

Contents

| | |
|---|----------------|
| <i>List of Contributors</i> | <i>page ix</i> |
| PART I THE FAA’S HISTORY AND POLITICS | |
| 1 Introducing the FAA and Its Centenary Jill I. Gross and Richard A. Bales | 3 |
| 2 The Birth of an Arbitration Nation Imre Stephen Szalai | 8 |
| 3 The Bipartisan and Cross-Ideological Currents Supporting the Ascendance of Arbitration Sarah Staszak | 20 |
| PART II ENFORCING ARBITRATION AGREEMENTS | |
| 4 Section 1: Defining Arbitration and Addressing Structural Bias Nancy A. Welsh | 35 |
| 5 Section 2’s “Arising Out of” Requirement: An Argument for Repeal Stephen J. Ware | 48 |
| 6 Limiting Delegation Clauses after <i>Rent-A-Center West</i>, <i>Inc. v. Jackson</i> David Horton | 59 |
| 7 Exempting from the FAA Agreements to Arbitrate Federal Securities Law Claims Jill I. Gross | 70 |

| | | |
|--|---|-----|
| PART III THE ROLE OF STATE LAW | | |
| 8 | Ending FAA Preemption: Restoring the Federal–State Balance in Arbitration Regulation Richard Frankel | 83 |
| 9 | Pressing the “Restart” Button: Amending FAA Section 2 So That State Law, Not the FAA, Regulates Adhesion Arbitration Ronald G. Aronovsky | 94 |
| 10 | State Arbitration Law in an FAA Preemption World: The Interaction between Federal and State Arbitration Law Maureen A. Weston | 106 |
| PART IV FEDERAL COURTS AND THE FAA: JURISDICTION, PETITIONS TO COMPEL, AND SUBPOENAS | | |
| 11 | Federal Court Jurisdiction for Arbitration Matters: A Complex Problem with an Easy Solution Kristen Blankley | 121 |
| 12 | Section 4 – Jury, Trial: A Misnomer in the FAA Tracey B. Frisch | 132 |
| 13 | Third-Party Arbitral Subpoenas: Are They Allowed and Who Can Challenge Them? Bradley A. Areheart | 141 |
| 14 | Clarifying Section 7 to Accommodate OArb Amy J. Schmitz | 149 |
| PART V EMPLOYMENT AND CONSUMER CONTRACTS | | |
| 15 | The FAA’s “Transportation Worker” Exemption: Arbitrary and Confusing Lise Gelernter | 163 |
| 16 | The Early Days of the Ending Forced Arbitration Act Sandra Sperino | 175 |
| 17 | Expanding the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act to Protect Workers’ Rights Ariana R. Levinson | 185 |
| 18 | The FAA Should Not Cover Consumer Claims Jeff Sovern | 197 |

| | | |
|----|---|-----|
| | <i>Contents</i> | vii |
| 19 | Using the OWBPA as a Model for Protecting Signatories to Adhesive Arbitration Agreements Richard A. Bales | 208 |
| 20 | Voiding Silent Class Action Waivers by Amending the FAA Blair Druhan Bullock | 218 |
| | PART VI CONFIRMING AND VACATING AWARDS | |
| 21 | Revising the Reviewing: Amending FAA Section 10 to Improve Procedural Protections in Employment Arbitration Sarah Rudolph Cole | 231 |
| 22 | Clarifying the Conflict in the FAA’s Conflict of Interest Requirements: What and When Must Arbitrators Disclose? Andrea Kupfer Schneider and Brian Farkas | 241 |
| 23 | The FAA’s Silence on Arbitral Disclosures: A Pressing Problem in the Social Media Age Mitch Zamoff | 253 |
| 24 | Arbitrator Reversal under Federal Arbitration Act Section 10(a)(3) for Excluding Evidence Michael Z. Green | 265 |
| 25 | Reforming Judicial Review to Permit Bargained-For and Fast-Track Review Mark C. Travis and John Burritt McArthur | 275 |
| | PART VII DIVERSITY, INCLUSION, OPPORTUNITY | |
| 26 | Arbitration Law and Labor Law at the Margins: Workers of Color Caught between Collective and Individual Visions of Alternative Dispute Resolution Ruben J. Garcia | 293 |
| 27 | Reinvigorating the Arbitration Process by Diversifying the Arbitrator Corps Sarah Rudolph Cole | 302 |
| 28 | Empirical Evidence on Arbitrator Diversity: What We Know, What We Don’t Know, and How to Move Forward on the Empirical Front Andrea Cann Chandrasekher | 314 |

PART VIII THE FUTURE

| | | |
|----|--|-----|
| 29 | Time to Modernize the FAA George H. Friedman | 327 |
| 30 | The Supreme Court’s Defensible Interpretations of the Federal Arbitration Act Stephen J. Ware | 336 |
| 31 | The FAA in Comparative Perspective: Is the United States an Outlier? Hiro N. Aragaki | 347 |
| 32 | A Failed Experiment? Is It Time to Scrap the FAA Altogether? Richard Frankel | 360 |