

FRIDAY MONDAY TUESDAY **WEDNESDAY** TODAY[Previous](#) [Next](#)[Bookmark](#) [Reprints](#)

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## Lawmakers may expand ADR disclosure requirements

By Paul Jones

State Assemblyman Bob Wieckowski has indicated that he intends to rework a proposal to expand public-disclosure requirements on arbitration, after the Assembly Judiciary Committee heard testimony Monday arguing that arbitration companies in California are failing to comply with a 2002 law on reporting requirements.

Speakers at the hearing said transparency is key to ensuring the fair application of arbitration, a method for handling disputes increasingly preferred by business owners. Critics of allowing companies to insist on binding arbitration, including some trial lawyers, claim companies are able to use the same arbitrator over and over, creating opportunities for bias.

Professor David Yung of UC Hastings College of the Law presented a key report indicting arbitration providers for failing to properly turn over data about arbitrations.

**'I recommended we think about if an ADR [provider] doesn't comply, they lose the right to do business in California.' - Brian Kabateck**

"We found 15 that posted no data" out of 29 arbitration companies, Yung said. Among the firms that do comply, important information is often missing, such as the amount of the claims in question, he said.

Most companies also don't report how often companies use the same arbitrator, he added.

Wieckowski indicated after the hearing that the findings by Yung and others findings may prompt him to revamp his legislative proposal, Assembly Bill 802, to improve basic compliance and make sure arbitrators provide meaningful data. He originally created the bill to make arbitration data easier to search and sort.

"Most of the people are not even collecting the data that's required - they're flouting the law," Wieckowski said. The issue now is "what shall we do with this lack of compliance, and strengthen this?"

Yung suggested better enforcement might be useful. "Some sort of private attorney general or private action to compel reporting would certainly be a possibility," he said.

More arbitration data would be useful in evaluating how well arbitration is working as a substitute for trials, said Christopher Drahozal of The University of Kansas School of Law, and better descriptions of what disputes are about, who lawyers are, and what the terms of settlements are would improve studies.

Others disagreed. Paul Dubow, former president of California Dispute Resolution Council, countered that reporting requirements for arbitration providers was of limited use, because information about arbitrators themselves was widely available and people entering arbitration could reject an arbitrator for any reason. If arbitrators are too favorable to particular clients, they "will soon be out of business" because their reputation will be ruined, he said.

Brian Kabateck, president of the Consumer Attorneys of California, who at the hearing urged something be done about noncompliance and also more broadly criticized businesses' use of binding arbitration, said afterwards the problem is that the reporting law "has no teeth."

Questions and Comments

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Wednesday, March 20, 2013

### U.S. Court of Appeals for the 9th Circuit Political advertising on public television gets cool reception during 9th Circuit hearing

The prospect of election advertising on public broadcasting stations got a largely skeptical reception Tuesday from an en banc panel at the 9th U.S. Circuit Court of Appeals.

#### Government

##### California courts complying with procurement law, auditor says

Six trial courts generally complied with a recently passed law governing purchases by the judicial branch, according to a state audit. However, the auditor also noted some slip-ups.

### U.S. Court of Appeals for the 9th Circuit 9th Circuit set to consider police officer speech

The 9th U.S. Circuit Court of Appeals on Wednesday will hear en banc a case to determine whether or not the First Amendment protects a police officer who speaks out against wrongdoing in his or her department.

#### Corporate

##### Davis Polk advises E-Trade in secondary offering through Citadel

Davis Polk & Wardwell LLP represented E-Trade Financial Corp. in connection with a secondary offering of \$309 million worth of shares sold through Citadel Equity Fund Ltd.

### U.S. Court of Appeals for the 9th Circuit 9th Circuit backs federal regulators who hindered efforts to finance solar panels in homes

An innovative program to help Californians make environmental upgrades to their homes was dealt a blow by a federal appeals court Tuesday when it backed a move by regulators that seriously hobbled the effort.

#### Criminal

##### Judge orders trade secrets theft suspect held in jail until trial

The man accused of stealing a valuable trade secret from DuPont and sharing it with the Chinese government will stay in jail until trial, a federal judge said Tuesday, overturning a magistrate judge's decision to allow supervised release.

#### Litigation

##### Judge removes trustees of Herablife founder's \$350 million estate

A Los Angeles County judge has removed the trustees assigned to manage the \$350 million trust the founder of nutritional company Herbalife International of America Inc. left his only son.

#### Government

##### Inmates sue county over alleged 'cruel and inhumane' treatment

A group of Riverside jail inmates is suing the county in federal court, contending they face a "cruel and inhumane" lack of medical and mental health care while



"There's no enforcement mechanism short of the attorney general or a city attorney," he said. "I recommended we think about if an ADR [provider] doesn't comply, they lose the right to do business in California."

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### Litigation

#### Man's release after nearly 14 years in prison highlights debate over 'innocence'

The latest chapter in the ongoing debate over whether a statutory requirement of a timely habeas appeal trumps a finding of "actual innocence" played out in a cramped federal courtroom in Los Angeles Tuesday.

### Law Practice

#### Regional firms find success in lateral market

Lateral partner movement has changed drastically in the past five years. Portable books of business have become more important than ever, and law firms are trying out more innovative ways to attract top talent.

### Government

#### Lawmakers may expand ADR disclosure requirements

A proposal to expand public-disclosure requirements on arbitration may be in the works after the Assembly Judiciary Committee heard testimony arguing that arbitration companies in California are failing to report data.

### U.S. Court of Appeals for the 9th Circuit

#### Fuel retailer class action returning to California for trial

A class action over claims that fuel retailers misled consumers by selling motor fuel at temperatures above 60 degrees Fahrenheit without price adjustments for its expansion will be returning to California for trial.

### Law Practice

#### In-house legal departments target younger hires

As budgets tightened during the economic downturn and more work was sent in-house, junior lawyers became a way to handle low-level work on the cheap. Now some companies have begun to hire lawyers directly out of law school.

### Intellectual Property

#### More operating companies asserting patents

In recent years, a number of operating technology companies have - like non-practicing entities - begun asserting patents that they do not practice in their own products against entities that are not their competitors. By **Keith Slenkovich**

### Law Practice

#### Hot lateral market keeps pace in 2013

Because some firms have been burnt by lateral partners who overpromised and underdelivered, due diligence is now greater. By **Sandy Lechtick**

### Judges and Judiciary

#### Consequences of court closures may cost more than keeping them open

If the savings to the state by closing a courthouse will be eaten up by the costs, why is the state doing it? By **Richard Herzog**

### Law Practice

#### Law firms adapt to economic reality

Clients have come to realize that some tasks don't require lawyers, or at least high priced lawyers in traditional law firms, to complete them. By **Valerie Fontaine**

### Administrative/Regulatory

#### Important date



July 1: That's when new disclosure requirements for ADA surveys and some buildings' energy usage histories go into effect. By **Robert C. Barnes**

**Judicial Profile**

**Drew E. Edwards**

Superior Court Judge Los Angeles County (Foltz)

**Law Practice**

**Firms predict improvement in associate market**

To say the associate recruitment market is recovering in California might be an overstatement, but firms are increasingly voicing their optimism and intention to add laterals with experience.

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