SECURITIES ARBITRATION ALERT 2021-22 (6/3/21)

George H. Friedman, Editor-in-Chief

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- ***Supreme Court Is Asked (Again) to Rule on Whether the FAA Preempts California Public Injunctive Relief Law, But This Time There is an Intervening Conflict in Federal Case Law That Strongly Supports Review*, Ballard Spahr Consumer Finance Monitor Blog (May 25, 2021)**
- ***Tenth Circuit Finds FAA Defenses Applicable to Nondomestic Arbitral Awards,* National Law Journal (May 25, 2021)**
- ***Wells Fargo Removing Some Restrictions in Customer Arb Agreements: CEO,* ThinkAdvisor (May 26, 2021)**
- ***Court Annuls Billion-dollar Award, Finding Crimea Investment was Made before BIT Applied,* Freshfields Bruckhaus Deringer Blog (May 27, 2021)**
- ***Finra Shelves Expungement Reform Proposal It Had Slated for SEC Approval,* AdvisorHub (May 28, 2021)**

DID YOU KNOW?

- **FINRA DRS' HQ and NE Region Have Relocated**

SQUIBS: IN-DEPTH ANALYSIS

AAA STATS, 1st QTR. 2021: CONSUMER & EMPLOYMENT CASE INFORMATION UPDATES. ***AAA Award Data is updated quarterly by the American Arbitration Association. This analysis of the latest update is provided by Rick Ryder, President of Securities Arbitration Commentator, Inc., and by SAC's ARBchek.com - securities arbitration's first arbitrator evaluation service***. The latest quarterly report from American Arbitration Association adds more than 4,000 new consumer and employment cases to the Association's online statistical collection. AAA's "Consumer and Employment Arbitration Statistics," which now reports data on approximately 130,000 arbitration matters, closed by AAA between 2004 and the present, takes a different approach to Award disclosure than FINRA. AAA does not release the Awards themselves, although the *Consumer Arbitration Rules* permit the staff to do so; instead, the staff posts detailed information about each case -- more than 30 different fields of information, released in an Excel format.

All C&E Cases Covered

Also unlike FINRA, AAA reports data on *all* of its closed consumer and employment cases, whether they resulted in an arbitral decision, were dismissed, settled, withdrawn or terminated for "administrative" reasons. As arbitrators are often appointed before cases settle, one's review of an arbitrator's history of service sweeps broader than a search of FINRA arbitration Awards. While settled cases reveal nothing about how the arbitrator would have voted, settled cases do disclose Award information that can assist in networking with relevant counsel and spotting potential arbitral conflicts. Of the 128,020 matters detailed in SAC's AAA database, more than half reveal arbitral appointments and, of those, about 42% reflect a settlement of the case.

Overall -- from 2004 to present -- 36% of all listed cases indicate a settlement and 27% are "Awarded." That term -- "Awarded" -- is defined by AAA, along with a score of other Chart terms, in a published "Report Legend;" it accounts for arbitral decisions that either grant or deny relief to either side. The remaining 37% of cases are comprised of those that are "Dismissed" prior to hearing (<3%) and a surprising number of "Withdrawn" matters. In the latest quarter (1Q '21), 2,967 of the 4,189 (71%) case listings are reported as "Settlements" and just 268 matters are designated as "Withdrawn," leading us to believe that many of those earlier "Withdrawn" cases were really settlements that were simply not reported as such to AAA staff.

Reviewing the Most Recent Quarter

While, historically, fewer than 10% of the cases were designated as "Financial Services"-related, that percentage has risen in recent times. Particularly, in this latest quarter (1Q '21), nearly *40%* of the matters were classified by AAA as "Financial Services" cases! All but 109 of the 1,671 "Financial Services" cases represented in the first quarter were consumer-*related* and virtually all of these 1,562 were initiated by the "Consumer" or customer. Similarly, among the 109 Employment matters, 101 of those case listings show the Employee as the "Initiating Party".

Not Class, But *Mass* Arbitration
SAA readers may recall our reports in earlier quarters and recognize the out-sized character of this quarter's numbers, especially in the "Financial Services" sector. The case totals of 3,258 in 2020's last quarter, in relation to 4,189 in the first quarter, raised an eyebrow, but the 1,671 "Financial Services" number contrasts sharply with the 4Q '20 "Financial Services" total of 627! We searched the charts for a cause and found 1,000 cases involving H&R Block, almost all of which settled on the same day (February 2, 2021) *(ed: Keller Lenkner, known as a mass arbitration firm, is named as counsel for the consumer-claimants on the AAA chart, so we suspect this case set arose in response to a class action waiver clause)*.

Awards Amid COVID
Excepting those 1,000 cases eliminates an outlier and brings the total number of case listings into a more normative range. As to the remaining 600+ consumer-initiated cases, we found 35 "Awarded" matters *(ed: remember there was a hearing moratorium in effect at AAA, so not many cases are getting resolved by arbitral decision)*. As to these 35 matters, the dollar-size of the consumer claims varied from hundreds of dollars to $2 million. Most were small -- all but three would merit simplified claims treatment at FINRA. Arbitrator fees imposed were commonly either $1,500 or $2,500, with a handful exceeding those amounts; the top charge was $13,750. In no instance were the fees charged to the Consumer. The awarded amounts to the seven consumer parties that won money were quite modest, with the top award reaching just under $40,000.

Panel Snapshot
We counted the number of individual arbitrators; in the past, we've found that AAA generally appoints few arbitrators to more than one or two cases. In this set, 28 single arbitrators covered the 35 "Awarded" matters. AAA policy favors lawyers as arbitrators and that rule holds as to this group. As we observed in our previous coverage, AAA's roster differs dramatically in philosophy and policy from the FINRA neutral roster and that approach promises different dynamics in the pre-hearing management and hearing sides of the case. About a dozen of the arbitrators were women by name.
*(R. Ryder: *Take a look for yourself at AAA's Consumer Arbitration Statistics. Caveat: the downloadable Report contains data for the most recent five-year period only. **While the majority of the cases involve non-securities disputes, considerable arbitrator overlap exists between FINRA and AAA, making this an excellent secondary source of arbitral activity when performing FINRA arbitrator evaluations. In particular, checking for AAA Awards provides an alternative to simply striking a candidate who has no FINRA Awards. ***Securities arbitration disputants are making greater use of the AAA forum, especially in the case of RIAs and those locked in employment controversies with the larger broker-dealers. **** SAC has the earlier reports on file going back to 2005 and provides Arbitrator Summary Reports in both Excel and PDF formats for a very low fee.)*
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FINRA GOES BACK TO THE DRAWING BOARD ON EXPUNGEMENT RULE. ***On the last day for SEC review of FINRA's latest proposal for improving the expungement process, the Authority temporarily withdraws the rule filing.*** Just one issue ago, we provided an extensive review of this long-running rule proposal -- SR-FINRA-2020-030 -- which has its origins in the Dispute Resolution Task Force and its *Final Report and Recommendations*. We won't repeat here our exhaustive review, but we encourage readers and followers to peruse the lead Squib in SAA 2021-20 (May 27), *PIABA and the PIABA Foundation: Expungement Process is Still Flawed.*

The Original Rule Proposal

As discussed in SAAs 2020-37 (Oct. 7) & -36 (Sep. 23): "The proposed change, which incorporated comments and suggestions received on Regulatory Notice 17-42 (Feb. 5, 2008), was to amend the *Codes* to: "(1) impose requirements on expungement requests (a) filed during an investment-related, customer initiated arbitration ('customer arbitration') by an associated person, or by a party to the customer arbitration on-behalf-of an associated person ('on-behalf-of request'), or (b) filed by an associated person separate from a customer arbitration ('straight-in request'); (2) establish a roster of arbitrators with enhanced training and experience from which a three-person panel would be randomly selected to decide straight-in requests; (3) establish procedural requirements for expungement hearings; and (4) codify and update the best practices of the *Notice to Arbitrators and Parties on Expanded Expungement Guidance* (*Guidance*) that arbitrators and parties must follow. In addition, the proposed rule change would amend the *Customer Code* to specify procedures for requesting expungement of customer dispute information arising from simplified arbitrations. The proposed rule change would also amend the *Codes* to establish requirements for notifying state securities regulators and customers of expungement requests" (footnote omitted).

Recent History: PIABA Says Process is Still Flawed

Noting that the SEC had until **May 28** to act on FINRA's latest rule change proposal, PIABA and the PIABA Foundation on **May 18** issued *REPORT: 2021 Updated Study on FINRA Expungements*. It was announced in a Press Release, *PIABA Foundation/PIABA: New FINRA Steps to Fix Flaws in Brokers Misconduct "Expungement" Process Won't Work, Independent Investor Advocate Needed,* and introduced in 50-minute Press Conference. The latest study – PIABA's third on the subject – examined 700 expungements from **August 2019** to **October 2020**. We provided the key points in #20.

FINRA Posts a "Temporary Withdrawal"

May 28 brought a Press Release, *FINRA Statement on Temporary Withdrawal of Specialized Arbitrator Roster Rule Filing,* announcing: "Following consultations with the SEC staff, we temporarily withdrew from SEC consideration our rule filing establishing specialized arbitration panels for expungement requests so that we can further consider whether modifications to the filing are appropriate." The two-page regulatory filing provides no further insights. As for what's next, FINRA states that it: "remains committed to working with the SEC and other stakeholders who share a common interest

in revising the process for reviewing the information on a broker's record in the Central Record Depository (CRD®)."

New Webpage on Expungement
Included in the Release is a link to a new dedicated Webpage, *Expungement of Customer Dispute Information*, that provides an exhaustive review of the contentious expungement issue. This link and chart-rich page has these main sections: **How it Works; Recent Key Rule Filings;** and **Expungement Initiatives Chronology**. The page offers refutations of past criticisms, or puts them in perspective.

Chart to Illustrate the Point: Scope of Expungements
FINRA also provides charts and graphics to illustrate key points. The pie chart below shows that: "Of the approximately 35,000 customer dispute information disclosures in the CRD system entered between 2015-2020, approximately 1,550 or 4% have been expunged pursuant to a court order as of May 25, 2021."

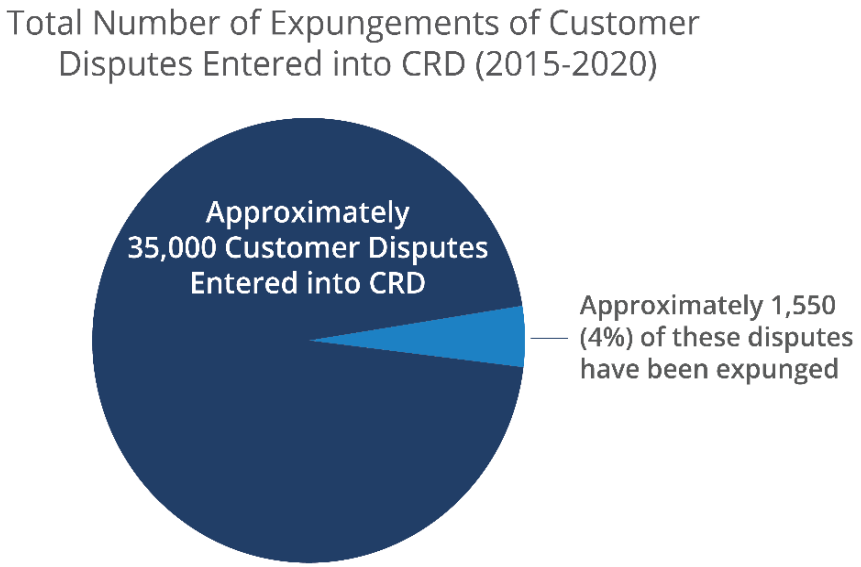
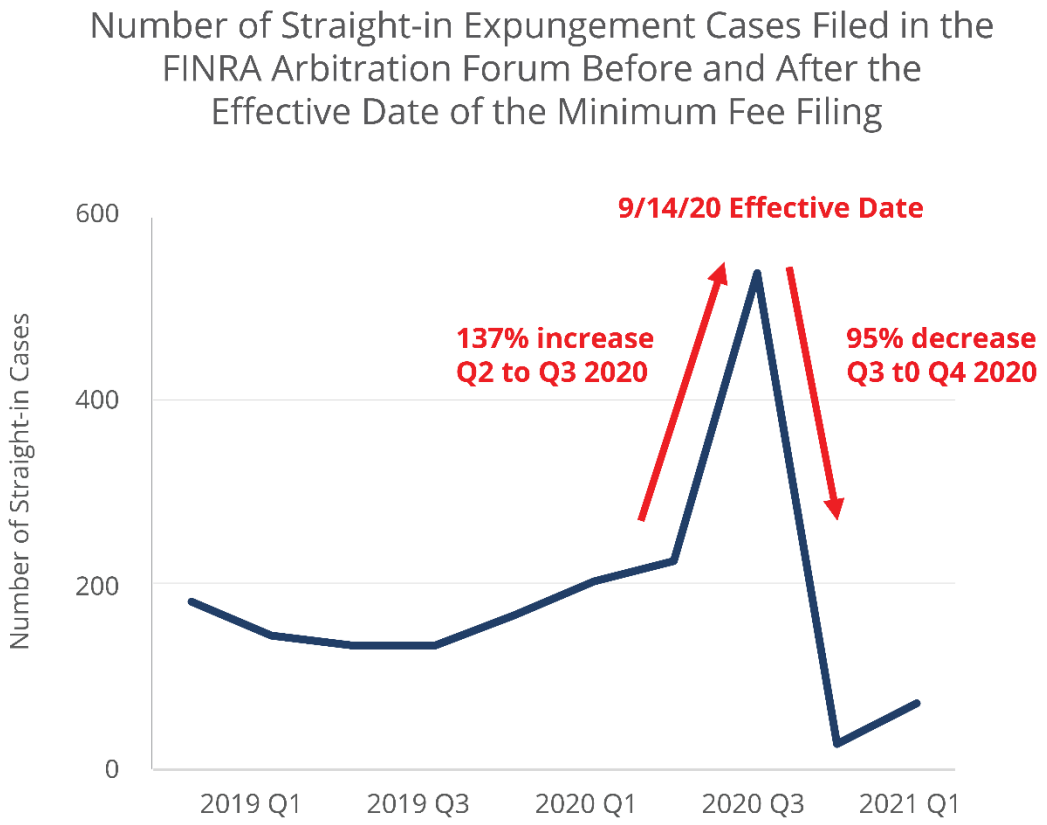


Chart to Illustrate the Point: Impact of Fee Increase
Another chart demonstrates that expungement requests plummeted after the September 14, 2020 effective date of a rule change amending the *Codes*: "to apply minimum fees to requests for expungement of customer dispute information, whether the request is made as part of the customer arbitration or the broker files an expungement request in a separate arbitration (straight-in request)."



(Source: FINRA. Both charts published with FINRA's permission, and bear a legend noting: "*FINRA is working to provide additional data and analysis regarding expungements.")

What's Next?

FINRA will keep working with constituent groups to improve the proposal, which we imagine will include PIABA, NASAA, and SIFMA, and then go back to the NAMC, FINRA Board, and SEC. The "temporary" nature of the withdrawal is a clear signal to us that in some iteration, this proposal will be back. Such an approach is not unprecedented. In 2008 FINRA withdrew its 2005 explained award rule filing, and ultimately replaced it with current Rule 12904(g). See our blog post, *Explained Arbitration Awards and Goldilocks and the Three Bears – Is the Third Try Just Right?* (June 9, 2016).
*(ed: *We said in #20: "Where this leads remains to be seen." Now, we know. **We see this as evidence that the 19b process worked: the rule was filed and published; comments from a wide swath of constituents pointed out areas needing improvement; and FINRA pulled back to regroup and consider changes. ***This Squib was published as a special blog post on June 1. ****As our publisher and Editor-in-Chief said recently: ""This is a monumentally important rule, so going back to the drawing board was a better option. Better right than rushed.")*

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SHORT BRIEFS: CONCISE NEWS YOU NEED TO KNOW

FINRA DRS POSTS STATS THROUGH APRIL: CUSTOMER CLAIMS STILL UP WHILE INDUSTRY CLAIMS CONTINUE TO PLUMMET. FINRA Dispute Resolution Services ("DRS") posted case statistics through **April** with the overall case filing trends essentially unchanged from **March**. In brief, the headlines are: 1) overall arbitration filings through April – 1,024 cases – are down 17%, about the same as in March); 2) customer claims are remain *up* at plus 4%; 3) industry disputes are almost halved, down 42%; and 4) for the eighth month in a row, pending cases declined and the backlog is almost gone. Overall arbitration turnaround times were 13.6 months, with hearing cases now taking 15.6 months. There were just 135 mediation cases in agreement, a 25% decrease. The settlement rate remains high at 83% (it had been 80% in March). There are now 8,415 DRS arbitrators, 3,971 public and 4,444 non-public. Perhaps of greater interest in the current climate, FINRA's "Virtual Arbitration Hearings" category shows that, since FINRA started cancelling in-person hearings over a year ago, 296 cases were conducted with one or more hearings via Zoom (113 customer and 183 industry cases). There were 277 joint motions for virtual hearings (98 customer and 179 industry cases). As reported in SAA 2021-10 (Mar. 18), DRS in March posted two new stats on its Website that allow users to gauge results in hearings conducted by Zoom: *Awards on the Merits of the Case with One or More Zoom Evidentiary Hearings* and *Awards on the Merits of the Case with In-Person Evidentiary Hearings* are both listed under the category, *Result of Customer Claimant Arbitration Award Cases (Regular Hearing Only).*

(ed: We had reported earlier that pending cases had grown in the wake of the onset of the pandemic and in-person hearing cancellations. We've also reported more recently that parties and counsel appear to have grown more familiar with virtual hearings and that, as a result, the pending cases backlog has been shrinking. As of April, it's essentially gone. The last eight months have each experienced reductions in pending cases, reflecting a 618 case decline from last year's high water mark of 5,415 open cases in August. This leaves a cumulative increase of only 57 since March 2020.)

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FINRA BOARD MET VIRTUALLY IN MAY. NO DISPUTE RESOLUTION ITEMS. FINRA's Board of Governors met virtually **May 18 – 19** and, as reflected in the Agenda, there were no dispute resolution-related items. The FINRA Website has a page offering meeting highlights and a short video. Among other items, the Board approved FINRA's *2020 Annual Financial Report*, which FINRA notes: "for the first time will include a section on human capital describing the diversity of our workforce and Board of Governors. We expect to publish the report early this summer." The schedule for the rest of the year is: **September 23 – 24;** and **December 1 – 2.**

(ed: We imagine that in-person Board meetings – at least for the vaccinated – will return by the next meeting, with some members participating via Zoom.)

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SEC'S INVESTOR ADVISORY COMMITTEE TO MEET VIRTUALLY JUNE 10. NO ARBITRATION OR MEDIATION AGENDA ITEMS. The SEC on **May 28** announced that its Investor Advisory Committee would be meeting virtually on Thursday, **June 10** from 10:00 a.m. to 4:15 p.m. Eastern Time. The Agenda, which has no dispute resolution items, includes: "welcome remarks; approval of previous meeting minutes; a panel discussion regarding best execution and its role in post-NMS market structure; a panel discussion regarding best execution issues unique to wholesale brokers; a panel discussion regarding 10b5-1 plans; a discussion of a recommendation regarding individual retirement accounts; subcommittee reports; and a non-public administrative session."
(ed: The meeting will be webcast at www.sec.gov.)
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SCOTUS GETS ANOTHER CHANCE TO REVIEW CALIFORNIA'S *MCGILL* RULE. WILL THE THIRD TIME BE THE CHARM? Those who – like us – thought the Supreme Court might be looking for an opportunity to review California's "*McGill* Rule" were proven wrong a year ago when, as we reported in SAA 2020-21 (Jun. 3), the Court denied *Certiorari* in two related cases. We covered in SAA 2019-30 (Aug. 7) *Tillage v. Comcast Corporation*, 772 Fed.Appx. 569 (9th Cir. Jun. 28, 2019), a case that sought to challenge the validity of California's so-called *McGill* Rule – which denied enforcement of a contractual provision that waived the right to public injunctive relief. The three-judge Panel had been asked to declare the 2017 *McGill* Rule preempted by the Federal Arbitration Act ("FAA") but declined to do so. Our editorial comment on this and two related Ninth Circuit decisions (*McArdle v. AT&T Mobility, LLC*, 772 Fed.Appx. 575 (9th Cir. June 28, 2020) and *Blair v. Rent-A-Center, Inc.*, 928 F.3d 819 (9th Cir. June 28, 2019)) was: "If we haven't made it plain, one perceives orchestration on both sides to position these cases for a Supreme Court test." Sure enough, both Comcast and AT&T Mobility in **February 2020** filed *Certiorari* Petitions contending that the *McGill* Rule was preempted by the FAA because it is: not "a ground that 'exist[s] at law or in equity' for the 'revocation' of any contract" (*ed:* Blair *had since been settled*). As usual, the Court gave no reasons; it simply denied *Certiorari.* The latest entry in the Challenge *McGill* Sweepstakes is *HRB Tax Group, Inc. v. Snarr*, No. 20-1570, where a **May 10** *Certiorari* Petition asks: "… whether California's public-policy rule declining to enforce agreements for individualized arbitration whenever a plaintiff seeks a public injunction is preempted by the FAA."
*(ed: *The Petition seeks review of* Snarr v. Snarr v. HRB Tax Group, *No. 19-17441 (9th Cir. Dec. 9, 2020). **The older Supreme Court cases are* Comcast Corporation v. Tillage*, No. 19-1066 and* AT&T Mobility, LLC v. McArdle, *No. 19-1078. They are listed on page two of the Order List. ***We have for while thought SCOTUS might want to review the* McGill *rule. Maybe we will get it right this time?)*
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PHARMACY CANNOT USE EQUITABLE ESTOPPEL TO ENFORCE PDAA AGAINST NON-SIGNATORY CONSUMERS, NINTH CIRCUIT HOLDS. It is hornbook law that a signatory to a broad predispute arbitration agreement ("PDAA") is

bound by its terms under the Federal Arbitration Act ("FAA"), and that sometimes such an arbitration agreement can be enforced by or against a non-signatory via equitable estoppel. That broad topic was at issue in *Stafford v. Rite Aid Corp.*, No. 20-55333 (9th Cir. May 21, 2021), where the Court was asked to decide whether consumers – who did not sign the agreement between Rite Aid and its "pharmacy benefits managers" containing the PDAA – could be compelled to arbitrate their statutory claims against the pharmacy. "No," says a unanimous Ninth Circuit. Lead Plaintiff Stafford had brought a class action against Rite Aid, contending that the pharmacy had: "fraudulently inflated the reported prices of prescription drugs to insurance companies … result[ing] in class members paying Rite Aid a higher co-payment for the drugs than they would have paid if Rite Aid had reported the correct price to their insurance companies." In affirming the District Court's refusal to compel arbitration, the Ninth Circuit panel holds: "Rite Aid's duty not to commit fraud is independent from any contractual requirements with the pharmacy benefit managers. As noted, statutes and common law – not provisions in the contracts – entitle Stafford to relief. The principles of equitable estoppel therefore do not require Stafford to submit to the arbitration clauses of contracts between Rite Aid and the pharmacy benefits managers."
(ed: The Court also rejected Rite Aid's assertion that Stafford's claims were "intertwined" with Rite Aid's contracts with the pharmacy benefits managers.)
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QUICK TAKES: CASES AND AWARDS WORTH READING

***Franklin v. Community Regional Medical Center, FKA*, No. 19-17570 (9th Cir. May 21, 2021)**: "The panel affirmed the district court's order granting defendant's motion to compel arbitration of wage-and-hour claims brought by a nurse under the Fair Labor Standards Act and California law…. The panel held that the defendant Hospital, a nonsignatory, could compel arbitration because plaintiff's claims against the Hospital were intimately founded in and intertwined with her contracts with the staffing agency. Thus, under California law, plaintiff was equitably estopped from avoiding the arbitration provisions of her employment contracts." (*ed: Quote is from the Court's summary.)*

***Goldgroup Resources, Inc. v. DynaResource De Mexico, S.A. de C.V.*, No. 20-1143 (10th Cir. Apr. 16, 2021**): In a case of first impression, the Tenth Circuit holds unanimously that, an "international" Award resulting from an arbitration conducted in the U.S. but subject to the *Inter-American Convention on International Commercial Arbitration* (the "*Panama Convention*"), may be attacked under § 10(a)(4) of the Federal Arbitration Act in addition to the grounds enumerated in the *Convention.* (*ed: We imagine the same would hold true for the* Convention and Enforcement of Foreign Arbitral Awards.)

***Davis v. Lincoln Financial Advisors Corp*., FINRA ID No. 20-02834 (Washington, DC, Apr. 26, 2021)**: An Arbitrator granted the Claimant broker's request for expungement of a customer complaint from appearing on his CRD record, and in a rare move also awarded the broker nominal damages of $1: "Claimant thoroughly briefed the customer on the reasons why investing in the REIT might not be a good choice due to a

lack of liquidity contrary to the customer's allegations. Claimant even provided a written memo to the customer prior to the investment advising that the Wells REIT might not be the best investment for him. In spite of his complaint, the customer ultimately made a return of over 12% from the investment, instead of the claimed loss of $235,000. Claimant met with the customer on a number of occasions before his investment. The evidence shows the customer's credibility is weak and that his complaints appeared intended to shift responsibility for his own misjudgments in connection with the Wells REIT investments. The customers allegations were plainly false. The information is of no value to investors." (*ed: Provided courtesy of SAC's ARBchek facility, www.arbchek.com*.)
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ARTICLES OF INTEREST: RECENT NEWS FROM THE ADR FRONT

Friedman, Gary D., Chan, Celine J., and Ramsini, Larsa K., *Is This the "Last Mile" for the "Last Mile Drivers"? Navigating the Federal Arbitration Act's Transportation Worker Exemption*, Weil, Gotshal & Manges LLP Blog (May 2021): "Litigation over mandatory arbitration of employment disputes has skyrocketed in recent years, and one of the most hotly contested issues has involved the scope of the transportation worker exemption of the Federal Arbitration Act ('FAA'). Following the U.S. Supreme Court's 2019 decision in *New Prime Inc. v. Oliveira* that held for the first time that the transportation worker exemption applies to both employees and independent contractors, courts have increasingly been wrestling with the scope of the exemption, including the question of whether certain transportation workers are engaged in interstate commerce. Indeed, given the number of ridesharing, food delivery, and other gig economy workers classified as independent contractors, understanding the scope and reach of the transportation worker exemption is of critical importance to many employers. In this article, we analyze several recent decisions in which courts have addressed the question of whether the nature of work at issue qualifies under the transportation worker exemption, and provide some practical steps employers can take to enhance the enforceability of their arbitration agreements with respect to workers who potentially qualify as transportation workers" (footnotes omitted).

***Supreme Court Is Asked (Again) to Rule on Whether the FAA Preempts California Public Injunctive Relief Law, But This Time There is an Intervening Conflict in Federal Case Law That Strongly Supports Review*, Ballard Spahr Consumer Finance Monitor Blog (May 25, 2021)**: "For the second time in two years, the U.S. Supreme Court is being asked to decide whether the Federal Arbitration Act (FAA) preempts California law (the 'McGill Rule') which invalidates arbitration agreements that waive the right of consumers to seek public injunctive relief. This time, however, there are changed circumstances that increase the odds that the Court will grant review of this critically important arbitration issue…. The new petition in *HRB Tax Group, Inc. v. Snarr* also seeks review of a Ninth Circuit decision holding that the FAA does not preempt the McGill Rule, but this time, the petitioners emphasize, there is now a conflict in federal law." (*ed: See our coverage elsewhere in this* Alert.)

***Tenth Circuit Finds FAA Defenses Applicable to Nondomestic Arbitral Awards*,** **National Law Journal (May 25, 2021)**: "The U.S. Court of Appeals for the Tenth Circuit recently held for the first time that parties opposing the confirmation of nondomestic arbitral awards (i.e., awards issued in disputes involving property located or conduct occurring outside the U.S.) issued in the U.S. or under U.S. arbitration law are not limited to the grounds set forth in the Inter-American Convention on International Commercial Arbitration (the Panama Convention). Instead, the court ruled that defenses to confirmation under the Federal Arbitration Act (FAA) apply."

Wells Fargo Removing Some Restrictions in Customer Arb Agreements: CEO, **ThinkAdvisor (May 26, 2021)**: "Wells Fargo CEO Charles Scharf told senators Wednesday that the bank is in the process of removing 'confidentiality restrictions in all types of customer arbitration agreements that have them, thereby increasing the transparency of the arbitration process.' Scharf also told members of the Senate Banking Committee that Wells Fargo plans to update 'all consumer arbitration agreements to provide for reimbursement of filing fees where the customer prevails' in order to ensure 'the costs of filing for arbitration do not prevent consumers from bringing justified disputes to the bank's attention.'"

***Court Annuls Billion-dollar Award, Finding Crimea Investment was Made before BIT Applied*, Freshfields Bruckhaus Deringer Blog (May 27, 2021)**: "The Paris Court of Appeal has set aside an award against Russia for the expropriation of the Crimean branch of Ukrainian state-owned bank Oschadbank. The court held that the bank had made its investment in Crimea before the Ukraine-Russia Bilateral Investment Treaty's 1992 time limit and that, as such, the tribunal lacked temporal jurisdiction. As Oschadbank intends to appeal, the Court of Cassation will have to decide whether the decision adds a condition to jurisdiction that is absent from the treaty."

***Finra Shelves Expungement Reform Proposal It Had Slated for SEC Approval*,** **AdvisorHub (May 28, 2021)**: "The Financial Industry Regulatory Authority said it withdrew 'temporarily' a proposal to reform the procedures to expunge brokers' public records, which it had before the Securities and Exchange Commission. Finra pulled the proposal Friday -- the same day as the deadline for the federal agency to approve its plan -- after 'consultations with the SEC staff,' the self-regulating agency said in a statement." (*ed: See our coverage elsewhere in this* Alert.)
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DID YOU KNOW?

FINRA DRS' HQ AND NE REGION HAVE RELOCATED. Since 2003, Dispute Resolution Services' Northeast Region and headquarters have been located at One Liberty Plaza in Lower Manhattan. But did you know that the office moved a few blocks west in **March**? The new location is Brookfield Place, 200 Liberty Street, New York, NY 10281; (212) 858-4200. More details are provided in the "Office Guide" page. Hearing rooms are on the 10th floor, staff on 11, with an internal staircase between floors. This news will become more important as in-person hearings resume at FINRA facilities.
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Send any messages or inquiries to: George@SecArbAlert.com

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