equitable dispute resolution under the National Labor Relations Act. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: LABOR-GENERAL/ COURT REFORM

Bowman, Steven C. "Idaho’s Decision on Divorce Mediation" Idaho Law Review June 22, 1990 - Summer V.26 N.3 pp. 547-573 The author discusses the advantages and disadvantages of divorce mediation and concludes by stating that since mediation has many benefits over adjudication, Idaho should adopt legislation facilitating the use of mediation by making clear and comprehensive standards. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ MED: OBTAINING AGREEMENT TO USE/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ INST NATURE: GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION/ PROVISIONAL REMEDIES/ SELECTION OF APPROPRIATE PROCESS


Brazil, Wayne D.  "Effective Lawyering in Judicially Hosted Settlement Conferences"  Journal of Dispute Resolution  July, 1990 - Annual 1988  pp. 1-54  This article discusses effective approaches and techniques used by lawyers in settlement conferences, focusing on the pros and cons of different approaches to settlement conferences and emphasizing that the way counsel behaves during the settlement conference can affect the role
the judge will play. MED: RELATED PROCESSES-GENERAL/ MED: PRETRIAL CONF/ MED: REP OF A CLIENT DURING PROCESS/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ RELATION TO ONGOING LITIGATION/ ROLE OF LAWYERS

Brickman, Lester "Attorney-Client Fee Arbitration: A Dissenting View" Utah Law Review September 22, 1990 - Spring 1990 V.2 pp. 277-307 The author calls in to question the general acceptance of settling attorney-client fee disputes through arbitration and argues instead that the arbitration process and consequent judicial review need revision to allow the client to assert his/her fiduciary rights. ARB: JUDICIAL REVIEW/ COURT REFORM/ ETHICS: GENERAL/ ROLE OF LAWYERS


Briggs, Steven "Arbitral Life Cycles and Acceptability to the Parties" Journal of Collective Negotiations in the Public Sector June 22, 1990 - Summer V.19 N.3 pp. 189-195 The article proposes that acceptability as an arbitrator is not based on luck and that arbitrators should adjust their acceptability strategies based upon their presence in one of the following three "life-cycles": a) early stages of the arbitrator's career in which the arbitrator is building caseload, b) the middle stage, in which the arbitrator has a modest caseload and, c) the advanced stage, in which the arbitrator has a heavy caseload and may even remove his or her name from some consideration lists. NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: PREPARATION/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)


Brown, Laura F. Grievance Mediation: A Bibliography This pamphlet is a forty-four source bibliography with a brief introduction to grievance mediation. MED: RELATED PROCESSES-GENERAL/ TYPE OF SOURCE: BIBLIOGRAPHY


Brutschke, Steve "Mediation: Cross-Examined" Texas Bar Journal June, 1990 V.53 N.6 pp. 580(5) This article offers an overview of the mediation process, including its cost, risks, rules and a common mediation order. MED: RELATED PROCESSES-GENERAL/ MED: OBTAINING AGREEMENT TO USE/ 3RD PARTY: SELECTION/ REQUIREMENTS: MANDATE TO USE/ CONFIDENTIALITY

Bryce, Martin C., Jr. "Rizzo v. Haines: An Attorney's Duty to Exercise Ordinary Skill and Knowledge in the Conduct of Settlement Negotiations" Villanova Law Review April, 1990 V.35 N.2 pp. 435-456 This article presents an analysis of the Pennsylvania Supreme Court's holding in Rizzo v. Haines that an attorney's failure to investigate or communicate a settlement offer subjects him to legal malpractice. The author suggests that such liability should also exist for unreasonably increasing a settlement demand. NEG: EVAL OF OPTIONS AND OFFERS/ INST NATURE: GENERAL/ SUBJ MATTER: OTHER PROF MALPRACTICE/ 3RD PARTY: LIABILITY & IMMUNITY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: PRESSURES TO SETTLE/ ROLE OF LAWYERS

Buckner, E.L. "Out-Of-Court Adjustments - An Alternative to Bankruptcy" Colorado Lawyer May, 1990 V.19 N.5 pp. 839(3) This article describes and discusses the advantages and disadvantages of the adjustment process for avoiding bankruptcy whereby the National Association of Credit Management works with creditors and debtors to reach voluntary reorganization or liquidation which may become legally binding on the parties involved. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ INST NATURE: JUSTICE SYSTEM-OTHER/ SETTLEMENT: ENFORCEMENT OF
Burkhardt, Donald A.; Conover, Frederic K., II "The Ethical Duty to Consider Alternatives to Litigation" Colorado Lawyer February, 1990 V.19 N.2 pp. 249(4) The reluctance of lawyers to consider alternatives to litigation has contributed to the limited use of ADR methods. As set forth by the Colorado Code of Professional Responsibility, this reluctance is a violation of the attorneys' duties to represent their clients zealously and for their best interests. SUBJ MATTER: GENERAL/ ECONOMIC ADVANTAGES OF ADR/ ETHICS: GENERAL


Burns, Robert E. "The Evolving Role of Dispute Resolution in Administrative Procedures" (Administrative Law and Practice) Natural Resources & Environment September 22, 1990 Fall V.5 N.2 pp. 26(5) This article explores and details the increasing use of ADR in the administrative agency context, particularly with respect to state public utilities commissions. NON-BINDING RECOMMENDATION PROC-GENERAL/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL/ SUBJ MATTER: PUBLIC UTILITIES

Burstein, James A.; Mapes-Riordan, Lynne D. "The Arbitrability of Age Discrimination Claims: A Split in the Circuits" Employee Relations Law Journal September 22, 1990 - Autumn V.16 N.2 pp. 139-156 This article examines two contrary lines of cases on the issue of whether a private agreement between an employer and an individual employee compelling arbitration of all claims arising out of employment can displace the right to a judicial forum under the Age Discrimination in Employment Act of 1967. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)


Canal-Forgues, Eric; Ostrihansky, Rudolf "New Developments in the GATT Dispute Settlement Procedures" Journal of World Trade April, 1990 V.24 N.2 pp. 67-89 The article comments on improved GATT dispute settlement techniques developed in the Uruguay Round of trade negotiations, and examines the progressive effects of jurisprudential thinking on world trade law. NEG: W/ OR W/O ASSIST OF 3D

Cappelli, Peter; Mitchell, Daniel J.B.; Ready, Kathryn J. "Is Pattern Bargaining Dead? A Discussion" Industrial and Labor Relations Review October, 1990 V.44 N.1 pp. 152-165 Cappelli and Mitchell criticize Kathryn Ready's study which concludes that pattern bargaining was strengthened from 1977-83 and serves as a fundamental feature of contemporary collective bargaining; Ready's reply reaffirms her study's results.


Carbonneau, Thomas E. "Arbitration and the U.S. Supreme Court: A Plea for Statutory Reform" Ohio State Journal on Dispute Resolution March 22, 1990 - Spring V.5 N.2 pp. 231-275 The author argues for preservation of arbitration as an aspect of dispute resolution, attributing significance to legislative and common law developments which rehabilitated arbitration in American law, but cautions that judicial liberality in the utilization of arbitration threatens to restrict the basic rights of litigants and that such liberality should be legislatively corrected or arbitration's usefulness will be diminished. ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ COMPARISONS: HISTORICAL/ REQUIREMENTS: MANDATE TO USE/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM/ LEGISLATION

Carey, Jana Howard "Checklist for Counseling the Corporate Defendant in an Employment Lawsuit" The Labor Lawyer January, 1990 - Winter V.6 N.1 pp. 73-85 The author gives questions to ask a new client in their first meeting that may prevent future problems. NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ROLE OF LAWYERS

Caron, David D. "The Nature of the Iran-United States Claims Tribunal and the Evolving Structure of International Dispute Resolution" American Journal of International Law January, 1990 V.84 N.1 pp. 104-156 This article looks at the Iran-United States Claims Tribunal as a
possible model arbitral body in terms of the precedential value of such tribunals' decisions in the area of international law and dispute resolution. The article specifically discusses interstate and international commercial arbitration.

Caron, Martha Louise  "Arbitration of Real Estate Disputes"  Los Angeles Lawyer  January, 1990  V.12  N.10 pp. 33-36  While the author holds that arbitration can be an effective alternative for real estate disputes; she argues that problems persist in the areas of the standard CAR clause, third party participation and enforceability.

Carper, Donald L., Buntz, C. Gregory  "Alternative Dispute Resolution and the Business Laws/Legal Environment Curriculum"  Journal of Legal Studies Education  V.9  In this article, the authors call for the inclusion of ADR and conflict management in the business law/legal environment course and assert that this inclusion could produce more sophisticated businesspersons and citizens who rely less on litigation as the sole method of problem solving.

Carrizosa, Philip  "Panel Urges Controls on Private Judges; Committee Rejects Call to Eliminate Growing System; Report Called 'Whitewash'"  The Los Angeles Daily Journal  August 27, 1990  V.103  N.170 pp. 1(6)  An Advisory Committee to the Judicial Council refused to call for an end to the private judge system, despite complaints that a two-tiered justice system was developing in California. The panel did urge the legislation to clarify the rules and procedures for private judging.


Cataland, Louis S. "Binding Arbitration and the Nondelegation Doctrine: Does Ohio's Collective Bargaining Act Unconstitutionally Delegate Legislative Authority to Administratively Appointed Arbitrators?" Ohio State Journal on Dispute Resolution September 22, 1990 - Fall V.6 N.1 pp. 83-104 In this comment, the author develops the delegation question raised by Ohio's Public Employees' Collective Bargaining Act, and after applying various constitutional determinants, concludes that the binding arbitration arrangement in the Ohio statute is a reasonable attempt to resolve bargaining impasses involving safety forces. ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: REGULATORY/ LEGISLATION


Cohen, Isaac  "Political Climate and Two Airline Strikes: Century Air in 1932 and Continental Airlines in 1983-85"  Industrial and Labor Relations Review  January, 1990  V.43  N.2  pp. 308-323  The author compares two airline strikes, the major aspects of which were identical but whose outcomes were different; the conclusion is that the difference was in the political climate of the time.  SUBJ MATTER: CORPORATE/ SUBJ MATTER: PUBLIC POLICY/ SUBJ MATTER: REGULATORY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL


Colon, Robert J.  "Job Security Issues in Grievance Arbitration - What Do They Tell Us?"  Journal of Collective Negotiations in the Public
This article analyzes the results of a study on grievance arbitration in Iowa public schools. The author discusses the consequences of utilizing particular language in a contract and how to avoid such pitfalls. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ARB: BINDING ARB-GENERAL/ARB: PREPARATION/ARB: DRAFTING ARB AGREEMENT/SUBJ MATTER: EDUCATION/SELECTION OF APPROPRIATE PROCESS

Coombe, George W., Jr. "Dispute Resolution and the Corporate Law Firm: Toward a Full-Service Legal Practice" Arbitration Journal March, 1990 V.45 N.1 pp. 29-34 This article dispels some myths about ADR that cause resistance and stresses the importance of combining ADR processes with traditional legal services. SUBJ MATTER: GENERAL/ROLE OF LAWYERS


Cotta, James M. "Joint Conciliation Conferences: Trail-Blazing the Pathway to ADR in the Family Court" (Australia) Law Institute Journal April, 1990 V.64 N.4 pp. 235-237 This article describes Australia’s use of joint conciliation conferences, attended by the disputing parents and their respective legal representation which attempts to provide a cooperative forum in the family court. INST NATURE: JUSTICE SYSTEM-FAMILY COURTS/SUBJ MATTER: FAMILY (DOMESTIC REL)/CONFIDENTIALITY/COURT REFORM/ORGANIZATION POLICIES AND RULES

Coulson, Robert "The Decisionmaking Process in Arbitration" Arbitration Journal September, 1990 V.45 N.3 pp. 37-41 The author discusses recent developments in psychological research on decisionmaking and concludes that advocates should study these findings
that reveal that decisionmaking is influenced by rules that govern how people learn, discover, and remember.

**Crain, Marion** "Building Solidarity Through Expansion of NLRA Coverage: A Blueprint for Worker Empowerment" *Minnesota Law Review* October 29, 1990 V.74 N.5 pp. 953-1021 The author proposes that collective organization and collective bargaining are the best methods of empowering all workers, including middle management, and that statutory protection schemes and wrongful discharge doctrines are inferior alternatives.

**Craver, Charles B.** "The Impact of Gender on Clinical Negotiating Achievement" *Ohio State Journal on Dispute Resolution* December 22, 1990 - Fall V.6 N.1 pp. 1-18 The author refutes the belief that female negotiators are less successful than their male counterparts, using data gathered from fifteen years of teaching legal negotiations. The data shows the absence of any statistically significant difference between results reached by female and male law students.


1990 BIBLIOGRAPHY

1988 - Summer V.33 pp. 3-71 This article examines the negotiating position of federal agencies in their confrontations with local governments over the use of federal property. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMUNITY/ COMPARISONS: HISTORICAL/ REQUIREMENTS: STATUTORY OR RULES/ FISS

Crisci, Pat E.; Wilmoth-Bennett, Lois; Dinero, Thomas E.; Brewer, Amanda M. "Stress and Anxiety of Administrators as Related to Collective Bargaining and Participative Management" Government Union Review January, 1990 - Winter V.11 N.1 pp. 24-45 A comparison of stress and anxiety levels of Ohio public school administrators as related to collective bargaining and participative management. Although no statistically significant stress differences were found between principals and superintendents, the study concluded principals were more accepting of teacher input. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: PSYCH CONSIDERATIONS/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: STATUTORY OR RULES

Crisci, Pat E.; Fisher, Mary L.; Blixt, Sonya L.; Brewer, Amanda M. "Nursing Faculty Attitudes Toward Collective Bargaining For Nursing Faculty and For Nurses in the Service Setting" Journal of Collective Negotiations in the Public Sector January, 1990 - Winter V.19 N.1 pp. 29-48 This article relates the findings of a study concerning the attitudes of nursing faculty toward the use of collective bargaining. In general, the study shows that collective bargaining increases salaries, safeguards faculty rights, increases the voice of faculty, and results in a more equitable tenure and promotion process. SUBJ MATTER: EDUCATION/ SUBJ MATTER: HOSPITALS/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Crowell, Eldon M.; Pou, Charles, Jr. "Appealing Government Contract Decisions: Reducing the Cost and Delay of Procurement Litigation With Alternative Dispute Resolution Techniques" Maryland Law Review 1990 V.49 N.1 pp. 183-254 This study concerning the growth of government contract appeals finds that agencies should adopt policies promoting and encouraging ADR techniques, particularly mini-trials, on a voluntary basis. NEG: W/ OR W/O ASSIST OF 3D-PARTY
Crowley, Patrick "Alternative Dispute Resolution" Catholic Lawyer January, 1990 - Winter V.33 N.1 pp. 77-86 The author relates the success of the Seattle Archdiocese's use of alternative dispute resolution in the area of employment disputes. The remainder of the article entails comments from an assembled panel concerning alternative dispute resolution as employed in the Catholic Church.


Datz, Harold J. "Alternative Dispute Resolution - Interest Arbitration and the National Labor Relations Act" The Labor Lawyer January, 1990 - Winter V.6 N.1 pp. 127-132 This article explores interest arbitration, the process by which parties to a bargaining dispute agree that a neutral third party will resolve the dispute by imposing terms and conditions of employment; also examined is the principal that interest arbitration is not a mandatory subject of bargaining.
1990 BIBLIOGRAPHY

Dau-Schmidt, Kenneth G. "Union Security Agreements Under the National Labor Relations Act: The Statute, the Constitution, and the Court's opinion in Beck" Harvard Journal on Legislation January, 1990 V.27 N.1 pp. 51-141 A critique of the Supreme Court's decision in Communications Workers of America v. Beck; the author concludes that the Court's decision amounts to judicial legislation and argues if the Court had properly performed its traditional role if would have interpreted section 8(a)(3) of the NLRA to allow agency shop agreements. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES


Davis, Douglas R. "Overextension of Arbitral Authority: Punitive Damages and Issues of Arbitrability" Washington Law Review July, 1990 V.65 N.3 pp. 695-712 The author criticizes the Raytheon decision, which held that broad arbitration agreements authorize the award of exemplary damages and that Raytheon's constitutional right to a fair hearing was satisfied by the arbitrator not prohibiting the submission of evidence. The author suggests that courts should require arbitrators to define their scope of authority prior to substantive hearings, or require that an arbitrator's power to award punitive damages be explicitly provided in the agreement.

Davis, Susan C. "Upholding Compulsory Arbitration of ERISA Claims Properly Treats All Investors Equally" Minnesota Law Review October, 1990 V.75 N.1 pp. 123-156 This comment examines the second circuit's attempt to reconcile the policies underlying ERISA with the federal policy favoring enforcement of commercial arbitration agreements. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ARB: JUDICIAL REVIEW/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: LABOR-GENERAL


de Mesquita, Bruce Bueno "Multilateral Negotiations: A Spatial Analysis of the Arab-Israeli Dispute" International Organization June 22, 1990 - Summer V.44 N.3 pp. 317-340 The author evaluates possible applications of certain insights from social choice theory to problems in multilateral negotiations, then illustrates those applications


Dell'Omo, Gregory G.; Jones, James E., Jr. "Disparate Treatment in Labor Arbitration: An Empirical Analysis" Labor Law Journal. December, 1990. V.41 N.11 pp. 739-750 This is a study of how arbitrators have dealt with the concept of equal treatment as it relates to just cause determination in labor arbitration since the passage of the Civil Rights Act of 1964 and the ensuing increase in disparate treatment cases.

Deshpande, V.S.  "A Prognosis and Remedies."  (editorial)  Journal of International Arbitration  June 22, 1990  V.7  N.1  pp. 5-8  A critical analysis of choice of law provisions in international arbitration proceedings and the detrimental effect this "forum shopping" has on economically weaker parties.  ARB: BINDING ARB- GENERAL/  ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/  SUBJ MATTER: INT'L/  REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/  POWER IMBALANCE

Dilts, David A.; Karim, Ahmad; Rassuli, Ali  "Mediation in the Public Sector: Toward a Paradigm of Negotiations and Dispute Resolution"  Journal of Collective Negotiations in the Public Sector  January, 1990 - Winter  V.19  N.1  pp. 49-60  This article discusses the role of mediation as an adjunct to negotiation and suggests that the attitude of parties toward mediation is affected by the characteristics and strategy of the mediator.  NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/  MED: RELATED PROCESSES-GENERAL/  MED: ENCOURAGING COMM AND NEG/  MED: PSYCH FACTORS

Dilts, David A.; Haber, Lawrence J.; Elsea, Stanely W.  "Selection of Fact Finders in Iowa Public Sector Labor Disputes: Characteristics of Acceptable and Unacceptable Neutrals"  Journal of Collective Negotiations in the Public Sector  June 22, 1990 - Summer  V.19  N.3  pp. 207-216  A report of an empirical study which examined neutral fact-finders selected for and struck from panels in the Iowa Public Employment Relations Board case files. The study gives qualified support for the hypothesis that arbitrators are close substitutes for one another and that if an arbitrator's awards do not significantly deviate from the mean of all awards, that arbitrator will be acceptable.  NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/  NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/  NEG: USE OF AGENTS/  NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/  ARB: SELECTION OF ARBITRATOR/  ARB: SERVING AS ARBITRATOR/  SUBJ MATTER: EDUCATION/

Dresslar, Tom  "Family Court Mediators Seek Suite Immunity."  (California)  The Los Angeles Daily Journal  July 12, 1990  V.103  N.139  p. 1  Approval of Senate Bill 57 would grant virtually absolute immunity to family-law attorneys who serve as volunteer, court-appointed mediators. The article discusses the positions of the proponents and opponents of the bill.  MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ 3RD PARTY: LIABILITY & IMMUNITY/ 3RD PARTY: VOLUNTEER OF LAY PERSONS/ ROLE OF LAWYERS

Dreyer, Leo P.  "Arbitration Agreements After Volt and Browning-Ferris"  University of Kansas Law Review  March 22, 1990 - Spring  V.38  N.3  pp. 667-730  An examination of agreements to arbitrate, including a review of an arbitrator's authority to award punitive damages. The author concludes that broadly based arbitration clauses may not meet the needs of the parties and may lead to unexpected and unintended consequences.  ARB: DRAFTING ARB AGREEMENT/ ARB: PREPARATION/ SUBJ MATTER: GENERAL/ INST NATURE: GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS: STATUTORY OR RULES

Dreyer, Leo P.  "Arbitration Under the Kansas Arbitration Act: The Role of the Courts"  The Journal of the Kansas Bar Association  May, 1990  V.59  N.4  pp. 33(7)  This article discusses the role of the court from the beginning to the end of arbitration conducted under the Kansas Arbitration Act and stresses its importance to the success of the arbitration process.  ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ JUDICIAL PARTICIPATION/ LEGISLATION

Dye, Jessie Clayton "Alternative Dispute Resolution" Catholic Lawyer January, 1990 - Winter V.33 N.1 pp. 70-76 The speaker, who runs the Office for Due Process in Seattle, compares the duties of the office to that of a corporate ombudsman who acts as a neutral party in disputes between the church and its employees. The speaker goes on to describe the use of dispute resolution techniques employed by the office. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ ARB: BINDING ARB-GENERAL/ INST NATURE: RELIGIOUS ORGANIZATIONS/ 3RD PARTY: NEUTRALITY/ ECONOMIC ADVANTAGES OF ADR

Dyer, Gregory M.; Judge, Brendan "Criminal Defendants' Waiver of the Right to Appeal - An Unacceptable Condition of a Negotiated Sentence or Plea Bargain" Notre Dame Law Review September 22, 1990 - Fall V.65 N.4 pp. 649-670 The authors argue against allowing a criminal defendant to waive a right to appeal as part of a negotiated sentence or plea bargain due to due process constraints, public policy, effects on judicial integrity, and effects on habeas corpus relief. NEG: CULTURAL CONSIDERATIONS/ NEG: USE OF BARGAINING TEAMS/ INST NATURE: JUSTICE SYSTEM-GENERAL/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: CRIMINAL

Ebb, Lawrence F. "Flight of Assets From the Jurisdiction 'In The Twinkling of a Telex': Pre-and Post-award Conservatory Relief in International Commercial Arbitrations" Journal of International Arbitration March, 1990 V.7 N.1 pp. 9-36 The enforcement of international commercial arbitration awards through the pre-and post-award attachment of assets in a particular jurisdiction is increasingly gaining international acceptance. ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ
Edlund, William I.; Ragan, Charles; Tiffany, Joe; Corbin, Teresa. "Parties Resolve Major Fuel Dispute in Two-Step ADR with a CPR Neutral." Alternatives to the High Cost of Litigation. September, 1990. V.8 N.9 p. 145 The parties to a dispute over the price readjustment clause in a fuel supply contract designed a new two-tiered ADR procedure. After a mini-trial, before a neutral mediator failed to resolve the dispute, the parties agreed to "baseball" arbitration, wherein the same mediator picked between two figures submitted by the parties, his choice being binding. The process saved time and money and preserved the harmonious business relationship.

Effron, Jack. "The FMCS and the ACAS: Same Job, Different Countries." Labor Law Journal. February, 1990. V.41 N.2 pp. 112-127 This article compares the United States Federal Mediation and Conciliation Service (FMCS) with the British Advisory, Conciliation and Arbitration Service (ACAS) offering advice and concluding each service could learn from the other.

The authors examine neutrals in factfinding and arbitration, and conclude that each process requires different training and skills; but there is a group, comprised mostly of attorneys and members of the National Academy of Arbitrators, who regularly get selected to serve in both processes. MED: RELATED PROCESSES-GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ 3RD PARTY: PRACTICE OF LAW/ 3RD PARTY: SELECTION/ 3RD PARTY: TRAINING/ ROLE OF LAWYERS


Enslen, Richard A. "ADR: Another Acronym, or a Viable Alternative To The High Cost of Litigation and Crowded Court Dockets? The Debate Commences" New Mexico Law Review June 1, 1990 - Winter V.18 N.1 pp. 1-47 This article explains the different societal factors which have given rise to the increased amount of litigation over the past years, and covers the arguments for and against ADR as a method for remedying this increased litigation. Different types of ADR techniques are explained and discussed. MED: RELATED PROCESSES-GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: OPENING AND SETTING GUIDELINES/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: PRIVATE JUDGING/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM

Ericsson, Samuel E. "Christian Leaders and Arbitration" Quarterly (Christian Legal Society) June 22, 1990 - Summer V.11 N.2 p. 32 Examination of conflict within Christian ministries based on real legal battles between Christian leaders and their followers, with advice to both sides. NON-BINDING RECOMMENDATION PROC- GENERAL/

Farber, Henry S.; Neale, Margaret A.; Bazerman, Max H. "The Role of Arbitration Costs and Risk Aversion in Dispute Outcomes" Industrial Relations November, 1990 - Fall V.29 N.3 pp. 361-384 The author investigates the effects of risk aversion and arbitration costs on bargaining outcomes, finding strong evidence that direct costs of arbitration lead to higher rates of agreement, but finding little evidence that risk aversion is related to the probability of agreement. SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL

Feiock, Richard C.; West, Jonathan P. "Public Presence at Collective Bargaining: Effects on Process and Decisions in Florida" Journal of Collective Negotiations in the Public Sector January, 1990 - Winter V.19 N.1 pp. 69-82 This article provides insight as to the effects of public presence at collective bargaining/labor negotiations in the public sector in states, such as Florida, with "sunshine" bargaining laws; study suggests that while some negative effects do result, such effects tend to be involved with procedure as opposed to final output. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: PSYCH CONSIDERATIONS/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ LEGISLATION

Feldman, John P. "Soviet Joint Ventures: Providing For Appropriate Dispute Resolution" Cornell International Law Journal 1990 - Winter V.23 N.1 pp. 107-131 The author discusses the allowance of soviet ventures with non-soviet partners as a product of "Glasnost"; however, he
warns that different legal structures and attitudes toward arbitration should be considered, and recommends options available for dispute resolution in light of soviet attitudes. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: DRAFTING ARB AGREEMENT/ COMPARISONS: CROSS-CULTURAL/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/ DISPUTE PREVENTION/ SELECTION OF APPROPRIATE PROCESS

Feliciano, Santiago, Jr. "Alternative Dispute Resolution" Catholic Lawyer January, 1990 - Winter V.33 N.1 pp. 61-62 The Cleveland Catholic Diocese has created the Legal Aid Society of Cleveland, which is designed to resolve disputes others have with the church through mediation instead of through the more costly process of litigation. MED: RELATED PROCESSES-GENERAL/ INST NATURE: RELIGIOUS ORGANIZATIONS/ SUBJ MATTER: GENERAL/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: MANDATE TO USE/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS/ ORGANIZATION POLICIES AND RULES/ SELECTION OF APPROPRIATE PROCESS/ TEACHING


Fellner, Jonathan "JAMS Picked by State Agency for Earthquake Cases" The Los Angeles Daily Journal February 2, 1990 V.103 N.25 p.1 This article announced that a private firm, the Judicial Arbitration and Mediation Services, Inc. ("JAMS") had been hired by California to mediate up to 150 claims filed against the state as the result of an earthquake. INST NATURE: GOV’T ENTITIES/ SUBJ MATTER: GOV’T

Ferrier, Jon T. "The Role of Referees in Domestic Relations Cases" (Family Law) Michigan Bar Journal February, 1990 V.69 N.2 pp. 128(6) An analysis of the past, present, and potential roles of referees in domestic relations cases; the author suggests that circuits should support referee systems that serve the needs of the parties, promote financial


Firth, Derek "Jurisdiction to Avoid Interest on Sums to be Determined by Arbitration" *New Zealand Law Journal* June, 1990 pp. 219-220 Due to unsettled issue of allowing an arbitrator to fix interest on a sum, author strongly suggests including an express provision allowing arbitrators to award interest within commercial documents. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW

167-174 The article briefly examines a number of areas in construction contracts which often give rise to proceedings in Hong Kong using English law as illustrations. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CONSTRUCTION/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE


Flanagan, Robert J. "Socrates Confronts Final-Offer Selection" Industrial Relations September 22, 1990 - Fall V.29 N.3 pp. 526-527 The author promotes the use of final-offer arbitration as an effective way to enhance the odds of settlement in labor relations disputes. ARB: FINAL OFFER ARB/ ARB: BINDING ARB- GENERAL/ SETTLEMENT: PRESSURES TO SETTLE/ COMPARISONS: HISTORICAL/ SUBJ MATTER: LABOR-GENERAL

Flanagan, Robert J. "The Economics of Unions and Collective Bargaining" (A Symposium: The Economics of Human Resource Management) Industrial Relations March 22, 1990 - Spring V.29 N.2 pp. 300-315 In the context of discussing the economics of unions, the author considers the effects of arbitration decisions and compares compromise versus selection of a final offer from the union or employer. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY:
1990 BIBLIOGRAPHY

GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-GAME THEORY/ ARB: FINAL OFFER ARB/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ DISPUTE PREVENTION

Flannery, Harry A. "Guidance As To The Arbitrator's Authority: The Terms of the Collective Bargaining Agreement" Labor Law Journal February, 1990 V.41 N.2 pp. 89-90 The author contends that the bottom line in the Third Circuit's decision in PA Power v. IBEW is that arbitrators exceed their authority when they deem arbitrable those issues whose resolution calls for the addition of new terms or conditions to the agreement. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: SERVING AS ARBITRATOR/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-GENERAL

Fortado, Bruce; Travis, Timothy J.; Jennings, Kenneth M. "Refusal to Accept a Work Assignment: How Arbitrators Rule in Discharge Cases" Employee Relations Law Journal September 22, 1990 - Autumn V.16 N.2 pp. 205-216 This article concludes that arbitration decisions, in cases where an employee refuses a job assignment, over time, or holiday work, usually result in sustaining discharges or enforcing suspensions imposed by employers. ARB: BINDING ARB-GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)


Los Angeles. ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ SUBJ MATTER: INT'L


Fox, M.J., Jr.; Cooner, Donna "Arbitration: Preparing for Success" Journal of Collective Negotiations in the Public Sector September 22, 1990 - Fall V.19 N.4 pp. 253-260 The author outlines the steps that should be taken to successfully plan and present an arbitration case.

Fox, Mary Ellen "Court Muddles Judicial Review of Arbitrations" Pennsylvania Law Journal-Reporter April 23, 1990 V.13 N.16 p. 11 This article examines Union Switch & Signal Division v. United Electrical, Radio and Machine Workers of America, Local 610, in which the 3rd Circuit ruled that federal courts have the power to hear motions on non-final labor arbitration awards in limited circumstances. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ JUDICIAL PARTICIPATION

Fraundorf, Martha Norby "Collective Bargaining Films: A Critical Survey" Industrial and Labor Relations Review October, 1990 V.44 N.1 pp. 144-151 The author examines the strengths and weaknesses of a number of films dealing with the subject of collective bargaining in terms of their pedantic and training value. NEG: W/ OR W/O ASSIST OF 3RD-PARTY NEUTRAL-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TEACHING

Fraundorf, Martha Norby "Construction Project Agreements" Labor Law Journal January, 1990 V.41 N.1 pp. 22-30 This article highlights the benefits for building trade unions in using special project

Freedman, Harry "Securing the Attendance of Witnesses Before Labour Relations Tribunals." (Canada) Advocates' Quarterly April, 1990 V.11 N.3 pp. 355-371 This article explains the sources of power for securing the attendance of witnesses for federal tribunals and Ontario tribunals in Canada, the process of obtaining and serving the summons, as well the proper form of the summons. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ COMPLIANCE ISSUES/ LEGISLATION/ SUBPOENA AND DISCOVERY


Freund, James C.; Millhauser, Marguerite S. "Deterring the First Strike: Contract Clauses to Handle Disputes" Corporate Counsel's Quarterly January, 1990 V.6 N.1 pp. 18-50 Edited transcript of a discussion between the authors focusing on the practical implications of providing for ADR in contracts before problems arise and offering model provisions for general use in agreements of all types. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES-THEORY AND STRATEGIES/ 3RD PARTY: SELECTION/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/ SELECTION OF APPROPRIATE PROCESS
Frisbee, Stephen P. Basic Documents on Grievance Arbitration, Private Sector. This bibliography is a compilation of books, articles, conference proceedings and other reference materials on the topic of grievance arbitration in the public sector. The resources listed cover the years 1970 to 1990. 


Gallagher, Daniel G.; Veglahn, Peter A. "Changes in Bargaining Behavior as a Result of Experience Under a Statutory Impasse Scheme: Theory and Evidence" Journal of Collective Negotiations in the Public Sector June 22, 1990 - Summer V.19 N.3 pp. 175-188 Ten years of experience with Iowa’s three-step impasse scheme - mediation, fact-finding, and arbitration - shows no evidence that parties limit bargaining or otherwise adopt strategic positions to take advantage of the system. 


Gandolfo, Peter "Avoiding Disputes - Creatively" Law Institute Journal June 22, 1990 V.64 N.11 p. 1013 A brief article discussing the developments made in Australia concerning ADR, and suggesting reasons why lawyers ought to seriously consider ADR as another element of their practices. 


Geffner, Robert; Pagelow, Mildred Daley "Mediation and Child Custody Issues in Abusive Relationships" Behavioral Sciences & The Law March 22, 1990 - Spring V.8 N.2 pp. 151-159 This article focuses on obtaining equitable divorce settlements and child custody for victims of domestic violence and evaluates the pros and cons of court-ordered mediation in these situations. MED: OBTAINING AGREEMENT TO USE/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM-FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ COMPLIANCE ISSUES/ CONFIDENTIALITY/ COURT REFORM/
ECONOMIC ADVANTAGES OF ADR/ JUDICIAL PARTICIPATION/ RELATION TO ONGOING LITIGATION/ SELECTION OF APPROPRIATE PROCESS


Gillie, Michael S. "Voluntary Mediation; Tool to Assess Risks and Speed Settlements" Trial October, 1990 V.26 N.10 pp. 58-62 The author describes voluntary mediation as a tool to enable faster settlements and evaluates the risks of litigating tort actions. MED: RELATED


Goering, Steven J.  "The Standard of Impartiality as Applied to Arbitrators by the Federal Courts and Codes of Ethics"  Georgetown Journal of Legal Ethics  March 22, 1990 - Spring  V.3  N.4  pp. 821-835  A standard of impartiality for arbitrators is proposed that remedies any inconsistencies between the arbitrators' professional codes and federal law, to be used by federal judges facing claims of bias against the arbitrator.  ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/  ARB: JUDICIAL REVIEW/  3RD PARTY: CONFLICT OF INTEREST/  ETHICS: GENERAL/  ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE/  FAIRNESS
Goldberg, Dick  "Court Will Decide on Night in Hotel"  The Los Angeles Daily Journal  May 4, 1990  V.103  N.90  p. 7  The 9th Circuit Court of Appeals will rule upon the possible conflict of interest between an arbitrator, William C. McIlwain Jr. and attorney Linda Casley, whose clients have been awarded millions after arbitrations involving McIlwain.  ARB: CLIENT REP/ ARB: SERVING AS ARBITRATOR/ 3RD PARTY: CONFLICT OF INTEREST/ 3RD PARTY: NEUTRALITY/ ETHICS: GENERAL

Goldberg, Dick  "Insurer Tries to Vacate Arbitration"  The Los Angeles Daily Journal  April 6, 1990  V.103  N.70  p. 7  The Canadian Reinsurance Co. filed a motion to vacate a $1.4 million arbitration award to the Canadian Insurance Company of California because of a possible conflict of interest between one of the arbitration panel members and an attorney for the Canadian Insurance Company of California.  ARB: CLIENT REP/ ARB: SERVING AS ARBITRATOR/ 3RD PARTY: CONFLICT OF INTEREST/ 3RD PARTY: NEUTRALITY/ ETHICS: GENERAL

Goldberg, Stephen B.; Brett, Jeanne M.  "Disputants’ Perspectives on the Differences between Mediation and Arbitration"  Negotiation Journal  July, 1990  V.6  N.3  p. 249  Through a study of grievance mediation in the coal industry, the authors compare mediation and arbitration in areas of participant satisfaction, rates of resolution, effects on relationships between parties, and various procedural differences. They generally found that grievants prefer mediation to arbitration for reasons including lack of formality and focus on practical employee and managerial concerns.  MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: TIMING/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Golvan, George H. "Appeals from Arbitrators' Awards" Law Institute Journal September, 1990 V.64 N.9 pp. 827-829 A discussion of the Australian Commercial Arbitration Act of 1984 and its effect on the availability of appellate review of arbitration decisions, noting that an opinion from the High Court of Australia is necessary to resolve conflicts in opinions between the Supreme Courts of three Australian states.


Goodhard, Kim A. "The California Regulations on Negotiated Franchise Sales - Friend or Foe of the Negotiated Transaction?" Franchise Law Journal January, 1990 - Winter V.9 N.3 pp. 1(6) This article examines the general franchise disclosure and registration issues arising from negotiated transactions, and asserts that the California approach will prove only moderately successful due to its rigid controls on negotiations.


SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL/ LEGISLATION

Gordon, Arthur S.; Lipton, Joan A.; St. Angelo, Jere "Negotiating and Substantiating a Covenant Not to Compete" The Tax Adviser November, 1990 V.21 N.11 pp. 684(4) This article discusses how buyers of businesses may secure tax benefits by using early planning, negotiation, and substantiation of a covenant not to compete.

Gorske, Robert H. "An Arbitrator Looks at Expediting the Large, Complex Case" Ohio State Journal on Dispute Resolution March 22, 1990 - Spring V.5 N.2 pp. 381-399 This article discusses a model for arbitrator management of a large, complex case. The author emphasizes the need for the arbitrator to utilize prehearing conferences, tailored discovery procedures, and efficient hearing procedures. ARB: BINDING ARB- GENERAL/ ARB: PREPARATION/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: GENERAL/ CONFERENCE PROCEEDINGS/ SELECTION OF APPROPRIATE PROCESS.

Gorske, Robert H. "A Reply." (To Reuben L. Hedlund and Deborah C. Poskin on Using Dispute Resolution to Manage Complex Litigation) Ohio State Journal on Dispute Resolution September 22, 1990 - Fall V.6 N.1 pp. 77-81 In his reply to commentary regarding his discussion of the arbitrator's approach to discovery and possible settlement, the author defends the use of a "liberal" discovery approach and suggests that arbitrators should fully hear the issue at hand before any issues of fact or law are determined. NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: GENERAL/ SELECTION OF APPROPRIATE PROCESS/ SUBPOENA AND DISCOVERY.


Gring, Pamela R. "The Special Master's Role as Mediator: Experiences in the 50th State" Ohio State Journal on Dispute Resolution September 22, 1990 - Fall V.6 N.1 pp. 21-59 Based on information gathered on the recent use of special masters for mediation, the author establishes a standard of authority to guide special masters in their increasingly common role as mediators. MED: RELATED PROCESSES-GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: DRAFTING SETTLEMENT AGREEMENTS/ SUBJ MATTER: GENERAL/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR

Grodin, Joseph R. "Past, Present, and Future in Wrongful Termination Law" (Alternative Dispute Resolution) The Labor Lawyer January, 1990 - Winter V.6 N.1 pp. 97-106 This article discusses the National Labor Relations Board's general policy of deferring to contractual grievance and arbitration procedures for enforcement of employee rights
under the National Labor Relations Act, while reserving other federal and state statutory rights for court determination. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: STATUTORY OR RULES/ JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE PROCESS

Guccione, Jean "Rent-a-Judge Report Gets Cool Reception; A Judicial Council Panel Rejects Most Recommendations; New Study Requested" The Los Angeles Daily Journal November 6, 1990 V.103 N.221 p. 1 The article discusses findings of advisory panel on private judging and reports that the Judicial Council committee recommends a new advisory panel to study effects of private judging on the court system. ARB: PRIVATE JUDGING/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COURT REFORM/ ORGANIZATION POLICIES AND RULES


Guccione, Jean "Private Judging Now Available Through Mail; A New Twist From JAMS" The Los Angeles Daily Journal September 6, 1990 V.103 N.178 p. 1(2) Judicial Arbitration and Mediation Services Inc. is marketing resolution by mail to allow parties to resolve simple disputes with written briefs and appropriate documentation. This pilot program in L.A. is limited to a 16 member panel of retired jurists. INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL

Guidry, Greg; Huffman, Gerald J., Jr. "Legal and Practical Aspects of Alternative Dispute Resolution in Non-Union Companies" The Labor Lawyer June, 1990 - Winter V.6 N.1 pp. 1-48 The author suggests that binding ADR in non-union companies may be inappropriate since employers still have the final decision in regard to "at-will" employees. The author recommends an internal grievance system without regard to any effect on litigation. NON-BINDING
A discussion of the erosion of the at-will doctrine and the employment contract as tools with which an employer can effectively deter or mitigate employee lawsuits.

Haas, Peter M. "Do Regimes Matter? Epistemic Communities and Mediterranean Pollution Control" International Organization 1989 - Summer V.43 N.3 pp. 377-403 This article is an examination of how the Mediterranean Action Plan (Med Plan) was negotiated and how it functions to contribute to states' domestic compliance with the plan.

Hall, Michael J. "Fee Arbitrations to Use Non-Lawyers." (California) The Los Angeles Daily Journal March 6, 1990 V.103 N.47 p. 5
As a means of reassuring consumers about the fairness of the arbitration process, county bar associations that offer fee-arbitration sources will be required to include a non-lawyer among the three-member panels that decide payment disputes.

Hammond, Grant "Equity and Abortive Commercial Transactions." (Canada) Law Quarterly Review April, 1990 V.106 pp. 207-212
This article explores the question of the extent to which equity jurisprudence can be applied to commercial negotiations that have not yet matured into a contract.

Hancock, William A. "Negotiation Techniques" Corporate Counsel's Quarterly October, 1990 V.6 N.4 pp. 116-127 The author describes the basics of negotiation and other effective techniques with the
view that while not everyone has a talent for negotiation, everyone can learn a technique. NEG: W/ OR W/O ASSIST OF 3RD-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3RD-PARTY NEUTRAL-THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SELECTION OF APPROPRIATE PROCESS/ TEACHING

Haralambie, Ann M. "Alternatives to Litigation" (Special Issue: A to Z a Primer on Divorce) Family Advocate January, 1990 - Winter V.12 N.3 pp. 52(3) pp. 52-54 A discussion of the rise of ADR methods, particularly mediation, as a means of resolving marital agreement disputes. The article identifies types of mediation, how to choose a mediator, the role of lawyers, financial considerations, and the flaws of mediation. MED: RELATED PROCESSES-GENERAL/ MED: REP OF A CLIENT DURING PROCESS/ MED: ENCOURAGING COMM AND NEG/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ ECONOMIC ADVANTAGES OF ADR

Hardee, Lee R. "Enforcing Forum-Selection Clauses: The Federal Court Dilemma and the Arbitration Clause" Journal of Dispute Resolution Summer 1990 V.2 pp. 401-416 This comment reviews the validity of forum selection clauses in contracts and proposes that the inclusion of an arbitration clause, rather than a forum selection clause, gives contracting parties a more certain forum in which to settle their disputes. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: COMMERCIAL/ REQUIREMENTS: CONTRACTUAL CLAUSES


Harris, Bruce "The Recruitment and Training of Maritime Arbitrators" Journal of International Arbitration June, 1990 V.7 N.2 pp. 43-47 Developing maritime arbitrators is a process that requires proper training

Harris, Julian "Keeping Your Client Out of Court" (Great Britain) Solicitors Journal June 22, 1990 V.134 N.49 pp. 1427(3) This article is a brief introduction to the new Centre for Dispute Resolution (CEDR) in the United Kingdom which promotes conciliation, mediation, and mini-trials as alternatives to litigation. MED: RELATED PROCESSES-GENERAL/MED: PUBLIC POLICY DIALOGUE/NON-BINDING RECOMMENDATION PROC- GENERAL/NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/INST NATURE: GENERAL/SUBJ MATTER: PUBLIC POLICY/TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/COMPARISONS: CROSS-CULTURAL/ ECONOMIC ADVANTAGES OF ADR

Harris, Rodney "Contrasting 'Principled Negotiation' With the Adversarial Model" Victoria University of Wellington Law Review January, 1990 V.20 N.1 pp. 91-104 The author contrasts the "principled" negotiation model of dispute resolution with the "zealous advocacy" model. This discussion is made relative to ethics and the practical concerns of negotiation and litigation. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/INST NATURE: JUSTICE SYSTEM- GENERAL/ETHICS: GENERAL/ FAIRNESS

Harvey, Christopher "Canada" (Maritime Arbitration in the Asian Century) Tulane Maritime Law Journal March 22, 1990 - Spring V.14 N.2 pp. 273-279 An edited article from a symposium on the issue of maritime arbitration in the Pacific Rim Basin, which provides a summary of the essential attributes of maritime arbitration in Canada. The article focuses on the recency of Canada's involvement in maritime arbitration, and the broad and flexible rules under which its system operates. ARB: BINDING ARB- GENERAL/SUBJ MATTER: MARITIME/REQUIREMENTS: CONTRACTUAL CLAUSES/AGREEMENT ON PROCEDURE

74
Harvey, Daniel A. "Saturn Distribution Corporation v. Williams" (arbitration agreements) Tort & Insurance Law Journal September 22, 1990 - Fall V.26 N.1 pp. 149-160 This casenote explores the rationale and support of the Fourth Circuit Court of Appeals decision in Saturn Corporation v. Williams. The decision reinforced the supremacy and power of the U.S. Arbitration Act as opposed to states' attempts to regulate pre-dispute arbitration agreements by regulating their formation.


Hedlund, Reuben L.; Paskin, Deborah C. "Another View of Expediting the Large, Complex Case: A Response to Arbitrator Gorske From Counsel for the Defense" Ohio State Journal on Dispute Resolution September 22, 1990 - Fall V.6 N.1 pp. 61-75 In this response to an article on the efficient management of a large complex case, the authors point to the Rules for the Non-Administered Arbitration of Business Disputes as the key to the efficient arbitration of such large cases.

Heilbron, David M. "The Arbitration Clause, the Preliminary Conference, and the Big Case" Arbitration Journal June, 1990 V.45 N.2 pp. 38-44 This article discusses the important roles that the arbitration clause and the preliminary conference play in arbitration and addresses the integral factors of the process. ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: PREPARATION/


Hermann, Michele S.G. "Divorce Mediation Theory and Practice" (book reviews) *Ohio State Journal on Dispute Resolution* March 22, 1990 - Spring V.5 N.2 pp. 459-466 The author reviews Divorce Mediation Theory and Practice, concluding that the authors failed to provide balanced information on the relative merits of the adversary system versus divorce mediation. The reviewer notes that the authors do not address important criticisms of divorce mediation regarding women, minorities, and the treatment of poor persons. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: BOOK REVIEW

Hermann, Michele S.G. "Anatomy of Mediation, What Makes It Work" (book review) *Journal of Dispute Resolution* January, 1990 V.1990 N.1 pp. 201-205 The author discusses a book which is, in essence, a case study of a contract dispute, detailing a strong, coercive mediation style. Although the book was written in an easy-to-understand fashion,
ideal for non-scholars, the reviewer feels that it tends to oversimplify mediation and to treat mediation as if only one form/style exists. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: BOOK REVIEW/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT


Hill, Eve "Alternative Dispute Resolution in a Feminist Voice" Ohio State Journal on Dispute Resolution March 22, 1990 - Spring V.5 N.2 pp. 337-379 This article explores the possibilities and problems of alternative dispute resolution methods from a feminist perspective. The author provides suggestions for the integration of feminism into all aspects of ADR. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ SUBJ MATTER: GENERAL/ COMPARISONS: CROSS-CULTURAL

Hill, Richard L.; Zuelke, Dennis C.; Landry, Richard G.; Halver, David J. "Fact-Finding as a Bargaining Impasse Resolution Procedure: A North Dakota Study and Related Literature Review" Journal of Collective Negotiations in the Public Sector June 22, 1990 - Summer V.19 N.3 pp. 217-242 This article examines perceptions of the fact-finding process in the North Dakota school employment context and concludes that modifications are needed, that fact-finding may become less useful over time, that fact-finding may be most useful in connection with other mechanisms, and that it may also be necessary to view fact-finding as an early option among dispute resolution mechanisms.
NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ SUBJ MATTER: GENERAL/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SELECTION OF APPROPRIATE PROCESS

Hines, Bernard L. "Post-Trial Blues - Did I Win?" New York State Bar Journal April, 1990 V.62 N.3 pp. 51-53 This informational article describes Arbitration Forums Inc., a non-profit organization with offices in all fifty states and Puerto Rico. This organization provides arbitration and mediation services to insurance companies and others, expediting the resolution of claims and disputes. MED: RELATED PROCESSES-GENERAL/ MED: OBTAINING AGREEMENT TO USE/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INSURANCE


Honoroff, Brad; Matz, David; O'Connor, David  "Putting Mediation Skills to the Test"  Negotiation Journal  January, 1990  V.6  N.1  pp. 37-46  The article discusses an evaluation process of a Massachusetts court mediation program based largely on the ideas of Christopher Honeyman; the authors confirm the success of Honeyman's methods and suggest that all mediators could enhance their skills by concentrating on specific concepts of mediation.  MED: RELATED PROCESSES-GENERAL/  MED: RELATED PURPOSES- THEORY AND STRATEGIES/  3RD PARTY: SELECTION/  3RD PARTY: TRAINING

Horne, William "How the Oil Spill Settlement Exploded" (Exxon Valdez) American Lawyer June, 1990 V.12 N.5 pp. 41 A description of the terms of the preliminary settlement agreement between Exxon and the U.S. government concerning claims brought as a result of the Valdez oil spill and a discussion of the resulting break down in negotiations after the state of Alaska refused to join in the agreement.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/
NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-
NEGOTIATOR'S DILEMMA/ INST NATURE: GOV'T ENTITIES/
SUBJ MATTER: ENVIRONMENT/ SETTLEMENT: PRESSURES TO SETTLE

Horowitz, Robert "They Said it Couldn't be Settled." (Alternative Dispute Resolution) (Wisconsin) The Wisconsin Lawyer July, 1990 V.63 N.7 pp. 19(1) The author examines a negotiating technique where each party reveals to a judge how much that party will accept or pay in settlement. The author concludes that this confidential approach is a very effective means of resolving disputes with multiple defendants.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/
NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-
NEGOTIATOR'S DILEMMA/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ CRITERIA/ INST NATURE: GENERAL/
SUBJ MATTER: GENERAL/ 3RD PARTY: NEUTRALITY/ 3RD PARTY: PRACTICE OF LAW/ CONFIDENTIALITY/ JUDICIAL PARTICIPATION

Huang, Paiff "Taiwan" (Maritime Arbitration in the Asian Century) Tulane Maritime Law Journal March 22, 1990 - Spring V.14 N.2 pp. 347-352 An edited article from a symposium on the issue of maritime arbitration in the Pacific Rim Basin, this article is a synopsis of maritime arbitration in Taiwan. Summarized are facts and procedures regarding arbitration in general in the Republic of China, and the arbitral body that handles all arbitration disputes.

ARB: BINDING ARB-GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE

Hukill, Craig "Labor And The Supreme Court: Significant Issues of 1990-91" Monthly Labor Review March 22, 1990 V.114 N.1 pp. 34(7) The author reviews labor law cases pending before the Supreme Court, and gives his opinion about how the addition of Justice Souter will affect labor law.

SUBJ MATTER: LABOR-GENERAL/ SUBJ


Hurbutt, Guy "A Corporate Perspective on Alternative Dispute Resolution." Advocate (Idaho) November, 1990 V.33 N.11 pp. 12(2) This article presents reasons why ADR is appealing to corporations and discusses the corporate response to ADR. INST NATURE:
JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: CORPORATE/ ECONOMIC ADVANTAGES OF ADR


Izbiky, Julian M.  "How to Use ADR Procedures in a Law Practice" Colorado Lawyer September, 1990 V.19 N.9 pp. 1799(2) The author advocates the initial consideration of ADR method when drafting commercial agreements or when beginning to manage a dispute. NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS/ TEACHING


The author describes the Amman Arab Convention on Commercial Arbitration. The article also provides an English translation of the Amman Convention.


This article focuses on the Supreme Court’s decision in Shearson/American Express v. McMahon, holding that claims brought under civil provisions of the RICO Act are arbitrable regardless of whether they arise in a domestic or international setting, with a practical examination of the ambiguities left by the Court's holding. ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER CIVIL COURTS/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: INT’L/ RELATION TO ONGOING LITIGATION


Jennings, Daniel F.; Allen, A. Dale, Jr. "Labor Arbitration Costs and Case Loads: A Longitudinal Analysis" Labor Law Journal February, 1990 V.41 N.2 pp. 80-88 This article compares the Allen Study on arbitration costs in 1975 with the author’s recent study to determine whether the costs of arbitration are less than court litigation and concludes that, although arbitration costs have increased substantially since 1975, the cost is still less than court litigation. NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ ARB: FEES AND FUNDING OF ARBITRATOR/ INST NATURE: GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL/ ECONOMIC ADVANTAGES OF ADR

Major League Baseball Players' Association collective bargaining agreement and the positive effect it may have on future collective bargaining approaches.


Johnson, Ted  "Divorce Mediation: How to Cut the Cost and Stress of Divorce." (book review)  Texas Bar Journal  April, 1990  V.53  N.4  pp. 357(1)  This review describes the book as valuable and readable, and asserts that while written for a person contemplating divorce, the book also contains useful information on a growing area of the law for both the lawyer and the lay person.  MED: RELATED PROCESSES-GENERAL/ MED: PSYCH FACTORS/ MED: REP OF A CLIENT DURING PROCESS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: BOOK REVIEW/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS


Jones, William R., Jr.  "Do We Have a Plain, Speedy and Adequate Remedy?"  Arizona Attorney  December, 1990  V.27  N.4  pp. 25(4)  This article reports the findings of a committee of 21 Arizona lawyers charged with the task of studying problems pertaining to abuses, costs, and delays in civil litigation.  NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ INST
Kaplan, Lawrence W. "Stay Out of Court." (Special Issue: Divorce a Handbook for Clients) *Family Advocate* June 22, 1990 - Summer V.13 N.1 pp. 8(3) The author explains the reasons why divorcing couples go to court and the perils of going to divorce court. He contends that divorcing parties should be civil, considerate, and cooperative in divorce proceedings.

Karim, Ahmad; Dilts, David A. "Determinants of Mediation Success in the Iowa Public Sector" *Journal of Collective Negotiations in the Public Sector* March 22, 1990 - Spring V.19 N.2 pp. 129-140 Attitudes toward the mediator and the parties' bargaining behavior predict the success of mediation for both union and management negotiators. Management negotiators also consider the economic characteristics of the negotiations.


Katz, Lucy V. "The L'Ambiance Plaza Mediation: A Case Study in Judicial Settlement of Mass Torts" *Ohio State Journal on Dispute Resolution* March 22, 1990 - Spring V.5 N.2 pp. 277-335 This article is a comparison of various ADR techniques as applied to a specific mass tort: the collapse of the L'Ambiance Plaza. The author analyzes the mediation that occurred in the case and concludes that the case could not have been handled as effectively with a jury trial or any other form of

Katz, Martin Z. N. "Stop the Judicial Gold Rush: Rent-a-Judge and Arbitration Programs are Harming the Judiciary." (California) California Lawyer January, 1988 V.8 N.1 pp. 10(1) This article expresses concern over the migration of judges from the public-sector judiciary to positions as private judges. ARB: PRIVATE JUDGING/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ COURT REFORM/ QUALITY CONTROL/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES


Kelly, John Fleming "Arbitration: A Theme With Variations" Colorado Lawyer November, 1990 V.19 N.11 pp. 2217(3) Just because a dispute exists, it does not dictate which arbitration process will be used. The article explains that the parties involved in a dispute have the choice of adapting the rules they want to guide their arbitration, in addition to the freedom of shaping the arbitration process in a way which is most beneficial to their desires. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ ARB: PREPARATION/ ARB: SERVING AS ARBITRATOR/ ARB: FINAL OFFER ARB/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT

Khalilian, Seyed Knalil "Controversial Theory of Frustration Before Iran-United States Claims Tribunal" Journal of International Arbitration June 22, 1990 V.7 N.3 pp. 5-24 The article describes a recent case before the tribunal, showing both how the tribunal works and analyzing the theories used in the case. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT


Kleintop, William A.; Loewenberg, J. Joseph "Collective Bargaining, Compulsory Interest Arbitration and The Narcotic Effect: A Longitudinal Study of Delaware County, Pennsylvania" Journal of Collective Negotiations in the Public Sector March 22, 1990 - Spring V.19 N.2 pp. 113-120 Compulsory arbitration can make the participants dependent on the procedure if award rates are as high as two for every three rounds of bargaining. At lower rates, there is no evidence of a "narcotic" effect. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Klenk, Timothy C. "Doing Our Part" Quarterly (Christian Legal Society) August, 1990 - Summer V.11 N.2 p. 2 The article describes the services and benefits of the Association of Christian Conciliation Services (ACCS), and supports a non-adversarial, non-advocacy approach to resolving disputes between and among Christians. MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: RELIGIOUS ORGANIZATIONS/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SETTLEMENT: PRESSURES TO SETTLE

discusses the Supreme Court's decision in **First National Maintenance Corp. v. NLRB** by focusing on the guidelines it set to determine the mandatory - permissive dichotomy that arises in actions brought under 8(d) of the NLRA.

**ARB:** **JUDICIAL REVIEW**/ **INST NATURE:** **JUSTICE SYSTEM-OTHER**/ **SUBJ MATTER:** **LABOR-MANAGEMENT (UNIONS)**/ **REQUIREMENTS:** **STATUTORY OR RULES**

**Knight, Thomas R.** "The Modern Grievance Procedure in the United States.", (book review) **Industrial and Labor Relations Review**  October, 1990  V.44 N.1 pp. 166-167 The author reviews The Modern Grievance Procedure in the United States, noting that the study the book is based on effectively analyzes grievance procedures between employers and unions. The author concludes that the book is required reading for both scholars and practitioners in the industrial relations field. **NEG:** W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ **SUBJ MATTER:** **LABOR-GENERAL**/ **TYPE OF SOURCE:** **BOOK REVIEW**

**Kohren, Martin** "Three Perspectives on Ground Lease Negotiations" **Real Estate Law Journal**  June 22, 1990 - Summer  V.19 N.1 pp. 40-60 Examines ground lease negotiations from the perspectives of tenant, landlord, and lender. **NEG:** TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ **INST NATURE:** **PRIVATE, PROFIT-MAKING**/ **SUBJ MATTER:** **COMMERCIAL**/ **SUBJ MATTER:** **CONSTRUCTION**/ **SUBJ MATTER:** **CORPORATE**

**Kolb, Christopher T.** "Arbitrating Investment Disputes" **The Wisconsin Lawyer**  December, 1990  V.63 N.12 pp. 21(4) Kolb discusses the arbitration of investment disputes, including the binding nature of form clauses, the various forum choices available for arbitration, the limitations of arbitration, and differences between court and arbitral procedure.

**ARB:** **BINDING ARB- GENERAL**/ **ARB:** **DRAFTING ARB AGREEMENT**/ **SUBJ MATTER:** **SECURITIES**/ **REQUIREMENTS:** **CONTRACTUAL CLAUSES**/ **ROLE OF LAWYERS**

**Kolb, Deborah M.; Silbey, Susan S.** "Enhancing the Capacity of Organizations to Deal with Disputes" **Negotiation Journal**  October, 1990  V.6 N.4 pp. 297-304 The article examines the process of Dispute Systems Design to assess whether it prevents conflict in organizations. The article contends that prevention of conflict is a faulty premise, and that enhancing individuals' capacity to understand their disputes and discuss them in new ways is a more effective way of dealing with differences and diversity. **NEG:** W/ OR W/O ASSIST OF
Kornblum, Guy O. "Voluntary Private Dispute Resolution: Complement or Competitor to Courts?" Defense Counsel Journal, July, 1990 V.57 N.3 pp. 370-373 The author discusses the need for encouragement of private dispute resolution services because of speed, convenience, and lower cost. He disputes the notion that private dispute resolution will create a "brain drain" or a "two-tiered system of justice".

Kowalski, Ronald E. "Collective Bargaining and Impasse Resolution in the Public Sector." (book review) Industrial and Labor Relations Review, January, 1990 V.43 N.2 pp. 324(1) This article is a book review of Collective Bargaining and Impasse Resolution in the Public Sector. The author of the review states that the book is a good practical guide to collective bargaining and impasse resolution processes, but for the experienced practitioner, the book does not provide enough in-depth analysis.

Kubota, Takeo "Japan: Tokyo." (Maritime Arbitration in the Asian Century) Tulane Maritime Law Journal, March 22, 1990 - Spring V.14 N.2 pp. 289-296 An edited article from a symposium on the issue of maritime arbitration in the Pacific Rim Basin, this article is a description of the two types of maritime arbitration that exist in Japan ("ad hoc" arbitration and institutional arbitration), including brief summaries of the procedures, benefits, and defects of the respective methods.

Kuntzman, Andrea M. "Incongruity in the Seventh Circuit: Do Federal Courts Have the Authority to Order Summary Jury Trials?" Ohio State
Journal on Dispute Resolution  September 22, 1990 - Fall  V.6  N.1  pp. 131-150  The author describes summary jury trials and discusses whether district courts have the power to manage their dockets by compelling litigants to attend nonbinding summary jury trials.  

**NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ LEGISLATION**

Newspaper account of federal appeals court case ruling that the Chicago Board of Options Exchange is immune from damages stemming from alleged improprieties in arbitration proceedings.  

**ARB: BINDING ARB- GENERAL/ SUBJ MATTER: SECURITIES/ 3RD PARTY: CONFLICT OF INTEREST/ 3RD PARTY: LIABILITY & IMMUNITY/ 3RD PARTY: NEUTRALITY**

This article examines the increased use of mediation for divorcing families, analyzes federal and provincial legislation and the objectives of mediation, and discusses the current status and future of mediation in Canada.  


This article presents an overview of the establishment, procedure, and evaluation of employment discrimination committees in Australia.  


Lara, Rafael, Jr.; Kinberg, Edward J.  "Hindsight - Litigation That Might Have Been Avoided"  Army Lawyer  March, 1990  V.22  pp. 31-33  
Part of a continuing series discussing how specific problems can be solved in ways that avoid contract litigation.  

**ARB: BINDING ARB- GENERAL/Black history/ SUBJ MATTER: GOV'T/ SUBJ MATTER: NON-PARTICIPATORY PARTIES**
GOV'T CONTRACTS/ REQUIREMENTS: CONTRACTUAL CLAUSES/ DISPUTE PREVENTION


LaVaute, James R.  "Alternative Dispute Resolution and Enforcement of Statutory Rights."  (Alternative Dispute Resolution)  The Labor Lawyer January, 1990 - Winter V.6 N.1 pp. 107-125 The article examines three areas of statutory law - NLRA, Civil Rights Act, and ERISA - and the impact of binding arbitration on the statutory rights involved. The author concludes that most courts will not recognize a binding arbitration agreement when the rights involved arise under the Civil Rights Act of ERISA, but that the National Labor Relations Board does defer to such agreements and that the courts should follow the NLRB's example to avoid having employers involved in two proceedings with two potentially different results. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPLIANCE ISSUES/ COURT REFORM


Lecuyer-Thieffry, Christine; Thieffry, Patrick "Negotiating Settlement of Disputes Provisions in International Business Contracts: Recent Developments in Arbitration and Other Processes" Business Lawyer February, 1990 V.45 N.2 pp. 577-623 An in depth analysis of the use of international commercial arbitration as an effective method of resolving international business disputes. Although the article does identify arbitration as the most effective ADR method in this context, it also discusses the drawbacks of the process and the means to avoid them.

Leedy, Lynda M. "The Health Care Quality Improvement Act and Physician Peer Review: Ingredients for Effective Dispute Resolution" Ohio State Journal on Dispute Resolution March 22, 1990 - Spring V.5
This note examines the role physician peer review committees play in identifying incompetent physicians. The note includes a discussion of an Oregon case that threatened the future of peer reviews, federal legislation that provides peer review committees with immunity, and actions taken on the state level to protect physicians who serve on peer review committees.


This article describes a settlement agreement between the governments of Iran and the United States regarding several small claims pending before the Iran-United States Claims Tribunal.

Leonard, Rex; Williams, Hampton; Boulter, William "Authors' Response - Reaction to Dr. Verdugo's Comment on Boulter, Leonard and Williams" (Teacher Unionism: Factors That Motivate Membership) Journal of Collective Negotiations in the Public Sector January, 1990 - Winter V.19 N.1 pp. 85-86 Authors response to comments made on the research involved in the above work and an additional summary of the results of their study.

Levin, Anne S. "Labor Law - Review of Arbitration Awards in Public Sector Disputes" Temple Law Review June 22, 1990 - Summer V.63 N.2 437-450 Here the author opines that the Pennsylvania Supreme Court's holding that arbitrators are not allowed to consider mitigating circumstances when deciding whether an employer has "just cause" to discharge an employee will effectively undermine the ultimate purpose of arbitration - a speedy resolution.
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SERVING AS ARBITRATOR/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SETTLEMENT: PRESSURES TO SETTLE

Levine, Marvin J. "Subcontracting and 'Privatization' or Work: Private and Public Sector Developments" Journal of Collective Negotiations in the Public Sector September 22, 1990 - Fall V.19 N.4 pp. 275-282
This article explores the trend of subcontracting or farming out of work to outside firms to effect economic efficiencies, and how unions are attempting through negotiation to limit the adverse impact of this practice on the employment security of their members. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-G. GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: LABOR-G. SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)


Lieblich, William C. "Determinations by International Tribunals of the Economic Value of Expropriated Enterprises" Journal of International Arbitration March, 1990 V.7 N.1 pp. 37-76 An analysis of how the discounted cash flow method has been and should be used by international tribunals to determine the "present value" of assets. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ AGREEMENT ON PROCEDURE/ FAIRNESS/ JUDICIAL PARTICIPATION

Lind, E. Allan; MacCoun, Robert J.; Ebener, Patricia A.; Felstiner, William L.F.; Hensler, Deborah R.; Resnik, Judith; Tyler, Tom R. "In the Eye of the Beholder: Tort Litigants' Evaluations of Their Experiences in the Civil Justice System" Law & Society Review November, 1990 V.24 N.4 pp. 953-996 A study of various tort litigants' reactions to various methods of dispute resolution, including trial,
judicial settlement conferences, bilateral settlement, and court-annexed arbitration, finding that these litigants preferred the arbitration and trial procedures because the litigants deemed them to be fairer and also gave the litigants' claims a more respectful treatment.


Lissy, William E. "Withdrawal of Union Recognition Based on Hiring Strike Replacements" Supervision July, 1990 V.51 N.7 pp. 19(3) Discussion of federal appeals court decisions on whether an employer must show more than a workforce of strike replacements in order to rebut the union’s majority status after a year of certification by the NLRB. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT
Lissy, William E. "Court's Deference to Arbitrator's Awards" Supervision September 17, 1990 V.52 N.2 pp. 20(2) This article reviews a Sixth Circuit appeals court holding which enforced a "bizarre" and "unusual" arbitrator's award due to the acknowledged flexibility of arbitrators to design awards and to the courts' restricted authority to overturn such awards. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: PUBLIC POLICY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COURT REFORM/ SELECTION OF APPROPRIATE PROCESS

Lissy, William E. "Employee's Constitutional Right to Remain Silent During Investigation" Supervision April, 1990 V.51 N.5 pp. 22(3) This article discusses an employee's rights to assert Fifth Amendment privileges in criminal proceedings and the employee's absence of rights to assert the same privileges in employment investigations by the management. INST NATURE: JUSTICE SYSTEM- CRIM COURTS/ SUBJ MATTER: CRIMINAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ FAIRNESS/ RELATION TO ONGOING LITIGATION


Livingston, Roger A. "Sentencing: A Call for Creative Lawyering" Utah Bar Journal May, 1990 V.3 N.5 pp. 31(2) This article discusses creative techniques a lawyer may use in negotiating a criminal

Lloyd, Humphrey "How to Manage Complex International Arbitrations" Arbitration Journal September, 1990 V.45 N.3 pp. 60-66 By applying the concept of Management By Objective, the author provides ways in which a tribunal can facilitate complex international arbitration, and offers advice regarding the prehearing conference, expert witnesses, and other elements of the process. SUBJ MATTER: INT'L/ ARB: BINDING ARB- GENERAL/ ARB: PRIVATE JUDGING/ INST NATURE: GENERAL/ SUBJ MATTER: CORPORATE/ JUDICIAL PARTICIPATION/ ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS

Lock, Ethan "Powell v. National Football League: The Eighth Circuit Sacks the National Football League Players Association" Denver University Law Review January, 1990 - Winter V.67 N.2 pp. 135-154 The article examines the conflict over free agency in professional football as represented in Powell v. NFL, 888 F.2d 559 (8th Cir. 1989). The author argues that courts do have the power to determine the players' rights under federal antitrust law and that this is not precluded by the existence of the collective bargaining process. SUBJ MATTER: ANTITRUST/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: SPORTS & ENTERTAINMENT/ JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE PROCESS


Lover, John Alternative Dispute Resolution for the Community: An Annotated Bibliography This text is an extensive annotated bibliography of recent articles that involve ADR issues. INST NATURE:


Lowry, L. Randolph "Reconciliation: Both Sides Win" Quarterly (Christian Legal Society) June 22, 1990 - Summer V.11 N.2 pp. 4-8 An article asking lawyers to reframe their adversarial focus toward a practice of reconciliation and increased personal involvement. NEG: PSYCH CONSIDERATIONS/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: COUNSELING/ MED: PSYCH FACTORS/ INST NATURE: RELIGIOUS ORGANIZATIONS

Luer, Hans-Jochem  "German Court Decisions Interpreting and Implementing the New York Convention" Journal of International Arbitration March, 1990 V.7 N.1 pp. 127-138 An analysis of German court decisions since the 1961 adoption of the New York Convention construing and applying the Convention, noting a tendency by the courts to favor recognition of arbitration awards despite substantive German law that may potentially affect the validity of such awards.


Lutz, Robert E. "Resolving International Commercial Disputes; the Center for International Commercial Arbitration" Los Angeles Lawyer November, 1990 V.13 N.8 pp. 20-24 The author highlights the need for arbitration to settle international commercial disputes focusing on the Center for International Commercial Arbitration in Los Angeles and the various sources of law to facilitate arbitration.

SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE

Lyons, Elizabeth "Fired Workers Suffer Setback" Pennsylvania Law Journal-Reporter March 26, 1990 V.13 N.12 pp. 11 This article reports on a 3rd Circuit panel reversal of a ruling that a collective bargaining agreement between a union and a trucking company required a conciliation board's decision to be final.


MacDonnell, Lawrence J. "Natural Resources Dispute Resolution: An Overview." (Special Issue: Environmental Dispute Resolution) Natural Resources Journal March, 1990 - Winter V.28 N.1 pp. 5-19 This article provides a general overview of the different types of ADR in the natural resources arena and the growing number of disputes concerning natural resources.


MacNaughton, Donald T. "Arbitrating International Disputes in Hong Kong" East Asian Executive Reports October 15, 1990 V.12 N.10
This article suggests that Hong Kong would be a suitable forum for arbitration of international disputes because of its adoption of the UNCITRAL Model Law pertaining to international commercial arbitration.

ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: INT’L


Malin, Martin H.; Stallworth, Lamont E. "Affirmative Action Issues and the Role of External Law in Labor Arbitration" Seton Hall Law Review September 22, 1990 - Fall V.20 N.4 pp. 745-785 This article examines the impact of Title VII of the 1964 Civil Rights Act on grievance arbitration in labor disputes, analyzes arbitration awards which involved affirmative action agreements, and compares such arbitration awards with similar case law. SUBJ MATTER: LABOR-DISCRIMINATION

Mallen, Ronald E.; Donohue, Edward F. "How Settling a Malpractice Claim Affects Lawyers' Insurance Coverage" Trial May, 1990 V.26 N.5 pp. 85-87 This article examines the economic and professional consequences an attorney may face in deciding whether to settle a malpractice claim. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- NEGOTIATOR'S DILEMMA/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ CRITERIA/ NEG: EVAL OF OPTIONS AND OFFERS/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: OTHER PROF MALPRACTICE/ SETTLEMENT: PRESSURES TO SETTLE/
EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/FAIRNESS

Maniruzzaman, A.F.M. "International Arbitrator and Mandatory Public Law Rules in the Context of State Contracts: An Overview" Journal of International Arbitration September, 1990 V.7 N.3 pp. 53-64 The author discusses the applicability of relevant, mandatory public law when contracts are being arbitrated, and the author concludes that arbitrators should consider this law in order to bolster the popularity of arbitration and abide by public policy. ARB: PREPARATION/ARB: SERVING AS ARBITRATOR/SUBJ MATTER: COMMERCIAL/SUBJ MATTER: INT'L AGREEMENT ON PROCEDURE/ORGANIZATION POLICIES AND RULES/SELECTION OF APPROPRIATE PROCESS


Many, Thomas W.; Sloan, Charles A. "Management and Labor Perceptions of School Collective Bargaining" Journal of Collective Negotiations in the Public Sector September 22, 1990-Fall V.19 N.4 pp. 283-296 This study of collective bargaining in education indicates that schools are receptive to the application of collective bargaining principles, but that unions still see the process as more adversarial than do superintendents. SUBJ MATTER: EDUCATION/SUBJ MATTER:LABOR-MANAGEMENT (UNIONS)

article discusses the advantages of a system of awarding government contracts on initial proposals. MED: RELATED PROCESSES-GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T CONTRACTS/ SUBJ MATTER: REGULATORY/ AGREEMENT ON PROCEDURE/ SELECTION OF APPROPRIATE PROCESS

Marks, Susan "Treaties, State Responsibility and Remedies" Cambridge Law Journal November, 1990 V.49 N.3 pp. 387-390 This comment describes the decision of the international arbitral tribunal concerning New Zealand's complaint that France had violated a 1986 agreement between the two countries stemming from the 1985 sinking of the "rainbow warrior" ship in New Zealand waters. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ COMPLIANCE ISSUES/ JUDICIAL PARTICIPATION

Marshall, Enid A. "Court's Discretion to Extend Time Under Arbitration Act 1950, s. 27, Notwithstanding Arbitrator's Contractual Discretion To Do So" Journal of Business Law September, 1990 pp. 428-430 The Court's discretion to extend time must consider the circumstances in which the delay took place, the length of the delay and the fault of the individual that caused the delay. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM-GENERAL/ COURT REFORM/ JUDICIAL PARTICIPATION


105


Maute, Judith L. "Mediator Accountability: Responding to Fairness Concerns" Journal of Dispute Resolution 1990 V.1990 N.2 pp. 347 - 369 In this article, the author explores and comments on the proper balance of neutrality and accountability found in the successful mediator and some possible methods which can be used to ensure that the proper balance is preserved. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ INST NATURE: GENERAL/ 3RD PARTY: SELECTION/ POWER IMBALANCE

May, Marlynn L.; Stengel, Daniel B. "Who Sues Their Doctors? How Patients Handle Medical Grievances" Law & Society Review February, 1990 V.24 N.1 pp. 105-120 This study seeks to explain the means used by patients to resolve possible malpractice situations by analyzing the patients' environments, the relationship of the patients to their physicians, the seriousness of the patients' injuries, and the patients' general knowledge of the health and legal professions. SUBJ MATTER: MEDICAL MALPRACTICE/ TYPE OF SOURCE: BIBLIOGRAPHY/ SETTLEMENT: PRESSURES TO SETTLE/ COMPARISONS: CROSS-CULTURAL

McAdoo, Barbara; Bakken, Larry "Local Government Use of Mediation for Resolution of Public Disputes" The Urban Lawyer March 22, 1990 - Spring V.22 N.2 pp. 179-195 The difficulty of resolving public disputes in local governments has led the authors to
suggest that mediation be utilized to resolve public disputes more quickly and efficiently. The article describes the advantages and disadvantages of mediation and provides a brief overview of the mediation process.

SUBJ MATTER: GENERAL/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ DISPUTE PREVENTION/ POWER IMBALANCE

McCammon, Marlise; Cotton, John L. "Arbitration Decisions in Subcontracting Disputes" Industrial Relations January, 1990 - Winter V.29 N.1 pp. 135-144 This case study utilizes regression analysis to determine the effect of internal factors and external factors on arbitration decisions in disputes involving subcontracting. ARB: BINDING ARB-GENERAL/ SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ FAIRNESS


McDorman, Ted L. "Canada and France Agree to Arbitration for the St. Pierre and Miqueion Boundary Dispute" International Journal of Estuarine and Coastal Law November 19, 1990 V.5 N.4 pp. 357-361 The author briefly discusses the forming of an international arbitral tribunal by Canada and France in order to resolve their overlapping boundary claims for St. Pierre and Miqueion islands.
ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB:
SELECTION OF ARBITRATOR/ SUBJ MATTER: INT’L/ SUBJ MATTER: MARITIME


McKay, Robert B. "Ethical Considerations in Alternative Dispute Resolution" Arbitration Journal March, 1990 V.45 N.1 pp. 15-28 This article examines the ethical considerations applicable to a broad range of alternative dispute resolution techniques.

McKenna, Ian B. "Pay Equity and Arbitral Restrictions Under the Public Service Employee Relations Act." (Canada) Alberta Law Review March 22, 1990 - Spring V.28 N.3 pp. 690-692 This article examines the failure of the Public Service Employee Relations Act to act on its policy of promoting arbitration for the resolution of collective-bargaining disputes.
ARB: BINDING ARB- GENERAL/ ARB: FINAL OFFER ARB/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: MANDATE TO USE

McMasters, James W. "Mediation: New Process for High School Disciplinary Expulsions" Northwestern University Law Review January, 1990 - Winter V.84 N.2 pp. 736-773 In a discussion of procedural protection that should be offered to expelled high school students, the author argues that expelled school students need increased procedural safeguards and contends that mediation would be an efficient and logical step between administrative action and a hearing.
MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES-THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND
McMillion, Michael R. "Collective Bargaining in The Federal Sector: Has the Congressional Intent Been Fulfilled?" Military Law Review January, 1990 - Winter V.127 pp. 169-217 This article examines the process by which Congress granted federal employees the right to collective bargaining and explores the impact collective bargaining has had on governmental efficiency. ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ LEGISLATION

McMullen, John N.; Meyer, William G. "The Denver District Court’s Proposed ADR Order: An Early Settlement Effort" Colorado Lawyer June, 1990 V.19 N.6 pp. 1060(1) To relieve settlement only after substantial litigation, the civil divisions of the Denver District Court may issue an order requiring the parties to settle the case, to engage in some type of alternative dispute resolution of the parties choosing, or to make a showing of good cause why the requirement of the order should be modified or the parties exempted from the order. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ SUBJ MATTER: OTHER TORTS/ SETTLEMENT: PRESSURES TO SETTLE/ COURT REFORM/ JUDICIAL PARTICIPATION/ LEGISLATION/ RELATION TO ONGOING LITIGATION


This article includes a discussion of the complex procedural issues arising from the multi-party Libyan Producer's Agreement Arbitration by the Chairman of the Panel of Arbitrators. The article concludes with several lessons to be learned from such a complicated and prolonged ADR proceeding.

Medina, J. Michael "Economic Duress As a Means of Avoiding Settlement Agreements in Oklahoma" Oklahoma City University Law Review March 22, 1990 - Spring V.15 N.1 pp. 255-290 This article explores the defense of economic duress to avoid settlement agreements. The author concludes that while the defense is needed to protect innocent persons lacking bargaining power, the courts must develop a more stringent standard in order to avoid the undeserved use of the defense.

Meyer, Jeffrey D. "The NFLPA's Arbitration Procedure: A Forum for Professional Football Players and Their Agents to Resolve Disputes" Ohio State Journal on Dispute Resolution September 22, 1990 - Fall V.6 N.1 pp. 107-128 The author discusses the history of the National Football League Players Association (NFLPA) and the arbitration decisions rendered under its provisions, and suggests that players and agents should model their behavior according to those decisions.

Mikula, Donna "Alternative Dispute Resolution" Catholic Lawyer January, 1990 - Winter V.33 N.1 pp. 63-69 This article is a speech describing the provisions that various Catholic dioceses have made toward establishing trustees to handle alternative dispute procedures for the Church; the speaker offers suggestions to those seeking to set up such a process.
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Miller, Francis  "Redefining Terms of Arbitration" (Great Britain)  New Law Journal  June 8, 1990  V.140  N.6459  pp. 327(2)  The author describes the many different meanings of the term "arbitration", and proposes that a precise definition is needed.  ARB: MANDATORY, COURT-ANNEXED- GENERAL/  ARB: DRAFTING ARB AGREEMENT/  SUBJ MATTER: EDUCATION/  COMPARISONS: HISTORICAL

Miller, Howard S.  "Hong Kong." (Maritime Arbitration in the Asian Century)  Tulane Maritime Law Journal  March 22, 1990 - Spring V.14  N.2  pp. 281-288  An edited article from a symposium on the issue of maritime arbitration in the Pacific Rim Basin, this article is a summary of maritime arbitration in Hong Kong. Included are brief discussions of the development of the Hong Kong International Arbitration Centre, and the similarities and differences between English and Hong Kong laws regarding arbitration.  ARB: BINDING ARB- GENERAL/  SUBJ MATTER: INT'L/  SUBJ MATTER: MARITIME/ REQUIREMENTS: CONTRACTUAL CLAUSES/  AGREEMENT ON PROCEDURE

Miller, Lee Stuart  "The NLRB and Rule Making: Determining Bargaining Units in the Health Care Industry"  Labor Law Journal  October, 1990  V.41  N.10  pp. 711-724  The author discusses the NLRB's attempt at rule-making on bargaining units in the health care industry, and concludes that the NLRB should employ rule-making in the areas of campaign rules and NLRA requirements, but should not go beyond this.  SUBJ MATTER: HOSPITALS/  SUBJ MATTER: LABOR-GENERAL/  SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/  LEGISLATION/  ORGANIZATION POLICIES AND RULES

Mills, William P., III "State International Arbitration Statutes and the U.S. Arbitration Act: Unifying the Availability of Interim Relief" Fordham International Law Journal June 22, 1990 - Summer V.13 N.4 pp. 604-648 This article discusses the problem with the international arbitration law in the United States because it is not uniform on the issue of interim relief nor is it in accord with international consensus. The author suggests that Congress and the various state legislatures should create a consistent international arbitration law of the United States dealing with interim relief. ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ REQUIREMENTS: STATUTORY OR RULES/ JUDICIAL PARTICIPATION/ LEGISLATION

Milne, Ann L. "Family Law from a Family System Perspective - The Binary Equation" Pacific Law Journal July, 1990 V.21 N.4 pp. 933-951 The author stresses that in the area of family law there are sociological as well as legal issues and contends that a Family Court system, which utilizes procedural alternative dispute resolution techniques, will contribute to balancing both types of issues. MED: RELATED PROCESSES-GENERAL/ MED: PRETRIAL CONF/ MED: PSYCH FACTORS/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ JUDICIAL PARTICIPATION


Moccia, Lisa "Employment Law - Age Discrimination - Judicial Resolution of Claims Arising Under the Age Discrimination in Employment Act is not Precluded by a Prospective Agreement to Arbitrate" Seton Hall Law Review September 22, 1990 - Fall V.20 N.4 pp. 911-934 This article addresses the court's willingness to hear claims arising under the Age Discrimination in Employment Act, even though the parties had signed an employment agreement requiring arbitration. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: LABOR-DISCRIMINATION
Moore, Leslie William "Is Securities Arbitration Finally Above Suspicion?" The Kentucky Law Journal July, 1990 V.78 N.4 pp. 830-864 This comment critically examines the Supreme Court’s holding in Rodriguez de Quijas v. Shearson/American Express, Inc. to enforce pre-dispute agreements to arbitrate in securities transactions; the author concludes arbitration of securities disputes is fair and manageable, but its image must improve. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES/ FAIRNESS/ SELECTION OF APPROPRIATE PROCESS

Morgan, Anne C. "Thwarting Judicial Power to Order Summary Jury Trials in Federal District Court: Strandell v. Jackson County" Case Western Reserve Law Review V.40 p. 491 The author disagrees with a Seventh Circuit decision holding that a district court judge is not authorized to order summary jury trials. NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ REQUIREMENTS: MANDATE TO USE/ JUDICIAL PARTICIPATION

Morsdorf, Juliana "Effective Dispute Resolution for the International Commercial Lawyer." (book review) International Tax & Business Lawyer June 22, 1990 - Summer V.8 N.1 pp. 145-152 The author highly recommends the book, which is a collection of papers presented at an Austrian Conference on international dispute resolution which address how to foster amicable solutions to disputes, describe the litigation process, and discuss the enforcement of judgements in various countries. The papers also address pre-trial considerations and remedies, discovery procedures, arbitration and litigation, government litigation and post-trial considerations. ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ CONFERENCE PROCEEDINGS/ SELECTION OF APPROPRIATE PROCESS/ SUBPOENA AND DISCOVERY

rules help internationalize China’s arbitration law and practice.

**ARB:** BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT’L

**Muller, Frank** "Construction Arbitration"  *Arbitration Journal* March, 1989 V.44 N.1 pp. 54-55 This book is considered a detailed arbitration manual that will be useful to all parties involved in arbitration relating to the Construction Industry. TYPE OF SOURCE: BOOK REVIEW/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: CONSTRUCTION

**Mulligan, Thomas P.** "Examining Non-Administered Arbitration: New Rules Outline the Latest in ADR Techniques"  *Corporate Counsel’s Quarterly* April, 1990 V.6 N.2 pp. 43-49 The author introduces the concept of non-administered arbitration by examining and explaining the 19 rules that govern its application. Additionally, the author provides a contact person at the Center for Public Resources for those seeking additional information. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: GENERAL/ 3RD PARTY: SELECTION/ AGREEMENT ON PROCEDURE


**Nagel, Stuart S.** "Computer-Aided Negotiation"  *Colorado Lawyer* January, 1990 V.19 N.1 pp. 63(4) The article discusses how lawyer negotiation can be aided by multi-criteria decision-making software by helping a lawyer determine whether to accept a settlement or go to trial. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG:
TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ NEG: EVAL OF OPTIONS AND OFFERS/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ ECONOMIC ADVANTAGES OF ADR

Nagel, Stuart S.; Barczyk, Casimir  "Can Computers Aid the Dispute Resolution Process?"  Judicature  March 22, 1990  V.71  N.5  pp. 253(3)  This article discusses a new micro computer program called Policy/Goal Percentage (P/G%) and concludes that the P/G% program would be useful in assisting dispute resolution, particularly by clarifying the effects of various proposed solutions to a specific problem.  NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ CRITERIA/ NEG: EVAL OF OPTIONS AND OFFERS/ SUBJ MATTER: GENERAL


Nebraska Department of Agriculture  Farm Mediation and Debt Restructuring in Nebraska: A Guide for Farmers and Ranchers  This guide is designed to show farmers and ranchers how to resolve foreclosure, replevin, or other debt problems through mediation programs, and the application of new laws and rules.  MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: OPENING AND SETTING GUIDELINES/ SUBJ MATTER: FARM
Nelson, Nels E. "Factfinders View the Factfinding Process" Journal of Collective Negotiations in the Public Sector March 22, 1990 - Spring V.19 N.2 pp. 141-151 The author's survey results show a general consensus among fact finders in public sector mediation as to what their role is, but disagreement as to what basis they can appropriately use for their recommendations. MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)


Newman, Glenn  "The Summary Jury Trial as a Method of Dispute Resolution in the Federal Courts"  University of Illinois Law Review January, 1990 - Winter 1990 V.1 pp. 177-205 The author outlines the overcrowded docket problems of federal courts and the use of ADR techniques to deal with overcrowding. The article focuses on arguments for and against the use of mandatory summary jury trials and the authority of judges to compel an attorney's appearance at such proceedings, concluding that the use of such trials should continue. INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ REQUIREMENTS: MANDATE TO USE/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM


This study investigates the state of law in Germany, England, Canada, the United States, and Australia regarding the doctrine of estoppel and concludes that arbitral tribunals, in general, are more willing to apply the doctrine of estoppel against governments or their agencies than are national courts. Therefore it will be advantageous to include an arbitration agreement in an investment contract.


Norton, Eleanor Holmes "Justice and Efficiency in Dispute Systems" Ohio State Journal on Dispute Resolution March 22, 1990 - Spring V.5 N.2 pp. 207-230 This article discusses the limitations and obsolescence of many traditional dispute systems and questions the idea that..."

O'Reilly, Timothy Patrick "Alternative Dispute Resolution Under the NLRA: Devaluation of the Strike." The Labor Lawyer January, 1990 - Winter V.6 N.1 pp. 133-143 The author notes that the amount of strike activity has declined because of court decisions limiting those activities, and that employers and employees have turned to voluntary mediation as a way to settle their disputes. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ ARB: BINDING ARB- GENERAL/ ARB: FINAL OFFER ARB/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SELECTION OF APPROPRIATE PROCESS


Ogus, Anthony; Jones-Lee, Michael; Cole, William; McCarthy, Peter "Evaluating Alternative Dispute Resolution: Measuring the Impact of
Family Conciliation on Costs." Modern Law Review January, 1990 V.53 N.1 pp. 57-74 This report examines the economic efficiency of the ADR technique of family conciliation; the report concludes that although conciliation will increase social costs, it may be justified on the basis of its effectiveness. MED: RELATED PROCESSES-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ECONOMIC ADVANTAGES OF ADR

Ominsky, Harris "Negotiating Your Law Firm's Lease" Law Practice Management March, 1990 V.16 N.2 pp. 54(4) When renting office space, many firms fail to negotiate leases that include options to extend the rental period. This article briefly describes factors to consider in negotiating leases, including the possibility of arbitration in determining fair market value rents for the renewal period. ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE

Orkin, Neal; Orova, Steven "Meyers Industries and Its Effects on Nonunion Employees' Rights in the Workplace" Labor Law Journal September, 1990 V.41 N.9 pp. 659-666 This article explores the effect of Prill v. NLRB, 733 F.2d 941, which found that nonunion employees cannot seek protection from the National Labor Relations Board unless there is proof that their actions were supported and discussed with at least one other employee. The article also discusses the alternative methods of resolution available to protect employees from retaliatory discharge. SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)


Parkinson, Lisa "FMA Developments, December 1988-1989." (Family Mediators Association) (Great Britain) Family Law January, 1990 V.20 pp. 10-11 A description of the recently organized Family Mediators Association (FMA) including an explanation of member training, the nature of the association’s practice area, and the association’s fee arrangements. 


Parks, Jim "Just Saying No: Avoiding Predispute Agreements to Arbitrate in Securities Cases" Journal of Dispute Resolution January, 1990 V.1990 N.1 pp. 117-134 This article considers securities arbitration, the advisability of arbitration in the securities context, and forms of relief available to the securities plaintiff seeking to avoid arbitration. 


Paulsson, Jan "A Better Mousetrap: 1990 ICC Rules for a Prearbitral Referee Procedure" International Business Lawyer May, 1990 V.18 N.5 pp. 214(6) This article discusses the pre-arbitral referee procedure, which is the International Chamber of Commerce’s solution to the need for immediate relief in international disputes. 

ARB: DRAFTING ARB
Paulsson, Jan "International Commercial Arbitration in Belgium: A Handbook" Lloyds Maritime and Commercial Law Quarterly August, 1990 V.3 pp. 429-431 This review states that the handbook's appeal lies in the incorporation of the 1985 reforms, the discussion on creating jurisdiction in Belgium, and the validity of arbitration agreements.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW


Perline, Martin M.; McDougall, Gerald S. "The Mandatory - Permissive Distinction: A Simulated Case Study" Labor Law Journal October, 1990 V.41 N.10 pp. 706-710 This article discusses a study conducted to determine the effects that "mandatory" versus "permissive" distinctions have on the bargaining process; the study concluded that unions are less likely to achieve a favorable settlement when the legal status of an issue is labeled permissive.


Pew, Curtis E.; Jarvis, Robert M. "Pre-award Attachment in International Arbitration: The Law in New York" Journal of International Arbitration September, 1990 V.7 N.3 pp. 31-42 The authors discuss provisional remedies in aid of international commercial arbitration and conclude that New York law on pre-award attachments is in a state of flux.

SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ PROVISIONAL REMEDIES


Poltz, Judith I.  "Bargaining Obligations in the Construction Industry: An Outline of Recent Developments" Labor Law Journal September, 1990 V.41 N.9 pp. 649-658 This article examines recent developments in law regulating bargaining obligations in the construction industry with particular focus on the NLRB's decision in John Deklewa & Sons, which represented an abandoning of the principles of conversion and merger and introduced a new framework for the analysis of bargaining obligations. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER:
LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)


Potter, Richard B.  "ADR and Computer Contracts" Alternatives to the High Cost of Litigation  June, 1990  V.8  N.6  pp. 99-101  The author sets forth arguments for implementation of ADR clauses in contracts used by computer vendors, and he concludes that when properly selected beforehand, ADR techniques are the best method for resolving disputes. MED: REP OF A CLIENT DURING PROCESS/ SUBJ MATTER: COMMERCIAL/ REQUIREMENTS: CONTRACTUAL CLAUSES/ DISPUTE PREVENTION

124

Price, David  "Means and Ends"  *Family Law*  August, 1990  V.20 pp. 239(1) The author discusses the need for conciliation services to be made available throughout the court procedure involving family disputes. The Croydon County Court provide these services.  MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ INST NATURE: JUSTICE SYSTEM-GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ COURT REFORM/ JUDICIAL PARTICIPATION/ RELATION TO ONGOING LITIGATION

Priscoli, Dr. Jerome Delli  "Advisory Arbitration Offers Another Option For Lawyers Seeking A Private ADR Process"  *Alternatives to the High Cost of Litigation*  April, 1990  V.8  N.4  p. 59 Non-Binding arbitration is another alternative dispute resolution option available to counsel who reject a minitrial or other ADR processes.  NON-BINDING RECOMMENDATION PROC-GENERAL/ NON-BINDING RECOMMENDATION PROC-MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC-NEUTRAL FACT-FINDING/ NON-BINDING RECOMMENDATION PROC-NEUTRAL ARB/ NON-BINDING RECOMMENDATION PROC-EARLY NEUTRAL EVAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER: GOV'T CONTRACTS/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Pryles, Michael C.  "The 1989 Guide to International Arbitration and Arbitrators"  *Australian Law Journal*  September, 1990  V.64  N.9  p. 605  This article is a favorable review of Columbia University's annual guide to international arbitration and arbitrators while laying out the format and focus of these annual guides.  INST NATURE: GOV'T

Pryles, Michael C. "Legal Issues Concerning International Arbitrations" Australian Law Journal August, 1990 V.64 N.8 pp. 470-492 This article addresses the complex and technical legal issues that arise in international arbitration such as choice of law, enforcement of arbitration agreements and foreign arbitral awards. ARB: BINDING ARB-GENERAL/ ARB: PRIVATE JUDGING/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L/ AGREEMENT ON PROCEDURE/ COMPLIANCE ISSUES/ ORGANIZATION POLICIES AND RULES/ INST NATURE: GOV'T ENTITIES/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Quinn, Thomas J.; Rosenbaum, Mark; McPherson, Donald S. "Grievance Mediation and Grievance Negotiation Skills; Building Collaborative Relationships" Labor Law Journal November, 1990 V.41 N.11 pp. 762-772 The author suggests that grievance-mediation, if used properly, can strengthen labor relations and reserve for arbitration only those issues for which arbitration is most efficient. MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL

Rabban, David M. "Can American Labor Law Accommodate Collective Bargaining by Professional Employees?" Yale Law Journal January, 1990 V.99 N.4 pp. 689-758 This article examines the relatively recent increases in unionized professionals. Through exploration of collective bargaining, exclusive representation, and company domination, the author suggests a system of labor law that is conducive to professional values. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)
Rabenold, Keith M. "Lawyer-Versus-Lawyer Litigation: Is There an Alternative?" Ohio State Journal on Dispute Resolution March 22, 1990 - Spring V.5 N.2 pp. 421-436 An examination of alternative dispute resolution programs designed to facilitate intra-attorney disputes. The author concludes programs such as those offered in Pennsylvania and New York are effective alternatives to litigation. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ REQUIREMENTS: STATUTORY OR RULES/ ECONOMIC ADVANTAGES OF ADR

Rammelt, David A. "'Inherent Power' and Rule 16: How Far Can a Federal Court Push the Litigant Toward Settlement" Indiana Law Journal September 22, 1990 - Fall V.65 N.4 pp. 965-1002 This article examines the federal courts' attempts to reduce their dockets through the use of Alternative Dispute Resolution techniques, especially the summary jury trial. The author concludes federal judges should not impose mandatory, and ad hoc procedures designed to provoke settlement without the consent of the litigants. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SETTLEMENT: PRESSURES TO SETTLE/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM/ FAIRNESS/ JUDICIAL PARTICIPATION

Rawson, Dale V. "A Comparison of the Statutory Framework and Perceived Role of the Superintendent in Teacher Negotiations in the States of Kansas and Nebraska" Journal of Collective Negotiations in the Public Sector September 22, 1990 - Fall V.19 N.4 pp. 297-303 This article analyzes survey results to test whether school superintendents perceived their role in labor negotiations differently depending on the degree to which the statutory framework for negotiation was management-oriented. The study showed no patterns, although superintendents become more management-oriented as the size of their schools increases. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

challenges the common belief that pattern bargaining largely ended in the 1980s, and offers evidence to refute a widely quoted study by Audrey Freedman. INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL


Resnick, Lauren J. "Mediating Affordable Housing Disputes in Massachusetts: Optimal Intervention Points" Arbitration Journal June, 1990 V.45 N.2 pp. 15-31 The Affordable Housing Mediation Program in Massachusetts has been very successful in resolving disputes between developers and towns over the subsidized construction of middle income housing. This article proposes an earlier intervention point for Massachusetts housing mediation. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: TIMING/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS

Richards, Martin "Including Children in Conciliation - Some Problems and Issues" Family Law October, 1990 V.20 pp. 382(1) The author examines the role of children in the conciliation process, and concludes that the sensitive and emotional nature of the process requires careful consideration by all parties as to the extent and need of the child’s involvement. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ FAIRNESS/ SELECTION OF APPROPRIATE PROCESS


REQUIREMENTS: STATUTORY OR RULES/ COMPLIANCE ISSUES/ LEGISLATION


Roberts, Marian "Systems or Selves? Some Ethical Issues in Family Mediation." (Great Britain) Journal of Social Welfare Law January, 1990 V.1 pp. 6-17 This article considers the negative effects of imposing family therapy concepts onto the mediation process; it describes how this approach may seek to transform mediation into a form of therapeutic treatment and/or shift the balance of power away from the mediating parties and into the hands of the "family expert." MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: COUNSELING/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ POWER IMBALANCE

Roberts, Simon  "A Blueprint for Family Conciliation?"  (Great Britain)  
Report of a Newcastle Conciliation Project Unit study on the use of mediation in divorce settlement, which found that couples who made joint agreements as to custody, child support, and property division were happier with the settlement and less likely to need to turn to the courts later.  

Robinson, Robert L.  "ADR In The Insurance Industry: One Company's Perspective"  
Arbitration Journal  September, 1990  V.45  N.3  pp. 24-29  
This article describes the utilization of ADR by the CIGNA corporation, and asserts that recent state and federal developments facilitating ADR should lead to increased use of ADR in the insurance industry.  

Rogers, Andrew  "Contemporary Problems in International Commercial Arbitration"  
International Business Lawyer  March, 1989  V.17  N.4  pp. 154(7)  
The author argues that with the continuing integration of international markets, it is necessary and desirable to pursue uniformity in national dispute resolution systems, particularly in the area of commercial arbitration, since it has become the preferred solution for achieving uniformity by the business community.  

An examination of judicial
involvement in collective bargaining disputes in the context of Powell v. NFL, 888 F.2d 559 (8th Cir. 1989). The author critiques attempts by the National Football League Players association to circumvent the collective bargaining process as a means of resolving disputes in favor of litigation.

SUBJ MATTER: ANTITRUST/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: SPORTS & ENTERTAINMENT/ JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE PROCESS

Rosen, R. Eliot "Triplett Offers Insights into Final ADR Procedure" Tax Notes November 19, 1990 V.49 N.8 pp. 838(1) This article is a report of comments made by Charles P. Triplett, IRS deputy associate chief counsel, concerning advance determination ruling procedure, designed as an alternative to the costly system of auditing transfer-pricing cases. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: TAX/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS

Roth, Ronica "The Frivolous Case - Or Is It?" (When to Say Yes, and How to Say No) Complete Lawyer 1990 - Fall V.7 N.4 pp. 34(5) The author determines what to look for in deciding whether a case is frivolous and deciding what other alternative dispute resolution options may be available. MED: RELATED PROCESSES-GENERAL/ MED: COUNSELING/ NON-BINDING RECOMMENDATION PROC-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GENERAL/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS/ TEACHING

Rothstein, Larry A. "Surety In Bad Faith For Demanding Arbitration?" (California) The Los Angeles Daily Journal November 12, 1990 V.103 N.225 p. 7 The article discusses surety bad faith law, which implicitly acts as an admission of liability to creditors when the surety agrees that the matter should be arbitrated. ARB: BINDING ARB-GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INSURANCE/ 3RD PARTY: LIABILITY & IMMUNITY

PROFIT-MAKING/ SUBJ MATTER: CORPORATE/ REQUIREMENTS: CONTRACTUAL CLAUSES

Rowe, Mary P. "Helping People Help Themselves: An ADR Option for Interpersonal Conflict" Negotiation Journal July, 1990 V.6 N.3 pp. 239 - 248 This article discusses the direct approach to dispute resolution and illustrates the approach with a letter written to a person who has harassed or offended the writer. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ SUBJ MATTER: GENERAL/ SELECTION OF APPROPRIATE PROCESS

Roy, Stephen J. "Developer Exactions and Impact Fees" Colorado Lawyer January, 1990 V.19 N.1 pp. 67-(3) This article explores and evaluates how various state courts have approached the issue of the imposition of developer exactions and their constitutionality. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: GOV'T/ FAIRNESS


Rubino-Sammartano, Mauro "Is Arbitration to be Just a Luxury Clinic?" Journal of International Arbitration September, 1990 V.7 N.3 pp. 25-30 An analysis of arbitration as a means for resolving notably large contractual disputes, as well as resolving mid-size and small claims, noting that arbitration proceedings must be adapted to the size of a conflict to be useful. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: GENERAL/ AGREEMENT ON PROCEDURE/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS

Rutherford, Margaret "Back To The Future" New Law Journal November 16, 1990 V.140 N.6480 pp. 1600(3) This article suggests that litigation is not as adaptable as alternative forms of dispute resolution.


Sander, Frank E.A. "Donovan Leisure Newton and Irvine ADR Practice Book" (book review) ABA Journal August, 1990 V.76 pp. 108(1) This article compares Corporate Counsel's Guide to Alternative Dispute Resolution Techniques and Donovan Leisure Newton & Irvine's ADR Practice Books and concludes that the Donovan Leisure publication is more accurate, provides broader coverage, and is a useful tool for understanding the ADR process. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ TYPE OF SOURCE: BOOK REVIEW

Sander, Frank E.A.; Prigott, Michael L. "Professional Responsibility: Should There be a Duty to Advise of ADR Options?" (pro and con) ABA Journal October 22, 1990 V.76 pp. 50(2) A debate on the propriety of a requirement that lawyers present clients with ADR alternatives. The proponent asserts that disclosure to clients should be mandatory to insure that all lawyers are proficient in the field, and to enable clients to make informed decisions. The opponent feels that the requirement would add to client costs and would otherwise be an unreasonable burden. SUBJ MATTER: GENERAL/ ETHICS: GENERAL/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE


Schmertz, Eric J. "Honorable Frank A. Gulotta Lecture: Nassau County Bar Association, January 28, 1987" (drug testing in the workplace) Hofstra Labor Law Journal March 22, 1990 - Spring V.5 N.2 pp. 129-148 A lecture by Eric Schmertz concerning issues which will be litigable or arbitrable in the context of employer drug testing of employees as these testing practices continue and increase. NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Schoonhoven, Ray J., ed. Fairweather's Practice and Procedure in Labor Arbitration This textbook provides guidelines for those involved in labor arbitration. It outlines recent changes and developments in the field which also serve to help practitioners in the field. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: PREPARATION/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)


Schwartz, Matthew D. "Multiparty Disputes and Consolidated Arbitrations: An Oxymoron or the Solution to a Continuing Dilemma?" Case Western Reserve Journal of International Law March 22, 1990 - Spring-Summer V.22 N.2-3 pp. 341-373 An examination and criticism of court compelled, consolidated arbitrations in the context of construction contracts and maritime charter party agreements. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE:
Scott, Jeffrey J. "Securities Litigation in the 1990's" Colorado Lawyer October, 1990 V.19 N.10 pp. 2045(4) This article describes the role of arbitration as it relates to securities litigation, including a discussion on past efforts to ban the use of arbitration in the securities industry and its future role in the industry. ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS: STATUTORY OR RULES/ JUDICIAL PARTICIPATION


Seppala, Christopher R. "New FIDIC Contract For Civil Engineering: Principal Changes in Procedure for Settlement of Disputes" Middle East Executive Reports February, 1990 V.13 N.2 pp. 8(6) This article analyzes the impact of the changes made in the fourth edition of the FIDIC Conditions of Contract for Works of Civil Engineering Construction, and predicts the disputes that will be created by the revisions. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: INT'L/ AGREEMENT ON PROCEDURE

Seppala, Christopher R.; Gogek, Daniel "Multiparty Arbitration Under ICC Rules" Middle East Executive Reports March, 1990 V.13 N.3 pp. 8(5) This article illustrates the ineffectiveness of the International Chamber of Commerce's standard arbitration clause in dealing with multiparty disputes. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB:
Sever, J.R. "Rodriguez de Quijas v. Shearson/American Express: A Green Light to Arbitration, a Yellow Light to Investors" Tulane Law Review May, 1990 V.64 N.5 pp. 1312-1320 This article examines a recent Supreme Court case which held that the Federal Arbitration Act supersedes action of the 1933 & 1934 Securities Exchange Acts; the author concludes that this may be unfair to private investors who sign standard customer forms and are unaware of the arbitration agreements. ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES/ COMPLIANCE ISSUES/ FAIRNESS

Shafer, William J. "Arbitration - Arbitration Gets the Green Light as the Death Blow is Struck to Wilco v. Swan" The Journal of Corporation Law January, 1990 - Winter V.15 N.2 pp. 339-362 This article examines the use of arbitration clauses in security agreements, and the Supreme Court's recent decision that they are valid and enforceable in disputes that arise out of the Securities Act of 1933. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: SECURITIES/ AGREEMENT ON PROCEDURE/ ECONOMIC ADVANTAGES OF ADR

Shannon, Brian D. "The Administrative Procedure and Texas Register Act and ADR: A New Twist for Administrative Procedure in Texas?" Baylor Law Review September 22, 1990 - Fall V.42 N.4 pp. 705-736 This article discusses the widespread acceptance of the Texas Register Act, points out its inefficiency and suggests the need for flexibility in some cases to resolve disputes short of the full process delineated by the act. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM-APPELLATE COURTS/ SUBJ MATTER: REGULATORY/ REQUIREMENTS: STATUTORY OR RULES/ COMPLIANCE ISSUES/ ECONOMIC ADVANTAGES OF ADR/ LEGISLATION

Shapiro, Mitchell S. "Arbitration May Not Always Be the Best Option" The Los Angeles Daily Journal October 12, 1990 V.103 N.204 p. 7 This article calls into question the accepted positive attributes of arbitration in settling disputes arising under the fast-growing field of franchise law. ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CORPORATE/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS

Shaw, J.W. "The Industrial Relations Act 1988 - A New Era for the Resolution of Industrial Conflict?" Australian Law Journal October, 1990 V.64 N.10 pp. 620-629 This author examines the possible effects of the Australian Industrial Relations Act of 1988, and while acknowledging its attempt to re-write industrial law, remains convinced that the enactment will not result in substantial change in the resolution of industrial disputes. SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: REGULATORY/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL/ REQUIREMENTS: MANDATE TO USE/ LEGISLATION/ PROVISIONAL REMEDIES

Shawn, Joel "The Mediation Alternative" Family Advocate June 22, 1990 - Summer V.13 N.1 pp. 16(2) The author argues that mediation reduces the amount of time lawyers spend in divorce proceedings because mediators address the emotional issues that block resolution of a divorce. MED: RELATED PROCESSES-GENERAL/ MED: OPENING AND SETTING GUIDELINES/ MED: ENCOURAGING COMM AND NEG/ MED: COUNSELING/ MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ CONFIDENTIALITY

Shell, G. Richard "ERISA and Other Federal Employment Statutes: When is Commercial Arbitration an 'Adequate Substitute' for the Courts?" Texas Law Review February, 1990 V.68 N.3 pp. 509-573 The author discusses the arbitrability of ERISA and other federal statutory employment claims under the FAA, and concludes that apparent inconsistent treatment by courts is in part due to the differences between commercial and labor arbitration. ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/
Sheppard, John  "An Analysis of Liquidated Damage Clauses as a Method of Dispute Resolution Under Ohio Law"  Ohio State Journal on Dispute Resolution  March 22, 1990 - Spring  V.5  N.2  pp. 437-457  This note analyzes the effectiveness of liquidated damage clauses as tools of dispute resolution under Ohio law. The Note presents some common situations in which liquidated damage clauses are used and provides guidelines for such uses on the current commercial environment along with suggestions for the improvement of current Ohio law.  

Sherman, Jeremy P.  "Collective Bargaining Over Work Assignment Proposals: Differentiating Between Concepts of Jurisdiction and Unit Scope"  Labor Law Journal  January, 1990  V.41  N.1  pp. 3-12  This article examines the often subtle distinctions between jurisdiction and scope of a bargaining unit, using cases to illustrate.  

Shrader-Frechette, Kristin S.  "Perceived Risks Versus Actual Risks: Managing Hazards Through Negotiation"  Risk: Issues in Health & Safety  September 22, 1990 - Fall  V.1  N.4  pp. 341-363  A discussion of the distinction between "perceived risks" and "actual risks," as calculated by lay persons and experts, respectively, and how the negotiation of their different perceptions can aid in the resolution of disputes. Specific application of the Hudson River Controversy of 1964.  

Shuart, Kathy  "Pilot Programs to go Statewide"  North Carolina State Bar Quarterly  March 22, 1990 - Spring  V.37  N.2  pp. 8(2)  Article details recent incorporation of alternative dispute resolution in North Carolina courts, including custody mediation and court-ordered non-binding arbitration for civil cases, and notes that use of these
techniques will increase with continued funding of the General Assembly.


Siegel, Ruth; Fox, Frances "ADR in Family Law - A Guide for the Perplexed" Law Institute Journal July, 1990 V.64 N.7 pp. 612-614 A brief discussion of the various dispute processes available in Australia to resolve domestic relations disputes, emphasizing mediation as a particularly helpful method of both resolving underlying disputes and satisfying both sides of a conflict.

1990 BIBLIOGRAPHY

Silverman, B. Scott "The Enforceability of Releases and Arbitration Agreements in Employment Discrimination Cases" ALI-ABA Course Materials Journal October, 1990 V.15 N.2 pp. 103-128 This article outlines the scope of waiver and release contracts in employment discrimination cases, including the knowing and voluntary requirements of such contracts, and the trend favoring enforcement of arbitration agreements. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COURT REFORM


Sinicropi, Anthony V. "The Use and Abuse of Management Rights" (Current Issues in Arbitration Law) (Forum: Labor Law Symposium Proceedings) Industrial Relations Law Journal July, 1990 - Winter V.10 N.1 pp. 2-7 The author asserts that arbitrators need to keep in mind that the conflict between management rights and intrusions on these rights by labor lie at the core of many disputes. ARB: BINDING ARB-
Skilled, James W. "Can Nations Be Reconciled?" Quarterly (CLS) Summer 1990 V.11 N.2 p. 31 Political reconciliation and conflict resolution among nations can be achieved through the practice of self-limitation, rooted in Christian Tradition. INST NATURE: RELIGIOUS ORGANIZATIONS/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ COMPARISONS: HISTORICAL

Skratek, Sylvia "Grievance Mediation: Does It Really Work?" Negotiation Journal January, 1990 V.6 N.1 pp. 269-280 This article presents the results of a 1988 follow-up study to the 1985 Washington Education Association study. The studies found that the introduction of grievance mediation prior to arbitration yielded faster and less expensive results in two diverse industries: coal mining and education.


Snow, Carlton J. "An Arbitrator's Use of Precedent" Dickinson Law Review March 22, 1990 - Spring V.94 N.3 pp. 665-720 The author offers an approach to evaluate the precedential value of arbitration awards, then examines the four different ways in which judicial review of these awards can affect arbitral precedent. ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO
ARB/ ARB: JUDICIAL REVIEW/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPLIANCE ISSUES/ ISSUE & CLAIM PRECLUSIVE EFFECTS


Spalding, Albert D., Jr. "Mapping Out The Multiemployer Pension Plan Arbitration Act" ('MPPAA') The Practical Lawyer April, 1990 V.36 N.3 pp. 73-81 The Multiemployer Pension Plan Amendments Act of 1980 is discussed in full detail, arguing that the plan sponsor must calculate a "withdrawal liability" whenever an employer withdraws from a multi-employer pension plan. Upon withdrawal, the employer will be notified of its liability and if it disagrees with the amount of liability, the employer has a grace period before the matter will automatically be turned over to arbitration. ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ SETTLEMENT: PRESSURES TO SETTLE/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION/ TEACHING


Spelfogel, Evan J. "Alternative Dispute Resolution and Deferral to Arbitration." (Alternative Dispute Resolution) The Labor Lawyer January, 1990 - Winter V.6 N.1 pp. 87-96 This article examines the pros and cons of ADR, focussing on ADR's use in the labor-management
arena, primarily as it relates to statutory issues. Additionally, the article
denounces the idea that plaintiffs in discrimination matters currently are
permitted to pursue their rights both under arbitration and before the
NLRB. ARB: MANDATORY, COURT-ANNEXED-GENERAL/
ARB: BINDING ARB-GENERAL/ INST NATURE: GOV'T
ENTITIES/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER:
LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER:
EMPLOYMENT (NON-UNIONS)/ REQUIREMENTS: STATUTORY
OR RULES/ COURT REFORM

Spies, Frank S. "Ten Commandments for Effective Mediation Practice"
Michigan Bar Journal May, 1990 V.69 N.5 pp. 422(2) The author
offers some procedures to follow to acquire effective mediation techniques.
MED: RELATED PURPOSES- THEORY AND STRATEGIES/
MED: ENCOURAGING COMM AND NEG/ MED: REP OF A
CLIENT DURING PROCESS/ SUBJ MATTER: GENERAL/
CONFERENCE PROCEEDINGS/ DISPUTE PREVENTION/ ROLE
OF LAWYERS

Spiller, Peter "A Review of the Disputes Tribunals of New Zealand"
New Zealand Law Journal March, 1990 pp. 109-112 This article
offers a look at recent trends in the New Zealand dispute tribunals;
focusing on the referees, parties appearing before the tribunals, and claims
brought before the tribunals. NEG: W/ OR W/O ASSIST OF
3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF
3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: TACTICS,
STRATEGIES AND TECHNIQUES-GENERAL/ MED: RELATED
PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION
PROC- GENERAL/ ARB: MANDATORY, COURT-ANNEXED-
GENERAL/ ARB: BINDING ARB-GENERAL/ INST NATURE:
GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT’L

Stadler, Christoph "The New GATT Round of Multilateral Trade
Negotiations, Legal and Economic Problems." (book review)
577-581 The title of the book is the same as the subject of an academic
conference held in June, 1987. The book reproduces a majority of the
revised papers and shorter comments of the conference, including
twenty-five contributions from many of the best-known GATT specialists.
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/
NEG: CULTURAL CONSIDERATIONS/ INST NATURE: GENERAL/
SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CORPORATE/
SUBJ MATTER: INT’L/ TYPE OF SOURCE: BOOK REVIEW/
COMPARISONS: HISTORICAL/ ORGANIZATION POLICIES AND RULES/ TEACHING


Steenrod, Robert L., Jr. "Avoiding Litigation in Probate Estates" (Alternative Dispute Resolution) Colorado Lawyer May, 1989 V.18 N.5 pp. 875(3) The article discusses some creative techniques provided by the Colorado Probate Code to avoid the need for litigation in decedent and conservatorship estates, including resort to private agreements among the parties, court-approved settlements of more substantial disputes and
renouncements and statutory elections to realign the distribution of the
decedent's property.   INST NATURE: JUSTICE SYSTEM-OTHER/
SUBJ MATTER: PROBATE

Stein, Mark S. "10(b) or Not 10(b): A Critical Overview of
Court-Selected Limitations Periods in Labor Law" The Labor Lawyer
March 22, 1990 - Spring V.6 N.2 pp. 331-393 Examines case law
on labor law limitations periods and proposes solutions to the confusion
created by Del Castello v. International Brotherhood of Teamsters, 462
MATTER: LABOR-MANAGEMENT (UNIONS)/ LEGISLATION

Stempel, Jeffrey W. "Pitfalls of Public Policy: The Case of Arbitration
Agreements" St. Mary's Law Journal December, 1990 V.22 N.2
pp. 259-355 This article offers an in depth study of the history of
arbitration, its slow-forming acceptance, the genesis of the Federal
Arbitration Act, and finally, criticism of the judiciary's abuse of the
"public policy" exception when refusing to settle some claims.   ARB:
MANDATORY, COURT-ANNEXED- GENERAL/   ARB: BINDING
ARB- GENERAL/   ARB: TRAINING AND QUALIFICATIONS OF
 ARBITRATOR/   ARB: DRAFTING ARB AGREEMENT/   SUBJ
MATTER: CIVIL RIGHTS/   SUBJ MATTER: PUBLIC POLICY/
FAIRNESS/ ORGANIZATION POLICIES AND RULES

Stern, Alissa "International Agreements - Agreement to Enter into
Comprehensive Negotiations, Ethiopia-Eritrean People's Liberation Front,
Final Communique" Harvard International Law Journal January, 1990 -
Winter V.31 N.1 pp. 339-348 This article reviews the past
difficulties between the Eritrean People's Liberation Front (EPLF) and the
Ethiopian government and discusses the implications of the recent
agreement to enter into comprehensive negotiations announced by the
Carter Center.   NEG: W/ OR W/O ASSIST OF 3D-PARTY
NEUTRAL-GENERAL/   NEG: CULTURAL CONSIDERATIONS/
MED: RELATED PROCESSES-GENERAL/   MED: OBTAINING
AGREEMENT TO USE

Stevens, Carl M. "Comments on 'Socrates Confronts Final-Offer
Selection'" Industrial Relations September 22, 1889 - Fall V.29 N.3
pp. 528-529 The author gives a brief analysis of the essay "Socrates
Confronts Final-Offer Selection" and suggests that in examining the
historical development of final-offer arbitration in industrial relations
disputes, attention should be given to the role of Socrates' analysis of
final-offer arbitration's effectiveness.   ARB: FINAL OFFER ARB/
ARB: BINDING ARB- GENERAL/ SETTLEMENT: PRESSURES TO SETTLE/ COMPARISONS: HISTORICAL/ SUBJ MATTER: LABOR-GENERAL

Stewart, C. Evan  "How to Construct Better Arbitration Clauses" The Practical Lawyer December, 1990 V.36 N.8 pp. 79(8) The author discusses possible disadvantages of arbitration and offers advice on the importance of drafting a clause that specifically addresses forum choice, selection of arbitrator, procedural rules, damages, and judicial review.


Stoecker, Christoph W.O.  "The Lex Mercatoria: To What Extent Does it Exist?" Journal of International Arbitration March, 1990 V.7 N.1 pp. 101-125 The author discusses a transnational law of trade that has developed in the international business community as a result of conflict of law problems, noting that such a transnational law has never been enforced by legal courts but has been used in international arbitration proceedings only to the extent of limiting the substance of disputes.


Stratton, Jeremy  "Occupying the Middle Ground" (Great Britain) New Law Journal May 16, 1990 V.140 N.6456 pp. 719(2) The author describes mediation as the ideal replacement of litigation in the United Kingdom in the 1990's.


Swanson, Steven R. "Comity, International Dispute Resolution Agreements, and The Supreme Court" *Law and Policy in International Business* June 22, 1990 - Summer V.21 N.3 pp. 333-365 The author critiques decisions of the U.S. Supreme Court as discouraging the use of arbitration to settle international commercial disputes. He reasons that a "smoothly functioning system" of resolving international civil disputes would better benefit American interests. SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT’L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPLIANCE ISSUES

PRESSURES TO SETTLE/ COMPLIANCE ISSUES/ ECONOMIC ADVANTAGES OF ADR/ COURT REFORM


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MATTER: EMPLOYMENT (NON-UNIONS)/ SETTLEMENT: PRESSURES TO SETTLE

Thomas, D. Rhidian "Arbitral Delay and The Recommendation of the Departmental Advisory Committee." (Great Britain) Journal of Business Law March, 1990 pp. 110-125 The author criticizes a recommended change in English arbitration laws that would allow the arbitral tribunals to dismiss claims for inordinate delay. It is suggested that such authority only be available with the express consent of both parties. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: DRAFTING ARB AGREEMENT/ COMPLIANCE ISSUES/ LEGISLATION

Thomas, D. Rhidian "International Commercial and Maritime Arbitration" Lloyds Maritime and Commercial Law Quarterly February, 1990 V.1 pp. 130-132 While the reviewer holds that some of the six articles in International Commercial and Maritime Arbitration may be too dated for the practitioner, he finds that the volume can be especially useful to the academician on such topics as arbitral immunity, transnationalism, and the jurisprudence of arbitration. ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ ARB: CLIENT REP/ ARB: JUDICIAL REVIEW/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: MARITIME/ COMPARISONS: HISTORICAL

Thomas, D. Rhidian "The Arbitration Exclusion in the Brussels Convention 1968: An English Perspective" Journal of International Arbitration September, 1990 V.7 N.3 pp. 43-52 A discussion of the arbitration exclusion in the 1968 Brussels Convention, which intended to create a legal framework for judgment and jurisdictional issues among European Economic Community nations, noting the general confusion over the purpose and validity of the exclusion needs to be resolved by the European Court. ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL/ LEGISLATION

Thomas, D. Rhidian "The Judicial Supervision of Arbitral References Involving an Allegation of Fraud" Civil Justice Quarterly October, 1990 V.9 pp. 381-403 The author concludes that judicial supervision of arbitration proceedings reduces the level of fraud and provides a basis for judicial review. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO

Thompson, Roderick M. "Mediation: Law, Policy, Practice" (book review) Arbitration Journal June, 1990 V.45 N.2 pp. 59 This book review of Rogers and McEwen's Mediation: Law, Policy, Practice describes the authors' production as an extremely well referenced treatise on the subject of mediation, critical only of the lack of discussion on commercial and international disputes necessary due to the treatises' broad focus.

Thornton, Robert J.; Zirkel, Perry A. "The Consistency and Predictability of Grievance Arbitration Awards" Industrial and Labor Relations Review January, 1990 V.43 N.2 pp. 294-307 The authors conducted a study of the consistency and predictability of grievance arbitration awards by arbitrators, management, and union representatives, finding considerable inconsistency among labor arbitrators in their decisions. The authors conclude that further research should focus on the opinion portion of arbitrator decisions and their acceptability.

Thurman, Ruth Fleet "Chipping Away at Lawyer Veracity: The ABA's Turn Toward Situation Ethics in Negotiations" Journal of Dispute Resolution January, 1990 V.1990 N.1 pp. 103-116 This article decries the exceptions to honest dealings by negotiating lawyers contained in ABA Model Rule 4.1 and its official comment, explaining that these exceptions to the truthfulness requirement are unwarranted as well as detrimental to the legal system.
STRATEGIES AND TECHNIQUES- FALSE DEMANDS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ ETHICS: GENERAL/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE


Tornquist, Leroy J. "The Active Judge in Pretrial Settlement: Inherent Authority Gone Awry" Defense Law Journal July, 1990 V.39 N.3 pp. 307-338 The author contends that before any new innovations in the areas of mediation or negotiation are explored, the adversary process and the judge’s role in this process should be to see if the judge can evaluate the stress on the system by encouraging settlement during the pretrial stages of the case. NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ 3RD PARTY: PRACTICE OF LAW/ SETTLEMENT: PRESSURES TO SETTLE/ REQUIREMENTS: STATUTORY OR RULES/ CONFIDENTIALITY/ ETHICS: GENERAL/ JUDICIAL PARTICIPATION


arbitration are included, and a miracle is credited for resolving the problem. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: CLIENT REP/ INST NATURE: RELIGIOUS ORGANIZATIONS/ SUBJ MATTER: FAMILY (DOMESTIC REL)


Turck, Nancy "Saudi Board of Grievances Enforces Foreign Judgment" Middle East Executive Reports May, 1990 V.13 N.5 pp. 9(4) The author explains why a Saudi Arabian Court is willing to enforce a foreign judgment and analyzes the Court's criteria for determining when to enforce foreign judgments. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPARISONS: CROSS-CULTURAL/ JUDICIAL PARTICIPATION


Ury, William L. "Dispute Resolution Notes from the Kalahari" Negotiation Journal July, 1990 V.6 N.3 pp. 229 - 238 The author, using a diary of his visit to the Kalahari desert, gives an account of dispute resolution used by the Bushmen, noting in particular the care taken to avoid starting and escalating disputes. MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: GENERAL// SUBJ MATTER: COMMUNITY/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/ DISPUTE PREVENTION

Van Duzer, John E. "The Role of the AFCC" (Association of Family and Conciliation Courts) Family Law October, 1990 V.20 pp. 381-382 The Association of Family and Conciliation Courts (AFCC) is an international group created to provide services to aid in the resolution of family conflicts. The York Conference is one of many sessions held by the AFCC to improve services, refine techniques and create exposure. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: COUNSELING/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: INT'L/ JUDICIAL PARTICIPATION

Van Koppen, Peter J. "Risk Taking in Civil Law Negotiations" Law and Human Behavior April, 1990 V.14 N.2 pp. 151-165 This article compares the defendant's and plaintiff's propensity to negotiate given their perceived chances of winning a formal judgement in court. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: PSYCH CONSIDERATIONS/ SETTLEMENT: PRESSURES TO SETTLE
Vause, W. Gary  "The Good Faith Obligation in Public Sector Bargaining - Uses and Limits of the Private Sector Model"  Stetson Law Review  March 22, 1990  - Spring  V.19  N.2  pp. 511-569  Using the Florida Public Employees Relations Act (PERA) as the primary public sector model, this article examines the duty to bargain in good faith in the public sector and discusses the differences and similarities with the NLRA's private sector scheme.  ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION

Ver Ploeg, Christine; Marion, Phyllis  "Comparable Worth in Arbitration"  William Mitchell Law Review  December 22, 1990  - Winter  V.16  N.5  pp. 1223-1238  The author examines the need for comparable worth laws based on the inability of the Equal Pay Act and Title VII to cure the disparities that stem from stereotypical notions of women's work versus men's work; the author also discusses the enforceability of such an act through collective bargaining and arbitration.  ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)


Vogeler, William  "Study Finds Arbitration Cuts Costs"  The Los Angeles Daily Journal  October 11, 1990  V.103  N.203  p. 7  This article discusses the results of a study conducted by The Institute for Civil Justice which concluded that while leading to greater access to the judicial system, court-annexed arbitration neither reduces public costs of trial nor reduces case time.  ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ INST NATURE: JUSTICE SYSTEM- GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ECONOMIC ADVANTAGES OF ADR


Walsh, William J. "Did the Indiana Teacher Collective Bargaining Act Foster Labor Peace?" Journal of Collective Negotiations in the Public Sector September 22, 1990 - Fall V.19 N.4 pp. 305-317 The author concludes that statutorily mandated collective bargaining for Indiana public school teachers has improved the bargaining atmosphere. SUBJ MATTER: EDUCATION/ DISPUTE PREVENTION


Waxman, Geraldine L. "Mediation: Part 1; Background and Overview." (The 1989 Survey of Florida Law) Nova Law Review March 22, 1990 - Spring V.14 N.2-3 pp. 933-937 This article gives an overview of
the mediation process and explains how mediation functions as a problem solving approach to conflict resolution where neither party "wins" at the expense of the other party. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ 3RD PARTY: NEUTRALITY/ 3RD PARTY: VOLUNTEER OF LAY PERSONS

Weeks, Joseph R. "Continuing Liability Under Expired Collective Bargaining Agreements." (part 1) Oklahoma City University Law Review September 25, 1990 - Spring V.15 N.1 pp. 1-207 The author, in part I of a trilogy of articles on the federal common law on labor, summarizes the law in four contexts in which an attempt may be made to enforce rights created by a collective bargaining agreement which has terminated. The four areas of law which are summarized are (1) Section 8(a)(5) of NLRA; (2) Section 301; (3) ERISA, and (4) state law. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

Weeks, Joseph R. "Continuing Liability Under Expired Collective Bargaining Agreements." (Parts 2 & 3) Oklahoma City University Law Review March 22, 1990 - Summer V.15 N.2 pp. 359-602 This article is a continuation of an article on the federal common law of labor. The author, in Part II of this trilogy, analyzes collective agreement claims made post-termination under four contexts of the law. In Part III, the author concludes that this area of law needs to be codified as the federal common law inadequately protects post-termination claims. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

Weintraub, Russell J. "A Proposed Choice-Of-Law Standard for International Products Liability Disputes" Brooklyn Journal of International Law August 20, 1990 V.16 N.2 pp. 225-239 This article examines international choice of law problems for products liability and suggests a rule; the article also explores the rules' implications for forum non conveniens dismissals of actions brought by foreign plaintiffs
Werner, Jacques  "Arbitration With the Arab Countries"  Journal of International Arbitration September, 1990 V.7 N.3 pp. 92(1) A book review of Arbitration with the Arab Countries, by Abdul Vd El-Viis, Vise, 1990, noting that the book analyzes in detail not only the different arbitration systems in the Arab nations, but also the extent to which each nation’s arbitration systems remain linked to the muslim law, the Shari’a.


Werner, Jacques  "International Chamber of Commerce Arbitration, 2d ed." (book review) Journal of International Arbitration September, 1990 V.7 N.3 pp. 91(1) The book reviewer applauds the new work entitled International Chamber of Commerce Arbitration as a good road map for practitioners in this forum. However, the reviewer points out some of the shortcomings on the issues of institutional versus ad hoc arbitration, ICC costs and administrators’ fees, and the publication of expurgated ICC awards. ARB: CLIENT REP/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT’L/ TYPE OF SOURCE: BOOK REVIEW/ ROLE OF LAWYERS

Wessell, Milton R.  "Alternative Dispute Resolution for the Socioscientific Dispute" Journal of Law and Technology February, 1990 - Spring V.1 N.1 pp. 1-29 The article contends that Alternative Dispute Resolution is not a "new" approach, that biases in the criminal justice system work against the solution of large complicated disputes, and that the academic community must work to develop a socioscientific dispute resolution mechanism for the major science and technology-based controversies which face our society today. NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: MEDICAL MALPRACTICE/ SUBJ MATTER: SCIENCE & TECHNOLOGY/ COURT REFORM/ JUDICIAL PARTICIPATION
West, Fowler C. "Securities Arbitration." (book review) Commodities Law Letter May, 1989 V.9 N.3 pp. 6(3) Securities Arbitration, a new book by Professor Hoblin, provides an excellent explanation of the securities arbitration process. The book covers the different forms of arbitration, jurisdictional issues, prehearing concerns, and many others, including the problems that attorneys cause at the arbitration hearing.


Westin, David; Chrocziel, Peter "Interim Relief Awarded by U.S. and German Courts in Support of Foreign Proceedings" Columbia Journal of Transnational Law June 22, 1990 - Summer V.28 N.3 pp. 723-746 After reviewing and contrasting U.S. and German law with respect to interim relief in support of foreign arbitrations and judicial proceedings, this article concludes with some suggestions of how a more unified approach to interim awards in support of foreign proceedings might be developed and what that approach might be. ARB: BINDING ARB- GENERAL/ ARB: PREPARATION/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ SETTLEMENT: PRESSURES TO SETTLE/ COURT REFORM/ JUDICIAL PARTICIPATION/ PROVISIONAL REMEDIES

White, Anita R. "Mediation in Child Custody Disputes and a Look at Louisiana." (Family Law Symposium) Louisiana Law Review May, 1990 V.50 N.5 pp. 1111-1130 This article explores the use of mediation in Louisiana child custody cases and concludes that: (1) most couples are satisfied with their post-divorce custody arrangements and (2) mediation should be the first resort in order to protect children. MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: PUBLIC POLICY/ REQUIREMENTS: STATUTORY OR RULES/ JUDICIAL PARTICIPATION

White, Rebecca Hanner; Kaplan, Robert E.; Hawkins, Michael W. "Ohio's Public Employee Bargaining Law: Can it Withstand Constitutional Challenge?" University of Cincinnati Law Review March 22, 1990 - Winter V.53 N.1 pp. 1-47 An examination of Ohio's public employee collective bargaining law and an argument that the law is an
unconstitutional delegation of legislative authority. ARB: BINDING


Wilkinson, John H., ed. Donovan Leisure Newton & Irvine ADR Practice Book This comprehensive text describes the various forms of ADR and explains when and how to use each one. The text also points out the various pitfalls and offers suggestions on how to avoid them. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CORPORATE/ REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS: MANDATE TO USE


Wulfsberg, H. James; Cummings, Donald J.  "Construction Claims Leading the Trend to a Variety of Out-of Court Settlements"  Virginia Bar Association Journal  June 22, 1990 - Summer  V.16  N.3 pp. 11  The authors express their approval of the trend toward alternative dispute resolution in the construction industry.  While noting the cost and time savings of negotiation, mediation, and arbitration, the authors hold mediation to be the best form of dispute resolution used today.


Yates, Carolyn "The Conciliation Project Report: A Study of Non-Judicial Dispute Resolution in Family Cases" Journal of Social Welfare Law 1990 This article documents the findings of the Conciliation Project Unit, a unit set up in England in 1985 for the purpose of preparing a report enabling the Lord Chancellor to determine whether or not a publicly funded national family mediation service should be established, and, if so, how this would be accomplished. MED:RELATED PROCESSES-GENERAL/ MED:RELATED PURPOSES-THEORY AND STRATEGIES/ MED:PUBLIC POLICY DIALOGUE/SUBJ MATTER: FAMILY (DOMESTIC REL)/TYPE OF SOURCE:CASE STUDY/RESEARCH REPORT

Yeomans, Richard D. "Counseling the Client on Commercial Arbitration Clauses" The Practical Lawyer January, 1990 V.36 N.1 pp. 17-26 This article discusses the benefits as well as the costs of arbitration and particularly focuses upon the arbitration clause, including how to draft a correct arbitration clause; how to have a clause requiring arbitration enforced; and how the ramifications are imposed upon arbitration clauses by the Federal Arbitration Act (9 U.S.C. 1 et seq.). ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ARB: DRAFTING ARB AGREEMENT/ARB: JUDICIAL REVIEW/INST NATURE: GENERAL/SUBJ MATTER: GENERAL/TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/REQUIREMENTS: CONTRACTUAL CLAUSES/REQUIREMENTS: STATUTORY OR RULES/ECONOMIC ADVANTAGES OF ADR/JUDICIAL PARTICIPATION/ROLE OF LAWYERS/TEACHING

Young, J.A. "Mediate Your Real Estate Disputes" The Practical Real Estate Lawyer March, 1990 V.6 N.2 pp. 25-30 The article suggests that most small-business real estate disputes should be handled through mediation and then explains what the role of the attorney in the
process should be; how a mediator should be chosen; how the mediation should be carried out; and how all parties should be willing to compromise to some degree. MED: OBTAINING AGREEMENT TO USE/ MED: TIMING/ MED: OPENING AND SETTING GUIDELINES/ MED: ENCOURAGING COMM AND NEG/ MED: COUNSELING/ MED: REP OF A CLIENT DURING PROCESS/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ REQUIREMENTS: MANDATE TO USE/ AGREEMENT ON PROCEDURE/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS/ TEACHING


Zax, Jeffrey S.; Ichniowski, Casey "Bargaining Laws and Unionization in the Local Public Sector" Industrial and Labor Relations Review April, 1990 V.43 N.4 pp. 447-462 This article evaluates the effect of bargaining laws on the unionization of local government departments. The author argues that the increased unionization of these government departments is due to the imposition of duty to bargain laws, rather than pent-up demand for unions. INST NATURE: GOV’T ENTITIES/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: