

**ADVOCATES FOR PUBLIC INVESTORS ASK COURT TO BAN
BROKERAGE FIRMS' USE OF IMPROPER CONTRACT PROVISIONS
WHICH DEPRIVE CUSTOMERS OF THEIR RIGHTS**

NORMAN, OKLAHOMA, December 20, 2002 /PRNewswire:

The Public Investors Arbitration Bar Association (PIABA), a nationwide bar association of attorneys dedicated to the representation of public investors in disputes with the securities industry, today announces the filing of an *amicus curiae* (friend of the court) brief in support of public investors whose brokerage firms seek to enforce provisions in contracts with their customers which purport to limit damages available to customers in arbitration. The brief was filed in the ninth federal circuit court of appeals in the case of *Coutee v. Barington Capital Group*.

The Coutees, who are citizens of California, were victors in an arbitration conducted by the National Association of Securities Dealers based on wrongful conduct committed by their broker, Barington. An NASD arbitration panel ordered Barington, its owners, managers and brokers to pay damages of over \$200,000, including attorneys fees - in accordance with California law which protects elderly investors by providing for attorneys' fees when a brokerage firm has been found liable of elder abuse – and punitive damages. The arbitration decision was successfully appealed by the brokerage firm, which argued that the New York law provisions in its contract with the Coutees prevented the arbitration panel from awarding attorneys' fees. The Coutees appealed the trial court's decision to the Ninth Circuit.

“Choice of law clauses have long been the subject of dispute and are used by brokerage firms to deprive investors of the protections afforded to them by their home state,” according to J. Pat Sadler, president of PIABA. “The NASD prohibits brokerage firms like Barington from arguing to arbitration panels that New York law applies in an effort to strip investors of rights they otherwise would have in their state of residence. Just this month, Prudential Securities, Inc. was fined \$20,000 and ordered not to argue that New York law applied in arbitrations,” stated Mr. Sadler.

“At a time when investor confidence is low, brokerage firms should do everything possible to ensure the their customers are treated fairly,” according to Mr. Sadler. “PIABA believes that the appellate courts will recognize and enforce the rules of the NASD forum and reinstate the award of attorneys fees.”

PIABA's *amicus* brief was prepared by Timothy A. Canning of Novato, California.

If you have questions concerning this notice, please contact:

J. Pat Sadler, Esq.
President, Public Investors Arbitration Bar Association
(770) 587-2570
www.piaba.org