

In the past few decades, the United States Supreme Court has led an extraordinary embrace of commercial arbitration as a favored form of alternative dispute resolution. First, using an extremely broad definition of interstate commerce, it has extended the preemptive reach of the Federal Arbitration Act (FAA) and the underlying federal caselaw of arbitration, to the fullest possible constitutional limit so as to preempt state law attempts to regulate arbitral processes in any manner deemed at all hostile to federal policies. Second, operating under the FAA, the Court has ruled that so-called public statutory claims for discrimination, securities fraud, antitrust and RICO are covered by conventional pre-dispute agreements to arbitrate, even under contracts of adhesion. With this incredible growth of arbitration, on both the national and international levels, has come increased focus on whether and, if so, when, arbitrators may depart from specific rules of law to do perceived justice. So too, as the Supreme Court continues to resolve issues as to which lower courts are in conflict, certain legal uncertainties are given resolution, but others are created, including those of the maintainability of arbitral class actions and party flexibility to expand the scope of otherwise highly limited judicial review of awards. This text attempts to combine the theoretical with the practical, so it also focuses on arbitral procedures and discusses differences in handling certain types of cases in arbitration as opposed to court. To the extent arbitration is a creature of contract, there is also attention paid to the use of drafting to accomplish client objectives. There are also ample Appendices containing rules of arbitral tribunals, statutory texts, and other authoritative materials. Hopefully, this book will serve not only as the basis for a two or three point law school course, but as a useful law office reference as well. Nicholas R. Weiskopf is Professor of Law, St. Johns University School of Law. He graduated from Columbia College in 1966, and Columbia Law School (Magna Cum Laude) in 1969. He practiced as a litigator in major New York City firms for over a decade, during which time he was Lecturer in Law at Columbia Law School. At St. Johns since 1982, Professor Weiskopf teaches Contracts and Commercial Arbitration. He has served as a neutral and as a designated arbitrator in major commercial disputes, and as an expert witness in arbitrations both here and abroad. He has also participated in many commercial and securities arbitrations as counsel. He has written in the areas of securities regulation, contracts and commercial arbitration over a forty year span.

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