

Securities Arbitration and Mediation 2018: Evolution

Thursday, November 29 | New York City

Pre-Register for the Video Replay on December 10

CFA Society NY

1540 Broadway, Suite 1010
New York, NY 10036
Entrance on West 45th Street

NYSBACLE



INCLUDES
1.0 ethics credits



Securities Arbitration and Mediation 2018: Evolution

7.0 MCLE Credits: 2.0 Professional Practice; 4.0 Skills; 1.0 Ethics

Program Description

Securities arbitration and mediation have seen dramatic changes as they have evolved these past 30 years. This year's program focuses on the current state of the evolutionary process. Gathered from the "best and brightest" of the Northeast, with particular representation from the New York State Bar, this program will, in one day, highlight the most critical advancements in securities arbitration and mediation since this program was last presented.

Our faculty is usually large so that our attendees get the best cross-section possible of experienced practitioners. The subjects selected are based on the assessment of our faculty. Don't miss this opportunity to get a complete update on the law and a thorough analysis of how to succeed in Securities Arbitration and Mediation!

Program Chairs:

James D. Yellen, Esq. | Yellen Arbitration and Mediation Services | New York, NY

David E. Robbins, Esq. | Kaufmann Gildin & Robbins LLP | New York, NY

Who Should Attend

Attorneys practicing securities law should not miss this program, and attorneys involved in Arbitration and Mediation in other fields will also find this program to be most beneficial.

Program Agenda

9:00 – 9:10 a.m. **INTRODUCTION**

9:10 – 10:00 a.m.

Session #1: 30 Years of Mandatory Arbitration

Thirty plus years post-McMahon: Where have we been? Where are we now? Where are we going? Critical issues in securities arbitration.

1.0 MCLE Credit in Areas of Professional Practice

- What the main combatants recall about the 1987 Supreme Court arguments in McMahon v Shearson.
- How securities arbitration has evolved since McMahon.
- How cases have changed.
- How claims have remained the same.
- Key improvements in its evolution.
- Needed improvements as it continues to evolve.

Moderator:

David E. Robbins, Esq. | Kaufmann Gildin & Robbins LLP | NYC

Speakers:

Richard W. Berry, Esq. | FINRA Dispute Resolution | NYC

Jeffrey Friedman, Esq. | Bressler, Amery & Ross | NYC

Prof. Seth E. Lipner | Baruch College | Deutsch & Lipner | NYC

10:00 – 10:50 a.m.

Session #2: How Pre-Hearing Motions Can Win a Case

1.0 MCLE Credit in Skills

- How to position and effectively present Motions to Compel.
- When Motions to Amend pleadings are appropriate and how to oppose them if inappropriate.
- How to deal with Motions to Postpone scheduled hearings.
- When pre-hearing motions to dismiss can be won [including eligibility motions] and when they should be brought after a Claimant's case-in-chief.
- Motions in limine – Can "pink elephants" be removed from a case.

Moderator:

Jonathan L. Hochman, Esq. | Schindler Cohen & Hochman LLP | NYC

Speakers:

Edward Larkin, Esq. | Gibbons. P.C. | NYC

Martin H. Kaplan, Esq. | Gusrae, Kaplan, Bruno & Nusbaum PLLC | NYC

William Thornton, Esq. | Stevens & Lee | Philadelphia

10:50 – 11:05 a.m. BREAK

11:05 – 11:55 a.m.

Session #3: Fee-Based v. Commission-Based Accounts

1.0 MCLE Credit in Skills

Moderator:

Stephen Younger, Esq. | Patterson Belknap | NYC

Speakers:

Robert Pearl, Esq. | The Pearl Law Firm | Pittsford, NY

Professor Paul Radvany, Esq. | Fordham Law School

Paula Shaffner, Esq. | Stradley Ronon Steven & Young, P.C. | Philadelphia, PA

- Statistics and history of the transition from commission-based to fee-based accounts and whether fee-based are always discretionary accounts.
- Who benefits and who doesn't from fee-based accounts and why?
- Fee-based discretionary account cases and related causes of actions (to present and to defend).
- How experts measure and compare the performance of fee-based accounts.
- How to educate arbitrators about fee-based discretionary accounts.
- Comparing SEC "Regulation Best Interest" to existing FINRA Rules.

11:55 a.m. – 12:45 p.m.

Session #4: Elder Abuse and Elder Exploitation Cases

1.0 MCLE Credit in Professional Practice

- Statistics of such cases – who is elderly and how often do they bring arbitrations.
- Why firms maintain these sensitive accounts.
- How firms supervise them.
- FINRA and state statutes that deal with such clients.
- How to determine the merits of the claims of elderly and possibly mentally infirm customers.
- How defense attorneys overcome the inherent sympathy for such customers.
- How to present their direct examination and implement effective cross-examination.
- Elder customer claimant cases that lose and why.

Moderator:

Sandra Grannum, Esq. | Drinker Biddle & Reath LLP | Florham Park, NJ

Speakers:

Jack Duval | Accelerant LLC | Staatsburg, NY

Timothy O'Connor, Esq. | Law Offices of Timothy J. O'Connor | Albany

Aegis Frumento, Esq. | Stern Tannenbaum & Bell LLP | NYC

12:45 – 1:45 p.m. LUNCH

1:45 – 2:35 p.m.

Session #5: Whether and When to Settle a Securities Mediation

1.0 MCLE Credit in Skills

- When to mediate, whom to select, what to expect from your mediator and how best to prepare yourself and your client for mediation: settling and not winning.
- Tips on breaking through the roadblocks toward settlement.
- What should be in settlement agreements.
- Why mediations fail.
- How a failed mediation affects the pending arbitration– what to tell arbitrators

Moderator:

James D. Yellen, Esq. | Yellen Arbitration & Mediation Services | NYC

Speaker:

Kenneth Andrichik, Esq. | FINRA | NYC

Barry Lax, Esq. | Lax & Neville LLP | NYC

Robert E. Conner | Thornapple Associates, Inc. | Naples, FL

2:35 – 3:25 p.m.

Session #6: Expungement Cases

1.0 MCLE Credit in Skills

- Understanding the ground rules – when such cases can and can't be brought under the new FINRA expungement rules.
- How to prove that either:
 - (A) The claim, allegation or information is factually impossible or clearly erroneous;
 - (B) The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds; or
 - (C) The claim, allegation or information is false.
- How a broker's attorney goes about obtaining supporting documents.
- How to deal with an expungement case where the customer opposes the relief sought.
- How to deal with the "hot panel."
- How to prepare your broker-client.
- Following a successful expungement arbitration, how to convince FINRA to waive participation in subsequent Petition to Confirm the Award.

Moderator:

Harry T. Walters, Esq. | Morgan Stanley Wealth Management | NYC

Speakers:

Howard Elisofon, Esq. | Herrick Feinstein LLP | NYC

David Robbins, Esq. | Kaufmann Gildin & Robbins LLP | NYC

Angela Turiano, Esq. | Bressler, Amery & Ross | NYC

3:25 – 3:40 p.m. BREAK

3:40 – 4:35 p.m.

Session #7: Ethics in an Evolving Process

1.0 MCLE Credit in Ethics

- Representing multiple claimants.
- Representing multiple respondents.
- Solicitation problems: When to call and when to write prospective clients.
- Conflicts caused by insurance coverage.
- Conflicts of Interest.

Moderator:

Barry Temkin, Esq. | Mound Cotton Wollan & Greengrass | NYC

Speakers:

Joseph Giovanniello, Esq. | Ladenburg Thalmann & Co. Inc. | NYC

Darya Geetter, Esq. | LPL Financial | Boston

Adam Kauff, Esq. | Kauff Laton Miller LLP | NYC

4:35 – 4:45 p.m. CLOSING REMARKS AND ADJOURNMENT

Register Today | www.nysba.org/SAM2018

7.0 MCLE Credits

This course is approved for MCLE credit in New York for all attorneys, including those newly admitted.

New York: 7.0 Total Credits: 1.0 Ethics, 2.0 Skills, 4.0 Areas of Professional Practice, 0.0 Diversity, Inclusion and Elimination of Bias

California and Pennsylvania: 0.0 Substantive Law, 0.0 Ethics

New Jersey: 0.0 Total Credits: 0.0 Ethics/Professionalism, 0.0 towards certification in civil trial law, criminal trial law, workers compensation law and/or matrimonial law

Uniform Certificates of Attendance can be issued for use in other jurisdictions.

The New York State Bar Association has been certified by the New York State Continuing Legal Education Board as an accredited provider of continuing legal education in the State of New York.

For information about the CLE Rules, visit www.nycourts.gov/attorneys/cle

Join the Commercial and Federal Litigation Section!

The Commercial and Federal Litigation Section provides a forum for the improvement of law and procedure in the areas of commercial and federal litigation to enhance the administration of justice.

Whether you are a seasoned litigator or a newly admitted attorney, membership in the Commercial and Federal Litigation Section is an excellent way to advance your career.

Benefits Include:

- Networking opportunities with leading commercial litigators
- Discounts on practice-area relevant Continuing Legal Education courses
- Involvement in addressing issues that affect practitioners, advocating positions both with NYSBA and in front of the State Legislature
- A complimentary subscription to the NYLitigator and the ComFed Section Newsletter
- 25% discount for a subscription to the Commercial Litigation Insider

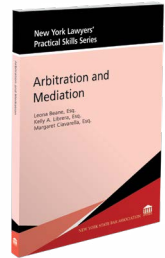
Learn more about the Commercial and Federal Litigation Section at www.nysba.org/ComFed.

Special Offer from the NYSBA Bookstore

Save 20% on our featured product

Arbitration and Mediation

Arbitration and Mediation examines the two most common forms of alternative dispute resolution and resolves the misconception that these two procedures are interchangeable by discussing their differences and providing examples of both procedures. This practice guide provides useful practice tips on navigating arbitration hearing procedures and describes how mediation is used to resolve disputes.



Print: 40248 | 20117-18 | **NYSBA Members \$125** | Non-Members \$165
E-Book: 40248E | 2017-18 | **NYSBA Members \$125** | Non-Members \$165
1.800.582.2452 | www.nysba.org | source code PUB8985

Use coupon code PUB8985 when you order online and save 20%

Discount does not apply to HotDocs® products

Offer ends December 31, 2018

Join or Renew Your NYSBA Membership and Save



- Save money with members-only discounts on CLE of more than 30%
- Stay informed with up-to-date, accurate members-only information and publications
- Access members-only job and career resources at www.nysba.org/jobs
- Network with the best via exclusive, members-only Section benefits

Learn more | www.nysba.org/join

Information and Policies

Cancellations Are Easy: Full refunds are given with notice three days prior to the program date. Registrations cancelled less than three business days from the program date will be assessed a cancellation fee of \$25.00.

Tuition Assistance: Any New York attorney who has a genuine financial hardship may apply for tuition assistance for a CLE program. Learn more at www.nysba.org/TuitionAssistance.



Accommodations for Persons with Disabilities: NYSBA is committed to complying with all applicable laws that prohibit discrimination against individuals on the basis of disability in the full and equal enjoyment of its goods, services, programs, activities, facilities, privileges, advantages, or accommodations.

To request auxiliary aids or services or if you have any questions regarding accessibility, please contact Cindy O'Brien at cobrien@nysba.org.

www.nysba.org/CLEProgramPolicies



Non-Profit Org.
U.S. Postage
PAID
Albany, N.Y.
Permit No. 155

NYSBA Law Practice Management

Whether you're a solo practitioner or a managing partner at a national law firm, you'll find law practice management resources to meet your day-to-day practice needs. Checklists, best practices, publications, and continuing legal education programs provide up-to-date information and practical tips to help you better manage your law practice.

Starting a Practice | Managing Your Practice | Protecting Your Practice | Technology and Your Practice
Marketing Your Practice | Escrow Accounts, IOLA, Ethics | Selling Your Practice and Retirement | Planning Ahead

www.nysba.org/LPM

Securities Arbitration and Mediation 2018: Evolution

Thursday, November 29

9:00 a.m. – 4:45 p.m.

CFA Society NY

1540 Broadway, Suite 1010

New York, NY 10036

Entrance on West 45th Street

NYSBA Member: \$195 (\$170 if you register by October 30, 2018)

Commercial and Federal Litigation Section Member: \$170

Non-Member: \$295

7.0 MCLE Credits;

2.0 Professional Practice; 4.0 Skills;

1.0 Ethics

4 WAYS TO REGISTER

Call **1.800.582.2452** (U.S. and Canada) or **518.463.3724** in Albany & surrounding area

Mail New York State Bar Association
Member Resource Center
One Elk Street
Albany, NY 12207

Fax **518.463.5993**
Download an order form online at
www.nysba.org/CLEOrderForm

Online www.nysba.org/CLE
www.nysba.org/SAM2018

Please Note

- Registrations cancelled less than three days from the program date will be assessed a \$25.00 cancellation fee.

Source Code: CL4551