

Preface

This supplement is current through December 31, 2016.

The law and practice surrounding the arbitration and mediation of employment disputes continues to evolve at a dizzying pace. The United States Supreme Court has repeatedly reaffirmed its strong commitment to arbitration as an alternative to litigation while the lower courts struggle to apply the Court's mandates in a wide variety of new settings and contexts—an elegant example of the evolution of legal principles and their application at the hands of common law courts.

For example, well-established contract law makes clear that a party may not be bound in the absence of notice of, and consent to, the contractual terms at issue. But what constitutes notice and consent to the terms of a contract entered into on a website? More specifically, what constitutes proper notice of the “terms of use” found on a website and consent to those terms? Has an applicant for employment or a new employee agreed to arbitrate disputes with the employer by clicking through some on-line forms? This is just a small sampling of the many types of questions facing counsel representing both employers and employees when advising clients on alternative dispute resolution in the employment law context.

The 2017 Supplement to *ADR in Employment Law* was prepared, as was the main text, with the practitioner in mind. The goal was to provide the practitioner, whether representing a party or serving as a neutral, with the tools necessary to remain current in the face of the frenetic developments in the ADR field in the employment context. To accomplish this, our excellent team of chapter authors, drawn principally from the American Bar Association's Labor & Employment Law Section, have succeeded in this Supplement in succinctly summarizing

these developments for practitioners confronting these issues in their day-to-day practices.

My thanks go once again to the chapter authors for all their hard work and success in accomplishing these goals. Special thanks go to Professor Kristen M. Blankley for contributing, on short notice, a new and needed chapter on the subject of ethical concerns in the mediation context. My deepest appreciation also is offered to the Contributing Editors and our Research Associate, Rebecca Myers, for their invaluable input and contributions in ensuring that the material in this Supplement is accurate, informative, and balanced. Finally, my special thanks are offered to our Senior Editors, Professor Kristen M. Blankley, Allan S. Bloom, Jacquelin F. Drucker, Wayne N. Outten, Barry Winograd, and Associate Editor Laurence S. Moy, for their insights, guidance, and unfailing support for this project and its Editor.

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June 2017