

2020 PIABA Securities Law Seminar and Annual Meeting Agendas

Day 1				Tuesday, October 20, 2020
Pacific	Mountain	Central	Eastern	
9:00 – 9:30	10:00 – 10:30	11:00 – 11:30	12:00 – 12:30	Case Law Roundup, Scott Eichhorn; Elissa Germaine
9:30 – 9:35	10:30 – 10:35	11:30 – 11:35	12:30 – 12:35	Break
9:35 – 10:50	10:35 – 11:50	11:35 – 12:50	12:35 – 1:50	Life Under Regulation Best Interest, Christine Lazaro, Moderator; Sandra Grannum, Joe Savage, Christopher Gerold
10:50 – 11:00	11:50 – 12:00	12:50 – 1:00	1:50 – 2:00	Break
11:00 – 12:15	12:00 – 1:15	1:00 – 2:15	2:00 – 3:15	Protecting Seniors and Vulnerable Adults from Financial Exploitation: Legal Developments, State Resources, and Broker-Dealer Best Practices, Teresa J. Verges, Moderator; Ron Long, Gerri Walsh, Joseph Borg
12:15 – 12:25	1:15 – 1:25	2:15 – 2:25	3:15 – 3:25	Break
12:25 – 1:25	1:25 – 2:25	2:25 – 3:25	3:25 – 4:25	Diminished Capacity? Ethical Representation of Vulnerable Clients, Nicole Iannarone
1:25 – 1:30	2:25 – 2:30	3:25 – 3:30	4:25 – 4:30	Break
1:30 – 2:30	2:30 – 3:30	3:30 – 4:30	4:30 – 5:30	Whistleblowers: Endangered Canaries or Bounty Hunters? Ben Edwards, Moderator; Jordan Thomas, Mark Pugsley, Miriam Baer, Melanie DeVoe (approval pending)

Case Law and Legislative Roundup, Scott Eichhorn and Elissa Germaine. Discussion of selected cases and legislation in 2020 involving arbitration, securities law, and related issues commonly found in securities arbitration practice.

Life Under Regulation Best Interest, Christine Lazaro, Moderator; Sandra Grannum, Joe Savage, Christopher Gerold. On June 5, 2019, the SEC adopted Regulation Best Interest (“Reg BI”), which establishes a “best interest” standard of conduct for broker-dealers and associated persons for recommendation of securities and investment strategies. In June 2020, firms were required to fully comply with Reg BI. This panel will address Reg BI implementation, including adoption of policies and procedures and development of the Form CRS, from the perspective of the regulators and potentially, the industry.

Protecting Seniors and Vulnerable Adults from Financial Exploitation: Legal Developments, State Resources, and Broker-Dealer Best Practices, Teresa J. Verges, Moderator; Gerri Walsh, Joseph Borg, Ron Long. Financial exploitation of seniors remains a significant problem in the U.S. and is projected to worsen as our population grows older. Cognitive impairments such as Alzheimer’s disease and dementia are also projected to rise as the population grows older, further increasing the vulnerability of seniors. This panel will explore recent developments in the law, regulations, and FINRA rules to protect seniors and other vulnerable adults from financial exploitation, the obligations and best practices of financial institutions servicing their accounts, and resources for victims of financial abuse.

Diminished Capacity? Ethical Representation of Vulnerable Clients, Nicole Iannarone. This session will focus on working with clients who may be facing different degrees of vulnerability, impairment, or diminished capacity. We will explore the ethical dimensions of navigating such representations, including how to address partial, temporal, and total incapacity, providing practical tips to maximize the client attorney relationship and maintain client-focused and driven representation.

Whistleblowers: Endangered Canaries or Bounty Hunters?, Benjamin Edwards, Moderator; Jordan Thomas, Mark Pugsley, Miriam Baer, Melanie DeVoe (approval pending). This panel will discuss state and federal whistleblower programs with a focus on the Securities and Exchange Commission and the Commodities Futures Trading Commission programs. These relatively new whistleblower programs offer protections for whistleblowers and the possibility of substantial bounties for whistleblowers bringing valuable information to public enforcers. Although the programs have had notable successes, our panelists will also discuss challenges faced by whistleblowers seeking to recover under the programs.

Day 2				Wednesday, October 21, 2020
Pacific	Mountain	Central	Eastern	
8:30 – 8:40	9:30 – 9:40	10:30 – 10:40	11:30 – 11:40	President's Welcome, Sam Edwards
8:45 – 9:45	9:45 – 10:45	10:45 – 11:45	11:45 – 12:45	Review of FINRA DR Activities and Developments in 2020, Sam Edwards, Moderator; Richard Berry
9:45 – 9:50	10:45 – 10:50	11:45 – 11:50	12:45 – 12:50	Break
9:50 – 10:50	10:50 – 11:50	11:50 – 12:50	12:50 – 1:50	Zoom Zoom! How to Win Your Cases in Virtual Arbitration Hearings, David Meyer, Moderator; Chet Taylor, Sean Sweeney, David Miller, Ryan Cook
10:50 – 11:00	11:50 – 12:00	12:50 – 1:00	1:50 – 2:00	Break
11:00 – 12:00	12:00 – 1:00	1:00 – 2:00	2:00 – 3:00	Business Meeting, Sam Edwards, Dave Meyer, Robin Ringo
12:00 – 12:05	1:00 – 1:05	2:00 – 2:05	3:00 – 3:05	Break
12:05 – 1:05	1:05 – 2:05	2:05 – 3:05	3:05 – 4:05	Women Lawyers, Arbitrators, and Expert Witnesses, Sara Hanley, Moderator; Jenice Malecki, Marnie Lambert, Kathy Adams, Darlene Pasieczny
1:05 – 1:10	2:05 – 2:10	3:05 – 3:10	4:05 – 4:10	Break
1:10 – 2:10	2:10 – 3:10	3:10 – 4:10	4:10 – 5:10	Breakout 1 – Bankruptcy, Randy Pulman, Moderator; Judge Ronald King, Judge Craig Gargotta Breakout 2 – Persuasion Techniques of Federal Trial Lawyers, Lisa Braganca, Moderator; Julie Porter, Steve Feaga
2:15 – 3:30	3:15 – 4:30	4:15 – 5:30	5:15 – 6:30	Networking Reception

Review of FINRA DR Activities and Developments in 2020. Sam Edwards, Moderator; Richard Berry. Discussions include FINRA arbitration issues, approved rule changes, and rule proposals.

Zoom Zoom! How to Win Your Cases in Virtual Arbitration Hearings, *closed*. David Meyer, Moderator; Chet Taylor, Sean Sweeney, David Miller, Ryan Cook. We would all love to get back to trying our cases with in-person hearings as soon as possible. Until then, welcome to the brave new world of virtual arbitration hearings. This session will address virtual presentation strategies, witness preparation, adjustments to direct and cross examination techniques, exhibits and equipment needs. The speakers have participated in virtual arbitration and court hearings and will share their experiences and their recommendations for best practices. Don't miss this opportunity to learn how to win your cases in the virtual world as we continue to press for the return of in-person hearings.

Women Lawyers, Arbitrators and Expert Witnesses. Sara Hanley, Moderator; Jenice Malecki, Marnie Lambert, Kathy Adams, Darlene Pasieczny. In recent years, women have been making great strides in gender equality. Despite such progress, men still well outnumber women in the room, and women in the legal profession continue to face many obstacles throughout their career. This session will investigate the disparity between the number of women lawyers nationally versus the number of women Claimant's attorneys, the lack of female representation in PIABA and what we can do as an organization to encourage diversity. Furthermore, this session will be directed at identifying and dealing with gender issues in a FINRA arbitration practice from prospecting to hearing, as well as in mediation and relations with opposing counsel and peers. This session is not just for women. We invite everyone to join the panel as they identify the issues so we can be part of the solution.

Bankruptcy Topics as They Relate to Arbitration. Randy Pulman, Moderator; Judge Ronald King, Judge Craig Gargotta. 1) Hand over your homestead, or at least everything above \$160,375. 11 USC Section 522(q)(1)(b). May I pay your bankruptcy filing fee so we can get rid of your homestead exemption? 2) We don't need to fight any more after the FINRA panel has ruled. 11 USC Section 523(a)(19). Debts arising from securities violations (even the unsuitable ones) are not dischargeable. 3) Don't vote for that chapter 11 plan, you will be signing away claims against third-parties. In re Woodbridge 4) Federal Bankruptcy Trustees v SEC Receivers. Trustees cannot take your third-party claims, Receivers can. In Re Stanford International Bank.

Persuasion Techniques of Federal Trial Lawyers. Lisa Braganca, Moderator; Julie Porter, Steve Feaga. Discussion with two former federal prosecutors who have experience trying hundreds of federal jury trials about how to present a case effectively. In particular, we will discuss choosing a compelling theme, using effective visual aids, and using storytelling and theater techniques during pre-hearing litigation and at trial to persuade factfinders to award damages to our customer-clients.

Day 3				Thursday, October 22, 2020
8:30 – 8:40	9:30 – 9:40	10:30 – 11:30	11:30 – 11:40	Meeting Chair Welcome, Adam Gana
8:45 – 9:45	9:45 – 10:45	10:45 – 11:45	11:45 –	Trial Tactics, Kirk Smith, Moderator; Jason Doss, Luis Minana, Melanie Cherdack, Ross Intelisano, Brandon Reif
9:45 – 9:50	10:45 – 10:50	11:45 – 11:50	12:45 – 12:50	Break
9:50 – 10:50	10:50 – 11:50	11:50 – 12:50	12:50 – 1:50	Breakout 3 – Secondary & Clearing Firm Liability, Robert Banks, Moderator; Joe Peiffer, Amir Tadjedin Breakout 4 – GPB Cases, Jason Kane, Moderator; Kal Nekvasil
10:50 – 11:50	11:50 – 12:50	12:50 – 1:50	1:50 – 2:50	Break (Networking Break)
11:50 – 12:50	12:50 – 1:50	1:50 – 2:50	2:50 – 3:50	Broker-Dealer AML Oversight: Red Flags that Should Have Detected Fraud, Glenn Gitomer, Moderator; Sander Ressler, John Foster
12:50 – 1:00	1:50 – 2:00	2:50 – 3:00	3:50 – 4:00	Break
1:00 – 2:00	2:00 – 3:00	3:00 – 4:00	4:00 – 5:00	Breakout 5 – Effect of Court & Regulatory Decisions on Typical Dealers – Bob Girard, Moderator; Adam Gana Breakout 6 – Technology, Hugh Berkson, Moderator; Laura McNamire, Jeff Abrams, Michael Bixby
2:00 – 3:30	3:00 – 4:30	4:00 – 5:30	5:00 – 6:30	President’s Reception and Awards Presentation

Trial Tactics. Kirk Smith, Moderator; Jason Doss, Luis Minana, Melanie Cherdack, Ross Intelisano, Brandon Reif
This session will feature practitioners to discuss various aspects of a FINRA final hearing from both the Claimant and Respondent perspective. Topics include the Opening Statement, Order of Witnesses, Out of Industry Broker, Brokerage Firm Officers, and the Closing Statement.

Secondary Liability for Actors Who Participate in Fraudulent Investment Schemes/Clearing Firms. Robert Banks, Jr., Moderator; Joe Peiffer, Amir Tadjedin. This section will explore how to evaluate and prosecute claims against secondary actors – those not directly involved in the purchase or sale transaction, but who have liability nonetheless. We will cover when to bring secondary claims, the different legal theories that are available, and how defense counsel defends the cases. The selected topics will include participants and material aiders under state securities statutes, control person liability under state and federal law, agency liability, and a discussion on lawyer and accountant liability. A “must attend” session!

GPB Cases, *closed*. Jason Kane, Moderator; Kal Nekvasil

Broker-Dealer AML Oversight: Red Flags that Should Have Detected Fraud. Glenn Gitomer, Moderator; Sander Ressler, John Foster. Broker-dealers must comply with the Bank Secrecy Act and its regulations and, pursuant to FINRA Rule 3310, develop and implement a written AML compliance program. The purpose of AML oversight is to detect money laundering and fraudulent activity. Knowledge of broker-dealers’ AML obligations and procedures may considerably assist in developing a case against a broker-dealer for wrong-doing. The session will also discuss helpful AML information requests and how to respond to the argument that such discovery is protected by the Suspicious Activity Report (“SAR”) privilege.

Effect of Court & Regulatory Decisions on Typical Defenses Raised by Broker-Dealers. Bob Girard, Moderator; Adam Gana, Derek Anderson. This Panel will cover the latest in court and regulatory decisions that bear on the typical defenses raised by broker dealers in securities arbitration cases such as: waiver, ratification and estoppel; wealthy investor; sophisticated investor; no fiduciary or supervisory duty in a nondiscretionary account; failure to mitigate damages; mitigation caused avoidable damages; and other typical defenses. Attendees will be asked to contribute their techniques to combat these typical defenses.

Mastering Trial Presentation Technology. Hugh Berkson, Moderator; Laura McNamire, Jeff Abrams, Michael Bixby. Some people have been extolling the virtues of technology in the context of securities arbitration for years. Thanks to the Pandemic, even the most die-hard Luddites are now being forced to consider using (or actually use) technology for case preparation, mediation, and hearings. We will discuss the tools we use to make these cases easier to manage, and more compelling to mediators and arbitrators. Given the terror that technology can breed, we’ll do our best to provide live demonstrations so that participants can experience, in real time, how easy the tools have become.

Day 4				Friday, October 23, 2020
8:30 – 8:40	9:30 – 9:40	10:30 – 10:40	11:30 – 11:40	Meeting Chair Welcome, Patti Vannoy
8:45 – 9:45	9:45 – 10:45	10:45 – 11:45	11:45 – 12:45	Liability Insurance Coverage, Joe Wojciechowski, Moderator; John Burke, Alex Loftus, Ohia Amadi, William Nelson
9:45 – 9:50	10:45 – 10:50	11:45 – 11:50	12:45 – 12:50	Break
9:50 – 10:50	10:50 – 11:50	11:50 – 12:50	12:50 – 1:50	Breakout 7 – Financial Elder Abuse, Ethics, Tom Mauriello, Moderator; Frank Fox, Alan Besnoff Breakout 8 – Discovery Guide Review, Mike Edmiston, Moderator; Laura Dunning, Moshe Singer
10:50 – 11:50	11:50 – 12:50	12:50 – 1:50	1:50 – 2:50	Break (Networking Break)
11:50 – 12:50	12:50 – 1:50	1:50 – 2:50	2:50 – 3:50	Ethics, Courtney Werning, Moderator; Stefan Apotheker, William Young, Richard Frankowski, Dave Neuman
12:50 – 1:00	1:50 – 2:00	2:50 – 3:00	3:50 – 4:00	Break
1:00 – 2:00	2:00 – 3:00	3:00 – 4:00	4:00 – 5:00	Breakout 9 – A Primer on Real Estate, Real Estate Fraud, and Fraudulent Transfers Involving Life Insurance, Jeff Sonn, Moderator; Terri Sonn, James Sallah
				Breakout 10 – The Science of Settlement Success, Angela Hayden, Moderator; Brian Henderson

Liability Insurance Coverage. Joseph Wojciechowski, Moderator; John Burke, Alex Loftus, Ohia Amadi, William Nelson. Join a panel of experienced arbitration and litigation attorneys from both sides of the aisle for a panel discussion about liability insurance coverage. FINRA will soon approve an amendment to the Discovery Guide which will mandate that certain firms provide insurance coverage information as part of the Discovery Guide. What are you supposed to do with that information? Isn't it too late by then? Isn't it possible you've already pled your case out of coverage? There are ways to leverage coverage that you might not realize, including working with your opponent to argue why certain exclusions do not apply despite what you said in your Statement of Claim. This Panel will tackle these along with other important issues related to liability insurance coverage.

Financial Elder Abuse, Ethics. Thomas Mauriello, Moderator; Frank Fox, Alan Besnoff. Handling annuity and other financial elder abuse cases involving unsuitable investments and elderly clients who may lack capacity or suffer other cognitive impairment. We will examine suggested case intake/analysis considerations, choosing claims to plead, jury instructions, damages (including non-traditional damages such as surrender charges), settlement strategies, and other aspects of handling financial elder abuse cases arising from investment transactions.

Discovery Guide Review. Michael Edmiston, Moderator; Laura Dunning, Moshe Singer. 9, 13, 14, 15, 16, 17, 20, and 21. If you don't recognize these numbers, you are missing key documents in discovery. If you know these numbers and your reaction is "I hate these Discovery Guide fights," this program is for you. Discovery experts will discuss their experiences and tactics for obtaining the presumptively discoverable documents every broker-dealer does not want to produce in discovery, how to get the documents (in reasonably usable format) without a motion, and what to put in a discovery motion to convince a Chair or Panel to order production of the documents FINRA is too reluctant to require be automatically disclosed in every customer case.

The Ethics of Witness Preparation. Courtney Werning, Moderator; Stefan Apotheker, William Young, Richard Frankowski, Dave Neuman. It's no secret that cases can be won and lost on testifying witness preparation. When our clients testify, we're holding our breath, hoping that the work we have put in during the preparation process pays off. Where does effective and diligent witness preparation cross the blurry ethical line into "witness coaching"? Join us to learn where that line is and how to avoid the ethical pitfalls of preparing witnesses.

A Primer on Real Estate, Real Estate Fraud, and Fraudulent Transfers Involving Life Insurance
Jeff Sonn, Moderator; Terri Sonn, James Sallah. This session will focus on the basics of commercial real estate, 1031 transactions, real estate fraud, and fraudulent transfers involving life insurance.

The Science of Settlement Success. Angela Hayden, Moderator; Brian Henderson. Getting the best results for our clients isn't just a matter of luck. It all starts with the first steps we take to evaluate a claim, to set the expectations for our clients, to lay out all the reasons why our opponents should open their checkbooks and start writing. A big part of that requires checking assumptions at the door and expanding our view of a case - and choosing our words wisely.

There's power in words, but there is even more power in the belief behind those words. Learn how to increase the effectiveness of your demand letter words, develop a process to evaluate and present your cases, and understand the science behind triggering productive, successful settlement conversations.