

Dear Sir or Madam:

I am writing in support of the requirement for broker dealers and representatives to voluntarily disclose evidence of insurance in FINRA arbitrations. I have personally served as counsel in over 1000 FINRA arbitrations over the past 25 years.

As in state court, disclosure of E&O insurance information is directly relevant in FINRA cases because information contained in the policies is helpful when counsel and litigants discuss resolution of the case. Aside from the fact that an insurance policy could ultimately provide a source of recovery, insurance information is important because it may affect the strategies of Claimant's attorneys. For instance, if the policy has burning limits (i.e., defense fees and costs are deducted from the policy limit), a Claimant's strategy that minimizes defense fees and costs would ultimately benefit the Respondents, while also forcing the Claimants' lawyers to discuss these important issues with their clients.

While failure to disclose policy limits might appear to give the Respondents an advantage over Claimants' attorneys, it actually disadvantages the Respondents because it prevents or discourages settlement demands, thereby increasing the risk that the Respondents could be hit with an award in an amount in excess of the policy limits.

Virtually every state provides that insurance information is discoverable. (See i.e. Cal Code Civ. Proc., § 2017.210 ["A party may obtain discovery of the existence and contents of any agreement under which any insurance carrier may be liable to satisfy in whole or in part a judgment that may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. This discovery may include the identity of the carrier and the nature and limits of the coverage.]

It is time for FINRA to recognize the importance of the disclosure of insurance information, and make it part of the mandatory discovery guide disclosures.

Thank you for considering these comments.

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