

2021 PIABA Securities Law Seminar and Annual Meeting Agendas

Day 1				Tuesday, October 26, 2021
Pacific	Mountain	Central	Eastern	
9:00 – 9:30	10:00 – 10:30	11:00 – 11:30	12:00 – 12:30	Case Law Roundup, Elissa Germaine and Regina Gilmour
9:30 – 9:40	10:30 – 10:40	11:30 – 11:40	12:30 – 12:40	Break
9:40 – 10:55	10:40 – 11:55	10:40 – 12:55	12:40 – 1:55	State Initiatives in Reg BI World, Joseph Borg and William Jacobson, Moderators; Andrea Seidt, Marni Gibson, Clint Edgar
10:55 – 11:05	11:55 – 12:05	12:55 – 1:05	1:55 – 2:05	Break
11:05 – 12:20	12:05 – 1:20	1:05 – 2:20	2:05 – 3:20	Online Broker-Dealers, Self-Directed IRAs, Christine Lazaro and Teresa Verges, Moderators
12:20 – 12:30	1:20 – 1:30	2:20 – 2:30	3:20 – 3:30	Break
12:30 – 1:30	1:30 – 2:30	2:30 – 3:30	3:30 – 4:30	Ethical Review of Multijurisdictional Practice, Nicole Iannarone
1:30 – 1:40	2:30 – 2:40	3:30 – 3:40	4:30 – 4:40	Break
1:40 – 2:40	2:40 – 3:40	3:40 – 4:40	4:40 – 5:40	Expungement, Ben Edwards, Moderator; Jason Doss, Lisa Braganca
2:40 – 3:30	3:40 – 4:30	4:40 – 5:30	5:40 – 6:30	Networking Reception

Session Descriptions (eastern time denoted; Moderators, Speakers and Session Descriptions subject to change)

Case Law Roundup, *Elissa Germaine and Regina Gilmour* (12:00 pm – 12:30 pm). Discussion of selected cases in 2021 involving arbitration, securities law, and related issues commonly found in securities arbitration practice.

State Initiatives in Reg BI World, *Joseph Borg and William Jacobson, Moderators; Andrea Seidt, Marni Gibson, Clint Edgar*. (12:40 pm – 1:55 pm). The effect of reg BI on audits and exams. Are changes to state laws and regulations needed and/or contemplated? Is coordination with FINRA and SEC in process and is it working? Is NASAA considering a model Rule similar to Reg BI or a new fiduciary model act?

Exploring Obligations – and Regulatory Challenges – of Online Broker-Dealers and Trading Platforms, *Christine Lazaro and Teresa J. Verges, Moderators* (2:05 pm – 3:20 pm). The online discount brokerage market has exploded over the past few years, with trading platforms and Apps for mobile devices incentivizing millions of retail investors with low cost or “commission-free” trading. In its 2021 report on risk monitoring and examination priorities, FINRA noted a surge of new retail investors entering markets via online brokers, as well as an increase in certain types of trading, including options and use of margin. This session will explore the regulatory obligations of online brokerage firms and their duties to investors with self-directed accounts. We will discuss regulatory oversight of these firms, including regulators’ expectations with respect to account approvals for use of margin and options trading, as well as public communications that may turn into recommendations.

Multi-Jurisdictional Practice and the Zoom ADR Hearing, *Nicole Iannarone* (3:30 pm – 4:30 pm). Assume a Florida-licensed lawyer represents an investor who is temporarily residing in her North Carolina vacation home during the pandemic. The investor lived in New Jersey when a Pennsylvania-based broker provided her with bad advice. The investor files a claim, which is assigned to a FINRA New Jersey hearing location. The broker’s counsel is licensed in Connecticut, but currently living in Vermont, and the brokerage firm’s counsel is licensed in California, but currently living in New York. After discovery concludes, the investor’s case proceeds to a Zoom hearing with all parties, lawyers, and arbitrators participating remotely. Are any of the lawyers violating prohibitions on the unlicensed practice of law? Should they investigate the law of their licensing jurisdiction? Does the law of where the client receives the advice apply? Or is it the law of where the client resides? Maybe the law of the hearing location? Are there different answers for each of the participants? What multijurisdictional practice rules even apply when a hearing is conducted over the Internet? This ethics panel will endeavor to answer these questions by first examining multijurisdictional practice limitations generally in the FINRA forum and then discussing how technology permitting multiple parties to participate in a single online hearing from their homes complicates the analysis. We will endeavor to explore best practices and identify regulatory gaps where further guidance from FINRA and bar regulators may be required.

Expungements: Give Them to Us, *Ben Edwards, Moderator; Jason Doss, Lisa Braganca* (4:40 pm – 5:40 pm). This panel will discuss the latest developments with the expungement process. The panelists will discuss recent rule changes for expungements and the policy concerns surrounding the process. It will also discuss the PIABA Foundation’s work to provide representation and inform regulators about continuing problems.

Day 2				Wednesday, October 27, 2021
Pacific	Mountain	Central	Eastern	
			8:45 – 10:00	Breakfast, Ritz-Carlton
6:55 – 7:00	7:55 – 8:00	8:55 – 9:00	9:55 – 10:00	President's Welcome, David Meyer
7:00 – 8:00	8:00 – 9:00	9:00 – 10:00	10:00 – 11:00	P1 - Review of FINRA DR Activities and Developments in 2021, David Meyer, Moderator; Richard Berry
8:00 – 8:10	9:00 – 9:10	10:00 – 10:10	11:00 – 11:10	Break
8:10 – 9:10	9:10 – 10:10	10:10 – 11:10	11:10 – 12:10	How to Prepare and Present Claims for Serious (or Severe) Emotional Distress Damages. Jon Furgison, Moderator; Dr. Stacey Wood
			12:15 – 12:25	Luncheon, eat at desk
9:15 – 10:25	10:15 – 11:25	11:15 – 12:25	12:15 – 1:25	Business Meeting, David Meyer, Michael Edmiston, Robin Ringo
10:25 – 10:30	11:25 – 11:30	12:25 – 12:30	1:25 – 1:30	Break
10:30 – 11:30	11:30 – 12:30	12:30 – 1:30	1:30 – 2:30	P3 – Clearing Firm Liability, Brian Levin, Moderator
11:30 – 11:40	12:30 – 12:40	1:30 – 1:40	2:30 – 2:40	Break
11:40 – 12:40	12:40 – 1:40	1:40 – 2:40	2:40 – 3:40	P4 – The Whole Picture: Maximizing Damages in Securities Cases, Regina Gilmour, Moderator; Robert Kantas, Sean Sweeney
12:45 – 1:30	1:45 – 2:30	2:45 – 3:30	3:45 – 4:30	Networking Reception
			TBD	Opening Reception

Session Descriptions (eastern time denoted; Moderators, Speakers and Session Descriptions subject to change)

P1. FINRA DRS. David P. Meyer, Moderator; Richard Berry (10:00 am - 11:00 am). Discussions include FINRA arbitration issues, approved rule changes, and rule proposals.

P2. How to Prepare and Present Claims for Serious (or Severe) Emotional Distress Damages. Jon Furgison, Moderator; Dr. Stacey Wood (11:10 am - 12:10 pm). Discuss use of experts and diagnostic testing developed after the Madoff cases to show emotional distress symptoms, incapacity and susceptibility to undue influence. Discuss use of Day-In-The-Life-Videos at mediation and arbitration and how to put a number on the ED damages.

P3. Clearing Firm Liability. Brian Levin Moderator. (1:30 pm - 2:30 pm). How to hold a clearing firm liable for the conduct of registered investment advisors and other professionals trading on the clearing-firm platform.

P4. The Whole Picture: Maximizing Damages in Securities Cases. Regina Gilmour, Moderator; Robert Kantas, Sean Sweeney (2:40 pm - 3:40 pm). The focus of this session will be on how different types of damages can be used to make clients whole. Speakers will take a holistic approach to damages analysis, delving into areas such as punitive damages, annuity damages, mitigation of damages, tax drag, and the taxation of damages awards. Focusing on practical tips, the panel will share its most effective methods for maximizing damages recovery.

Day 3				Thursday, October 28, 2021
Pacific	Mountain	Central	Eastern	
			8:45 – 10:00	Breakfast, Ritz-Carlton
6:55 – 7:00	7:55 – 8:00	8:55 – 9:00	9:55 – 10:00	Meeting Chair Welcome, Adam Gana
7:00 – 8:00	8:00 – 9:00	9:00 – 10:00	10:00 – 11:00	BO1, <i>closed</i> – Ethics and Defamation: The Pitfalls of Communicating with Potential Clients through Blogs and Direct Solicitations, Mark Pugsley, Moderator; Josh Kons, Kirk Smith, Joe Wojciechowski
				BO2 – How to Bring RIA Cases, Jane Stafford, Moderator, Joseph Borg, David Meyer
				BO3 – How to Master Video Conference Arbitrations, Scott Ilgenfritz, Moderator
8:00 – 8:15	9:00 – 9:15	10:00 – 10:15	11:00 – 11:15	Break
8:15 – 9:15	9:15 – 10:15	10:15 – 11:15	11:15 – 12:15	BO4 – Ethics of Succession, Debra Speyer, Moderator BO5 – How Ya Getting' Paid: Successor Broker Dealer Liability and Control Person Liability, Peter Mougey, Moderator; Frank Cuccio, Peter Fruin, Joseph
				BO6 – Fundamentals of Arbitration, Richard Lewins, Moderator; Melanie Cherdack, Kim Chavers
9:20 – 10:15	10:20 – 11:15	11:20 – 12:15	12:20 – 1:15	Networking Session
				Registrants on their own for Lunch
			12:30 – 5:30	GOLF; BERNSTEIN ADVENTURE
			TBD	President's Dinner and Casino Night

Session Descriptions (eastern time denoted; Moderators, Speakers and Session Descriptions subject to change)

BO1. Ethics and Defamation: The Pitfalls of Communicating with Potential Clients through Blogs and Direct Solicitations, *closed*. Mark Pugsley, Moderator; Josh Kons, Kirk Smith, Joe Wojciechowski (10:00 am - 11:00 am). Description Pending.

BO2. How to Bring RIA Cases. Jane Stafford, Moderator; Joseph Borg, David Meyer. (10:00 am - 11:00 am) Description Pending.

BO3. How to Master Video Conference Arbitrations. Scott Ilgenfritz, Moderator (10:00 am - 11:00 am) Description Pending.

BO4. Ethics of Succession. Debra Speyer, Moderator (11:15 am - 12:15 pm) Description Pending.

BO5. How Ya Gettin' Paid: Successor Broker Dealer Liability and Control Person Liability. Peter Mougey, Moderator; Frank Cuccio, Peter Fruin, Joseph Peiffer (11:15 am - 12:15 pm) Description Pending.

BO6. Fundamentals of Arbitration: Significant Documents and an Introduction to the Discovery Guide. Richard Lewins, Moderator, Melanie Cherdack, Kim Chavers (11:15 am - 12:15 pm) This panel will discuss the significant documents that are relevant to FINRA arbitrations. Starting with the FINRA Discovery Guide, the panel will cover which Claimant documents are significant during the vetting and drafting stage of the case, and which Respondent documents are significant when preparing for settlement discussions, mediations, or final hearings.

Day 4				Friday, October 29, 2021
Pacific	Mountain	Central	Eastern	
			8:45 – 10:00	Breakfast, Ritz-Carlton
6:55 – 7:00	7:55 – 8:00	8:55 – 9:00	9:55 – 10:00	Meeting Chair Welcome, Sean Sweeney
7:00 – 8:00	8:00 – 9:00	9:00 – 10:00	10:00 – 11:00	P5 – Jeopardy Ethics, Marnie Lambert, Moderator
8:00 – 8:10	9:00 – 9:10	10:00 – 10:10	11:00 – 11:10	Break
8:10 – 9:10	9:10 – 10:10	10:10 – 11:10	11:10 – 12:10	P6 – Broker Dealer Obligations with Regard to Dually Registered Brokers' RIA Services, Adam Gana, Moderator
			12:10 – 1:15	Lunch
10:15 – 11:15	11:15 – 12:15	12:15 – 1:15	1:15 – 2:15	BO7 – Broker Theft, Jeff Sonn, Moderator
				BO8 - Discovery in RIA Arbitration Cases, Michael Edmiston, Moderator
				BO9, <i>closed</i> – How to Save Your Case from Dismissal – Motions to Dismiss Based on Eligibility, Scott Greco, Moderator; Sean Sweeney
				BO10 – How to Bring a Due Diligence Case without Suitability, Melinda Steuer, Moderator
11:15 – 11:30	12:15 – 12:30	1:15 – 1:30	2:15 – 2:30	Break
11:30 – 12:30	12:30 – 1:30	1:30 – 2:30	2:30 – 3:30	P7 – From the Defense Bar Perspective, Andrew Stoltmann, Moderator
12:35 – 1:30	1:35 – 2:30	2:35 – 3:30	3:35 – 4:30	Networking Reception

Session Descriptions (eastern time denoted; Moderators, Speakers and Session Descriptions subject to change)

P5. Jeopardy Ethics. *Marnie Lambert, Moderator* (10:00 am - 11:00 am). Securities arbitration practitioners often find themselves navigating ethical minefields. This session will explore ethics issues that often arise in this practice area by reviewing and analyzing various reported case fact patterns and the applicable ethics rules, as well as recent ethics rulings from around the country and their potential impact on securities arbitration practitioners. Hypotheticals inspired by real-world scenarios will be discussed in this interactive session. Attendees will be asked to actively participate and encouraged to share anecdotes from their time in the securities arbitration trenches.

P6. Broker Dealer Obligations with Regard to Dually Registered Brokers' RIA Services. *Adam Gana, Moderator* (11:10 am - 12:10 pm). This session will explore a Broker-Dealer's obligation to supervise the outside investment advisory services of its registered representatives. We will explore the rules that govern broker-dealers conduct and the ways in which broker-dealers try to defend against these types of cases.

P7. From the Defense Bar Perspective. *Andrew Stoltmann.* (2:30 pm - 3:30 pm). This session will analyze issues related to claim drafting, discovery practices, hearing techniques and mediation from the perspective from some of the top securities defense lawyers in the country.

BO7. Broker Theft. *Jeff Sonn, Moderator* (1:30 pm - 2:30 pm). Description Pending.

BO8. Discovery in RIA Arbitration Cases. *Michael Edmiston, Moderator* (1:30 pm - 2:30 pm). Does the FINRA Discovery Guide apply to cases involving RIAs? Are they still called exception reports? What is the name of the agreement between the RIA and broker-dealer, and why is it important? What are the record retention requirements for an RIA? Why are state regulations and rules important? Can I really get a deposition? AAA consumer rules give less discovery? E-discovery with RIAs? What is a reasonably usable format for a trade blotter, is it called a "trade blotter," does an RIA even have trade blotters? Dual-registrants, does that mean double the discovery requests? How many questions do I have to research and answer before I can write my first request?

With the financial services industry's shift from the broker-dealer model to registered investment adviser model, discovery tactics and techniques are shifting, too. A panel of practitioners and experts will discuss how best to approach discovery in an RIA case, what documents and information to request, and how to overcome objections to obtain production of key documents you need to win your case. An hour won't be enough time, but this program will get you on your way!

BO9, *closed*. How to Save Your Case from Dismissal - Motions to Dismiss Based on Eligibility. (Rules 12504 and 12206) and Statutes of Limitation. *W. Scott Greco, Moderator; Sean M. Sweeney* (1:30 pm - 2:30 pm). This break-out session will discuss various strategies and legal arguments to respond to and defeat Motions to Dismiss in FINRA Arbitration, specifically focusing on the six year eligibility rule (FINRA Rules 12504 and 12206), and Motions made after Claimant's case in chief based on statutes of limitation.

BO10. How to Bring a Due Diligence Case without Suitability. *Melinda Steuer, Moderator* (1:30 pm - 2:30 pm) Description Pending.