

# Business law case brief

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Facts The gateway matter began with Howsam's claim that the Dean Witter, Inc. misrepresented attributes of interests she bought in four limited partnerships between 1986 and 1994. Howsam's claim is subject to arbitration and she has decided to use the National Association of Securities Dealers arbitration process which states that no dispute over six years old may be arbitrated.

The plaintiff filed with the Tenth Circuit Court of Appeals to appeal the District Court decision that Howsam has the right to arbitrate and determine the applicable statute of limitations.

The relevant statute of limitations in this case is the NASD's Uniform Submission Agreement which states that no dispute over six years old may be arbitrated. Lower Courts Dean Witter attempted to file a lawsuit asking the District Court to declare the dispute is more than six years old and ineligible for dispute before the arbitration took place. The District Court declined to enjoin the arbitration granting the arbitrator rights to determine the applicable statute of limitations.

Issue Appealed The issue for judicial determination is whether application of the NASD time limit provision falls into the scope of the question of arbitrability. Who Wins? Dean Witter, Inc.

wins with the decision of the Tenth Court of Appeals to reverse the District Court decision. Reasoning 1. Procedural questions which grown out of the dispute and bear on its final disposition are presumptively not for the Judge but for an arbitrator to decide. More