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A Nascent Common Law: The Process of Decisionmaking in International Legal Disputes Between States and Foreign Investors (International Litigation in Practice)

Frederic Gilles Sourgens

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In A Nascent Common Law: The Process of Decisionmaking in International Legal Disputes Between States and Foreign Investors Frederic Gilles Sourgens submits that investor-state dispute resolution relies upon an inductive, common law decisionmaking process, which reveals a necessary plurality of first principles within investor-state dispute resolution. Relying upon, amongst others, Wittgenstein's Philosophical Investigations, the book explains how this plurality of first principles does not devolve into arbitrary indeterminacy. A Nascent Common Law provides an alternative account to current theoretical conceptions of investor-state arbitration. It explains that these theories cannot

adequately resolve a key empirical challenge: tribunals frequently reach facially inconsistent results on similar questions of law. Sourgens makes an inductive approach, focused on the manner of decisionmaking by tribunals in the context of specific records that can explain this inconsistency.

About the Author Frederic Gilles Sourgens is an Associate Professor of Law at Washburn University School of Law. Before joining academia, he was an international lawyer first at Fulbright Jaworski LLP and then Milbank, Tweed, Hadley McCloy. He writes regularly on transnational law and legal theory and currently serves as Managing Editor for a leading reporter of investor-state decisions. A national of Germany and France, he was educated at Tulane University School of Law (New Orleans, LA, USA), the University of York (UK), the University of Oslo (Norway), the University of Warwick (UK), and the United World College of the Adriatic (Duino, Italy).