

*This is your Release No. 1 (September 2009)*

# American Arbitration

## *Principles and Practice*

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This release updates your book with practical new materials on arbitration, including the following:

- **Arbitration fees:** In 2009, in recognition of continuing weaknesses in the business environment, the American Arbitration Association introduced a new cost-saving alternative, the Pilot Flexible Fee Schedule. The new fee schedule is applicable to cases filed through May 30, 2010. See new § 3:4.1[A][2].
- **Federal question jurisdiction for arbitration disputes:** Many petitions to compel arbitration or to stay litigation may be filed in federal court, but the Federal Arbitration Act is not a ground for federal court jurisdiction; there must be an independent ground of jurisdiction. In a 2009 decision, *Vaden v. Discover Bank*, the Supreme Court affirmed that a petition to compel arbitration could be brought in federal court on the basis of federal question jurisdiction (though it held that there was no federal question in the case). The question also arose whether to determine the presence of a federal question from the petition or from the underlying substantive dispute. The Court held that a court should “look through” the petition to the substantive dispute. See § 7:3.1[A].
- **Challenging an award for “manifest disregard of the law”:** The Supreme Court’s 2008 decision in *Hall Street Associates* may not have killed the manifest disregard standard. In a post-*Hall Street* decision, *Stolt-Neilsen SA v. Animal Feeds International Corp.*, the Second Circuit indicated that the standard is alive, and reviewed an arbitral award accordingly. The court treated the term “manifest disregard” as shorthand for cases where the arbitrators have

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exceeded their powers, or where the arbitrators have “so imperfectly executed them that a mutual, final, and definite award upon the matter submitted was not made.” The court thus treated the manifest disregard standard as a ground implicit in section 10 of the FAA. See § 7:8.2[H].

- **Intellectual property arbitration:** The chapter on IP arbitration has been updated with new citations to relevant authorities. See chapter 9.
- **International arbitration:** Updates to chapter 10 include new information on arbitrations under the auspices of the International Chamber of Commerce and the LCIA Court of Arbitration. See § 10:4.3[A], [B].
- **Rules of arbitral organizations:** Newest versions of AAA Commercial Rules and AAA International Rules are included in this release. See Appendix B and Appendix C.

The **Index** has also been updated.

# FILING INSTRUCTIONS

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