SECURITIES ARBITRATION ALERT 2021-29 (8/5/21)

George H. Friedman, Editor-in-Chief

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- ***Broom v. AXA Advisors, LLC*, FINRA ID No. 17-03201 (Birmingham, AL, Jul. 5, 2021)**
- ***Cagle v. Pershing LLC*, FINRA ID No. 20-00922 (Dallas, TX, Jul. 8, 2021)**

ARTICLES OF INTEREST:

- **Erin B McHugh and Robert Patton, *Damages in Financial Services Arbitration,* Global Arbitration Review (Feb. 1, 2021)**
- ***SEC Charges 27 Financial Firms for Form CRS Filing and Delivery Failures,* www.sec.gov (Jul. 26, 2021)**
- ***Cannabis Company Denied Arbitration - Reminder to Avoid Conflicting Remedies in Lease Agreements,* Lexology (Jul. 28, 2021)**
- ***Nevada Governor Approves Bill Requiring Translated Documents for Consumer Financial Services Transactions, Including Credit Cards and Auto Title Loans,* Ballard Spahr LLC Blog (Jul. 29, 2021)**
- ***SEC Charges Founder of Nikola Corp. with Fraud,* www.sec.gov (Jul. 29, 2021)**
- ***AAA-ICDR Hearing Facilities Update*, www.adr.org (Jul. 2021)**

DID YOU KNOW?

- **PIABA Website Has a Nice "Find an Attorney" Feature**

WHERE DID THE LAST YEAR GO? *A year ago, this issue of the* Securities Arbitration Alert ("*SAA*") *reflected a changing of the guard of sorts. In the prior year, the Securities Arbitration Commentator, Inc. ("SAC") had converted the* Securities Arbitration Commentator *newsletter from a print publication to a PDF publication. Then, six months later in January 2020, SAC merged the major elements of the PDF newsletter*

into the weekly Securities Arbitration Alert*, transferred the SAC Board of Editors to the* SAA*, appointed George H. Friedman as Editor-in-Chief of the expanded, more robust* SAA*, and announced that electronic evolution of the SAA would result ultimately in a Web-based SAA publication. Then in August 2020, a new publishing company established by Mr. Friedman, Securities Arbitration Alert, LLC (SAA, LLC), commenced publication of this substantially identical* SAA.

In the last year we completed the migration to a Web-based Alert*, did away with paper invoicing, expanded several sections, published several feature articles (with another one due next week), and conducted three surveys of the major ADR providers on their pandemic response plans. Our overarching goal was to effect a smooth change in leadership with an essentially seamless transition experience for our subscribers, and to continue providing the latest news from the financial services ADR world. The former has been accomplished and the last one remains our core objective!*

SQUIBS: IN-DEPTH ANALYSIS

SEC APPROVES FINRA RULEMAKING PROPOSAL TO PROTECT AGAINST AT-RISK FIRMS AND UNPAID ARBITRATION AWARDS. ***The SEC has approved an omnibus rule filing strengthening investor protection from at-risk firms and brokers. Addressing unpaid Awards is a major focus.*** Readers may recall that we reported in SAA 2019-18 (May 8) that FINRA had issued a Regulatory Notice seeking comments on rule changes aimed at better protecting investors from firms with significant regulatory histories. Specifically, the Authority in **May 2019** announced publication of Regulatory Notice 19-17, *FINRA Requests Comment on Proposed New Rule 4111 (Restricted Firm Obligations) Imposing Additional Obligations on Firms with a Significant History of Misconduct*. The description: "As part of FINRA's ongoing initiatives to protect investors from misconduct, FINRA is requesting comment on proposed new Rule 4111 (Restricted Firm Obligations) that would impose tailored obligations, including possible financial requirements, on designated member firms that cross specified numeric disclosure-event thresholds." A core thrust was unpaid arbitration awards.

Comments to Original Proposal

We analyzed in SAA 2019-26 (Jul. 10) the 32 comment letters received by the **July 1, 2019,** deadline, which were mostly split along party lines (but with some interesting alliances). For the most part, investor advocacy groups and regulators supported the proposal, but urged that more be done to protect investors from unpaid awards. Industry groups and commenters were more divided, with some looking more to the burdens on competition among smaller firms, while others approached the proposition from an individual responsibility perspective. SIFMA generally supported the proposed changes.

The Rulemaking Proposal Filed with SEC

We said in #2019-26 that: "staff will analyze the comments, make changes, and then likely seek Board approval to do a 19b rule filing with the SEC." As reported in SAA 2020-44 (Nov. 25), that transpired in **November 2020** when FINRA announced that it

had filed SR-FINRA-2020-041, *Proposed Rule Change to Address Firms with a Significant History of Misconduct.* The announcement echoed the Regulatory Notice's statement of purpose, with more details: "(1) adopt FINRA Rule 4111 (Restricted Firm Obligations) to require member firms that are identified as 'Restricted Firms' to maintain a deposit in a segregated account from which withdrawals would be restricted, adhere to specified conditions or restrictions, or comply with a combination of such obligations; and (2) adopt a new FINRA Rule 9561 (Procedures for Regulating Activities Under Rule 4111), and amend FINRA Rule 9559 (Hearing Procedures for Expedited Proceedings Under the Rule 9550 Series), to create a new expedited proceeding to implement proposed Rule 4111. In addition, FINRA proposes to adopt Capital Acquisition Broker ('CAB') Rule 412 (Restricted Firm Obligations), to clarify that member firms that have elected to be treated as CABs would be subject to proposed FINRA Rule 4111, and to amend Funding Portal Rule 900(a) (Application of FINRA Rule 9000 Series (Code of Procedure) to Funding Portals), to clarify that funding portals would not be subject to proposed FINRA Rule 9561."

SEC Approves the Rule: Addressing Unpaid Awards a Major Objective

The Commission approved the rule on **July 30** (Release No. 34-92525). Although arbitration or unpaid Awards was not referenced in the title or description, both feature prominently in the rule filing's text and the Approval Order. In fact, the term "arbitration" or its derivatives appear 123 times in the Approval Order; "unpaid arbitration award" 37 times. There are numerous passages defining one of the proposal's purposes as addressing unpaid arbitration Awards, for example: "And when all appeals are exhausted, the firm may have withdrawn its FINRA membership and shifted its business to another member or other type of financial firm, limiting FINRA's jurisdiction and avoiding the sanction, including making restitution to customers. In such circumstances, the firm may also fail to pay arbitration awards owed to claimants, leaving investors uncompensated and diminishing confidence in the securities markets" (footnotes omitted). And the FINRA response to comments dated **March 4, 2021** says: "As an initial matter, although the proposal would have ancillary benefits for addressing unpaid arbitration awards, the proposal's primary purpose is to create incentives for members that pose outlier-level risks to change behavior" (footnote omitted).

Commissioner Statements

In a relatively rare move, Commissioners **Caroline A. Crenshaw** and **Allison Herren Lee** issued a July 30 Statement lauding the approval: "Today, the Commission approved FINRA's proposed rule change to, among other things, impose additional obligations on FINRA member firms with a significant history of misconduct, as well as those firms that employ individual brokers with such histories (collectively 'high risk firms'). We appreciate FINRA's attention to these high risk firms because they raise important investor protection concerns. We were pleased to see FINRA's commitment to working with state securities regulators to share information regarding these firms. We are also pleased that FINRA's Board recently approved a plan for a separate filing to disclose the identities of high risk firms to the public, which it expects to file promptly. A firm's high-risk status is important information and will help investors make informed choices about

the firms they select. We intend to monitor this important investor protection issue and will evaluate whether additional steps may be needed to address recidivist firms and brokers" (footnotes omitted).
*(ed: *Next in the regulatory process is FINRA's issuance of a Regulatory Notice setting the effective date 180 days thereafter. **FINRA has taken several steps to address unpaid Awards. For example, the Authority now publishes detailed statistics on the subject.)*
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BIPARTISAN BILLS INTRODUCED IN CONGRESS TO AMEND FAA TO BAN PDAA USE AND ENFORCEMENT FOR SEXUAL HARASSMENT AND ASSAULT CLAIMS. ***Bipartisan bills have been introduced in the Senate and House to amend the Federal Arbitration Act ("FAA") to restrict predispute arbitration agreement ("PDAA") and class action waiver use and enforcement for disputes involving sexual harassment and assault claims***. Readers may recall we reported in SAA 2019-12 (Mar. 20) that, undaunted by the rather poor prospects of enactment at the time, Congressional Democrats announced in early **2019** the reintroduction of several bills aimed at curtailing mandatory arbitration in a broad range of contracts. Among them were bills dealing with sexual harassment and predispute arbitration agreements ("PDAA") that were introduced in the wake of seemingly daily accusations of workplace sexual harassment. These bills died with the expiration of the 116th Congress in **January 2021.**

Back Again with Bipartisan Support
In **mid-July,** the *Ending Forced Arbitration of Sexual Assault & Sexual Harassment Act of 2021* was reintroduced in the Senate (S. 2342 on **July 14** by Sens. **Kirsten Gillibrand** (D-NY) and **Lindsey Graham** (R-SC)) and in the House (H.R. 4445 on **July 16** by Reps. **Cheri Bustos** (D-IL), and **Morgan Griffith** (R-VA)). According to a Press Release issued by Sen. Gillibrand, the proposed law: "would stop perpetrators from being able to push survivors of sexual harassment and assault into the secretive, biased process of forced arbitration. This important legislation would invalidate forced arbitration clauses that prevent sexual assault and sexual harassment survivors from seeking justice and public accountability under the laws meant to protect them."

Same Thrust
The bills' purpose is: "To amend title 9 of the United States Code to prohibit the enforcement of predispute arbitration agreements with respect to sexual assault claims." The text is essentially the same as the last iteration, and would amend the FAA to add a new chapter providing: "Except as provided in subsection (c) [collective bargaining agreements], and notwithstanding any other provision of this title, no predispute arbitration agreement or predispute joint action waiver shall be valid or enforceable with respect to a case which is filed under Federal, Tribal, or State law and relates to a sexual assault dispute or a sexual harassment dispute." Courts would decide arbitrability even in the face of a delegation clause. The Act would: "apply with respect to any dispute or claim that arises or accrues on or after the date of enactment …."

*(ed: *The bills will be referred to the Senate and House Judiciary Committees. **We had thought the original 2019 bills had a decent chance of enactment, but that was before COVID-19 came to preoccupy Congress. We think this time around, with strong bipartisan support, the bills will be passed by this Congress and the President will surely sign the legislation into law.)*
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SHORT BRIEFS: CONCISE NEWS YOU NEED TO KNOW

SEC AND FBI: BEWARE OF SCAMMERS POSING AS FINANCIAL SERVICES PROFESSIONALS. The SEC's Office of Investor Education and Advocacy and the FBI's Criminal Investigative Division: "warn of fraudsters swindling investors while pretending to be registered brokers or investment advisers." A **July 27** Investor Alert, *Fraudsters Posing as Brokers or Investment Advisers – Investor Alert*, states: "Fraudsters may falsely claim to be registered with the Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA) or a state securities regulator in order to lure investors into scams, or even impersonate real investment professionals who actually are registered with these organizations. Fraudsters may misappropriate the name, address, registration number, logo, photo, or website likeness of a currently or previously registered firm or investment professional." Among the tools used by the scammers are (*ed: presented essentially* verbatim): **spoofed websites** (fraudsters may set up websites using URL addresses or names similar to those of registered firms or investment professionals to trick investors into believing that the fraudsters are registered or that the fraudsters are affiliated with a registered firm or investment professional); **fake profiles on social media** (fraudsters may set up profiles impersonating registered investment professionals on popular social media platforms and then message investors to solicit their money); **cold calling** (fraudsters may set up boiler rooms with teams of people cold calling investors to solicit their money while claiming to be employees of registered firms. The fraudsters may use technology to make it appear they are calling from the firm's location); **misrepresenting or falsifying documents** (fraudsters may recruit investors by misrepresenting that their firm was registered with the SEC, including pointing to the firm's Form D filings to support the misrepresentation. Fraudsters may solicit investors by impersonating a registered investment professional and generating a fake version of a public report using the professional's name and CRD number).
*(ed: *Report fraud suspicions to the SEC at www.sec.gov/tcr and to the FBI's Internet Crime Complaint Center at https://www.ic3.gov. **The SEC maintains an* Impersonators of Genuine Firms *list.)*
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ICC CONDUCTING AN ADR SURVEY, BUT ACT SOON IF YOU WANT TO PARTICIPATE. The ICC Task Force on ADR and Arbitration is currently conducting a survey: "that seeks to understand preferences and practices of ADR and arbitration practitioners and users, including companies, states and state entities. The survey, which the ICC says will take about 30 minutes to complete, has three main parts, each with several questions: 1) user background/profile; 2) increasing the use of alternative dispute resolution; and 3) evaluating settlement facilitation in arbitration. The survey will remain

open until "mid-August" and may be completed by: "anyone with experience in arbitration or other dispute resolution services." Responses will be kept confidential. *(ed: *ICC invites sharing of the survey link: "in compliance with the applicable personal data protection regulations." **Although it was not mentioned, we assume the results will be published at some point.)*
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PROPOSED RESTORING JUSTICE FOR WORKERS ACT REINTRODUCED. On **July 29,** House Judiciary Committee Chairman **Jerrold Nadler** (D-NY) and Education and Labor Committee Chairman **Robert C. "Bobby" Scott** (D-VA) introduced H.R. 4841 -- *the Restoring Justice for Workers Act*. As drafted, the bill would amend the Federal Arbitration Act ("FAA") to: "(1) prohibit predispute arbitration agreements that require arbitration of work disputes; (2) prohibit retaliation against workers for refusing to arbitrate work disputes; [and] (3) provide protections to ensure that postdispute arbitration agreements are truly voluntary and with the informed consent of workers." It would also: "amend the National Labor Relations Act to prohibit agreements and practices that interfere with employees' right to engage in concerted activity regarding work disputes." Although not referenced in the bill's text, a July 29 Press Release says that the proposed law would: "Reverse[] the Supreme Court's 5-4 decision in *Epic Systems*, which dismantled workers' right to band together to hold unscrupulous employers accountable…." Recall that SCOTUS in *Epic Systems Corp. v. Lewis*, 138 S. Ct. 1612 (2018), held that the FAA permits employers to use arbitration clauses containing class action waivers, notwithstanding the National Labor Relations Act's protections of workers' rights to act collectively. The bill has 37 cosponsors (all Democrats), and has been assigned to the Judiciary Committee, which is Chaired by Rep. Nadler. The law would take effect: "on the date of enactment of this Act and shall apply with respect to any dispute or claim that arises or accrues on or after such date, including any dispute or claim to which an agreement predating such date applies."
*(ed: *There's no Senate analogue, but we know that's coming. **As reported in SAA 2019-22 (Jun. 5), Rep. Nadler introduced a similar bill with the same name -- H.R. 2749 -- in the last Congress.)*
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NEVADA ENACTS LAW REQUIRING TRANSLATED DOCS FOR FINANCIAL SERVICES FIRMS ADVERTISING AND NEGOTIATING IN FOREIGN LANGUAGES. Nevada has enacted a law effective **October 1** that will require some financial services businesses that advertise and negotiate in a language other than English to provide translations to consumers. Assembly Bill 359 requires: "A person who, in the course of his or her business or occupation, advertises in a language other than English and negotiates orally or in writing any of the transactions listed in subsection 3 [described below] in a language other than English, or who allows an employee or agent of the person to advertise in a language other than English and to negotiate orally or in writing any of the transactions listed in subsection 3 in a language other than English, shall deliver a translation of the contract or agreement that results from such advertising and negotiations in the language that was used in the advertisement and negotiation of the

contract or agreement to the person who is a party to the contract or agreement and to any other person who may sign the contract or agreement." The new law covers credit cards, auto loans, and leases, but carves out: "a person who: (1) is a bank, savings and loan association, savings bank, thrift company or credit union; (2) has a physical location; and (3) engages in a transaction other than the issuance of a credit card or an automobile loan." Non-compliance is deemed a deceptive trade practice, resulting in a voidable transaction.
*(ed: *We don't see the law applying to securities transactions, but it would certainly seem to cover other consumer financial transactions. This of course would include arbitration clauses in covered contracts. **Federal Arbitration Act preemption is another question.)*
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CALIFORNIA APPELLATE COURT: *ISKANIAN* IS STILL GOOD LAW. We have reported many times on *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348, 327 P.3d 129 (Calif. 2014), *cert. den*., 135 S. Ct. 1155 (2015), where a divided 4-3 California Supreme Court – replete with partial concurrences and dissents – held that an employee could pursue claims against his employer under the California Private Attorneys General Act ("PAGA"), despite the existence of an arbitration agreement waiving such claims (see for example, SAA 2015-01 and SAAs 2014-41 & -24)). But did the U.S. Supreme Court's subsequent decision in *Epic Systems Corp. v. Lewis*, 138 S.Ct. 1612 (2018), holding that class or collective action waivers were enforceable under the Federal Arbitration Act, implicitly overrule *Iskanian?* No, says a unanimous California Court of Appeal in *Winns v. Postmates Inc*.. No. A155717 (Calif. Ct. App. 1 Jul. 20, 2021). Says the Court: "Neither *Epic Systems* nor its progeny addressed the same PAGA waiver issue decided by *Iskanian*, and thus *Iskanian* continues to control the outcome of this appeal…. [T]he U.S. Supreme Court did not decide or consider whether a worker may waive a right to bring a *representative* action on behalf of a state government. Thus, the Court's reasoning in *Epic Systems* did not address the basis for our Supreme Court's decision in *Iskanian*, namely, that a PAGA action is not an individual dispute between private parties but an action brought on behalf of the state by an aggrieved worker designated by statute to be a proper representative of the state to bring such an action. Accordingly, *Epic Systems* did not consider the same issue concerning PAGA waivers decided in *Iskanian*, much less reach a contrary conclusion on that issue" (emphasis in original).
*(ed: *Makes sense to us. **An* Alert *h/t to Editorial Board member Peter R. Boutin, Esq., of Keesal, Young & Logan, for alerting us to this decision.)*
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MORE ON PLI'S (VIRTUAL) ANNUAL SECURITIES ARBITRATION PROGRAM ON SEPTEMBER 9. As reported in SAA 2021-25 (Jul. 8), the Practising Law Institute ("PLI") program *Securities Arbitration 2021* will be taking place via live Webcast and groupcast on **September 9, 2021**. According to PLI's Website, key topics include (*ed: repeated essentially* verbatim): *recent developments in FINRA arbitration and mediation; how diversity and inclusion is being prioritized in FINRA arbitrations;*

ethical considerations for litigating elder abuse claims; advocacy tips in virtual arbitrations and mediations; the art of examining and cross-examining experts in arbitrations; and *hot topics and future trends in securities arbitration in 2021*. As noted in our past reporting, the program boasts a large (25+) and impressive faculty, including FINRA Dispute Resolution Services' Executive Vice President & Director of Arbitration **Richard W. Berry** and other FINRA staffers. Returning as Program Chair is **Sandra D. Grannum** (Faegre Drinker Biddle & Reath LLP). CLE credit is available.
(*ed: *The program will be presented virtually. **The registration fee is $1,850. A discounted rate is available for FINRA Arbitrators and Mediators and SAA readers. Scholarships are available to attend this program. Visit learning.pli.edu/scholarship. ***Register via the event webpage or contact PLI at 800-260-4PLI. Provide the code "LMV1 SA921" when registering. ****For more information, please contact PLI at the number above or at info@pli.edu.)*
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QUICK TAKES: CASES AND AWARDS WORTH READING

***DDK Hotels LLC v. Williams-Sonoma Inc*., No. 20-2748-cv (2d Cir. July 23, 2021)**: The issue of who was the "prevailing party" for fee allocation purposes is for the court, not arbitrators, a unanimous court holds: "We conclude, as did the district court, that the arbitration agreement does not evince the parties' clear and unmistakable intent to submit arbitrability disputes to arbitration. The question concerning the arbitrability of the supplemental claim – whether the supplemental claim for breach of the prevailing party provision constitutes a 'Disputed Matter' within the meaning of Section 16 of the JV Agreement – was accordingly one for the district court, not the arbitrator, to decide."

***Rivas v. CBK Lodge General Partner, LLC*, 2021 U.S. Dist. LEXIS 139345, No. 3:19-cv-01948-KM (M.D. Penn. Jul. 27, 2021)**: Although forced mediation may seem counterintuitive, complying with a mediation clause is a condition precedent to filing a lawsuit. "The mediation agreement encompasses 'any dispute [that] arises between the parties.' There is no further qualifying language, only mention of the necessity to acquire a mediator who is privy to information regarding the construction industry…. The Court finds that the 'Resolution of Disputes' clause pertaining to 'any dispute . . . between the parties' applies to Camelback's Third-Party Complaint. Therefore, Whitewater's Motion to Dismiss is GRANTED" (second ellipse in original; internal citations omitted).

***Fisher v. MoneyGram International, Inc*., No. A158168 (Calif. Ct. App. 1 (Jul. 27, 2021)**: "In this case we assess the validity of an arbitration provision in a consumer adhesion contract that reduces the length of the statute of limitations, invokes the application of the arbitrators' higher commercial fees, and requires consumers to bear their own costs and fees for experts and attorneys. We conclude the arbitration provision is unconscionable largely because it was hidden on the back side of a money transfer order form, in tiny 6-point print that we deem virtually illegible. Because the arbitration provision operated largely to benefit defendant MoneyGram International, Inc. (MoneyGram) at plaintiff Jonathan Fisher's expense, we affirm the superior court's order denying MoneyGram's petition to compel arbitration." (ed: *An* Alert *h/t to Editorial*

Board member Peter R. Boutin, Esq., of Keesal, Young & Logan, for alerting us to this decision.)

***Broom v. AXA Advisors, LLC*, FINRA ID No. 17-03201 (Birmingham, AL, Jul. 5, 2021)**: Two brokers alleging racial discrimination and seeking lost compensation lose their case against Respondent broker-dealer. One broker also loses his request for reformation of defamatory information from appearing on his Form U5 record. *Provided courtesy of SAC's ARBchek facility (www.arbchek.com).*

***Cagle v. Pershing LLC*, FINRA ID No. 20-00922 (Dallas, TX, Jul. 8, 2021)**: In this Consolidated Award, an All-Public Panel explains why it awarded a group of customers compensatory damages after finding that Respondent knew of the perpetrated Ponzi scheme by a non-party broker-dealer and aided in the alleged scheme by executing wire transfers with respect to the purchase of CDs. *Provided courtesy of SAC's ARBchek facility (www.arbchek.com).* (*ed: we covered this case in a Squib in SAA 2021-27 (Jul. 22).*)

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ARTICLES OF INTEREST: RECENT NEWS FROM THE ADR FRONT

Erin B McHugh and Robert Patton, *Damages in Financial Services Arbitration*, Global Arbitration Review (Feb. 1, 2021): "Financial services disputes are increasingly resolved through international arbitration proceedings. By 2019, for example, disputes relating to the banking and finance sector accounted for nearly one-third of all cases administered under the London Court of International Arbitration rules. Looking ahead, a 2018 Queen Mary International Arbitration Survey found that more than half of respondents (56 per cent) anticipated an increased use of international arbitration in banking and finance disputes. According to the survey, this could 'be read as a clear indication that financial institutions and their counsel are contemplating arbitration with much greater interest than ever before'…. Given the diverse array of financial instruments and transactions, and of the contexts in which they might be germane to a dispute, there can be no one-size-fits-all approach to the applicable economic and valuation analyses. In this chapter, we outline the characteristics of and valuation principles for some of the most common types of financial instruments and discuss how these can be relevant in the context of legal disputes. We then turn to a hypothetical case study to illustrate how some of these concepts may be implemented when estimating quantum in a financial services dispute" (footnotes omitted). (*ed: we realize this article is from February, but it is excellent and worth reading*.)

***SEC Charges 27 Financial Firms for Form CRS Filing and Delivery Failures*, www.sec.gov (Jul. 26, 2021)**: "The Securities and Exchange Commission today announced that 21 investment advisers and 6 broker-dealers have agreed to settle charges that they failed to timely file and deliver their client or customer relationship summaries – known as Form CRS – to their retail investors.[] On June 5, 2019, the SEC adopted Form CRS and required SEC-registered investment advisers and SEC-registered broker-dealers to file their respective Forms CRS with the SEC, begin delivering them to prospective

and new retail investors by June 30, 2020, and deliver them to existing retail investor clients or customers by July 30, 2020. The SEC also required firms to prominently post their current Form CRS on their website, if they had one. According to the SEC's orders, each of the firms charged today missed those regulatory deadlines."

***Cannabis Company Denied Arbitration - Reminder to Avoid Conflicting Remedies in Lease Agreements*, Lexology (Jul. 28, 2021**): "In a lease dispute between a ranch-owner and cannabis company, a California state court of appeal ruled that the arbitration provision included in the lease was not enforceable, as it would nullify conflicting remedy rights granted to the landlords elsewhere in the lease."

Nevada Governor Approves Bill Requiring Translated Documents for Consumer Financial Services Transactions, Including Credit Cards and Auto Title Loans*, Ballard Spahr LLC Blog (Jul. 29, 2021):* "A new Nevada law that becomes effective on October 1, 2021 requires translated documents to be provided to consumers by businesses that advertise and negotiate transactions covered by the law in a language other than English (or allow their agents or employees to advertise and negotiate in a language other than English). A knowing violation of the new requirement is deemed a deceptive trade practice under Nevada's UDAP law and non-compliance allows 'the aggrieved party' to rescind the transaction." (*ed: see our coverage elsewhere in this* Alert.*)*

***SEC Charges Founder of Nikola Corp. With Fraud*, www.sec.gov (Jul. 29, 2021)**: "The Securities and Exchange Commission today announced charges against Trevor R. Milton, the founder, former CEO and former executive chairman of Nikola Corporation, for repeatedly disseminating false and misleading information – typically by speaking directly to investors through social media – about Nikola's products and technological accomplishments."

***AAA-ICDR Hearing Facilities Update*, www.adr.org (Jul. 2021)**: "AAA-ICDR offices are open for in-person hearings. In light of our desire to keep you and our employees safe, we have put a number of safety precautions and protocols into place. During this time, the AAA-ICDR will make available as many of our valued amenities as possible given current state and local COVID-19 guidance. The AAA-ICDR hearing rooms have also been equipped with upgraded video conferencing technology to facilitate hybrid hearings and remote participation. The AAA-ICDR can assist with these alternative hearing arrangements."
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DID YOU KNOW?

PIABA WEBSITE HAS A NICE "FIND AN ATTORNEY" FEATURE. Potential Claimants seeking representation in arbitration should visit PIABA's searchable database at https://piaba.org/find-attorney. Searches can be filtered by state, zip code, and size of claim. As for fees, the Website says: "To help evaluate your case, most PIABA members will provide a 20-30 minute initial consultation at no charge. Evaluation or representation beyond the initial consultation by any attorney you consult may require a fee. Although

some PIABA members will accept cases on an hourly fee basis only, many members will accept cases on a contingency fee basis as well. As with any professional service, you are encouraged to discuss and confirm the cost of any evaluation, filing fees, and expected cost of representation, prior to meeting with any attorney."
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