



Securities Experts Roundtable  
Seek and Speak the Truth

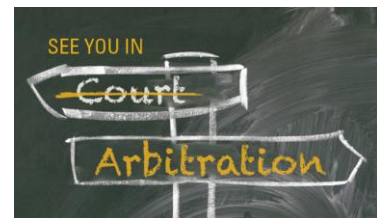
# THE EXPERT'S EXAMINER

Jan-Mar 2019 - No. 2019-01

## RECENT NEWS FROM THE ARBITRATION FRONT

Contributor: Richard P. Ryder ([rryder@sacarbitration.com](mailto:rryder@sacarbitration.com))

*(ed: This column follows recent items of interest to securities experts and relating to arbitration practice. These items are drawn from the past quarter's editions of the **Securities Arbitration Alert**, a publication of the Securities Arbitration Commentator and appear here with the permission of SAC's publisher.)*



**FINRA-DR POSTS YEAR-END 2018 STATISTICAL RESULTS: DECEMBER POPS, PUSHING CASE INFLOW TO HIGHEST MARK IN SEVEN YEARS.** The Dow Jones Industrials ended 2017 at 24,719; at the close of business for 2018, the average had dropped to 23,062, an event not seen in many years. While there is no parallel in importance and probably no parallel in cause, the new complaints record at FINRA also broke a long-standing pattern in 2018, as incoming volume rose dramatically from the prior year. **READ MORE**

**FINRA POSTS FINAL PROGRESS REPORT ON DISPUTE RESOLUTION TASK FORCE: ALL 51 RECOMMENDATIONS WERE REVIEWED; MOST IMPLEMENTED, FINRA MAINTAINS.** FINRA on January 15 posted to its Website the third and final status report on the Authority's review and implementation of the recommendations... **READ MORE**

**AS THE SEC's "BEST INTEREST" APPROVAL PROCESS ROLLS ALONG, SOME STATES MOVE AHEAD WITH THEIR OWN APPROACHES.** A handful of States are taking matters into their own hands and are moving ahead with uniform fiduciary standard fixes, irrespective of where the SEC will land on its own approach. **READ MORE**

**BACK ON THE FRONT BURNER FOR NASAA: NEW LEGISLATIVE AGENDA PLACES HEAVY EMPHASIS ON ARBITRATION.** NASAA in early March released its legislative agenda for the new Congress. Arbitration reform is now a key focus. **READ MORE**

**EVERYTHING YOU EVER WANTED TO KNOW ABOUT FAA SECTION 7, BUT WERE AFRAID TO ASK. SOUTHERN DISTRICT OF NEW YORK OFFERS A TECHNICAL PRIMER.** In a concise, well-written Opinion, Judge Vincent L. Briccetti takes on several procedural and technical aspects of Federal Arbitration Act ("FAA") section 7, which governs the Arbitrators' authority to compel witnesses to attend hearings. **[READ MORE](#)**

**DID YOU KNOW? CORNELL LAW OFFERS A NICE, FREE, LEGAL RESEARCH TOOL.** We recommend that our readers visit the [Legal Information Institute](#) Website, which is housed at Cornell Law School. Founded in 1992, this free service has seven main searchable areas: **Constitution; Supreme Court; U.S. Code; CFR; Federal Rules (Appellate Procedure; Civil Procedure; Criminal Procedure; Evidence; Bankruptcy Procedure); UCC; and Law by Jurisdiction (State Law; Uniform Laws; Federal Law; World Law)**. This Website also has a [legal encyclopedia](#) and a searchable Lawyers Directory, including [ADR practitioners](#) listed by State. LII is supported in part by donations from those who utilize the Website. They are a key resource for following U.S. Supreme Court developments.

## EXPERT OPINIONS: WHAT ARE THE COURTS THINKING?

**Contributor: Richard P. Ryder ([rryder@sacarbitration.com](mailto:rryder@sacarbitration.com))**

*(ed: By learning how courts value, view and utilize testifying experts, hard lessons can come from observation, instead of a bad experience. For selected court decisions, we draw again from a SAC publication, Securities Online Litigation Alert (SOLA), and other resources.)*



**[SEC v. LEK SECURITIES CORP., No. 1:17-cv-01789 \(S.D. N.Y., 3/14/19\)](#)**. Analyzing the proffered testimony of five experts and weighing the reliability and relevance factors laid out in Daubert, the Court rules on motions to disqualify and motions *in limine*. **[READ MORE](#)**

**[BROTHERSTON & GLANCY v. PUTNAM INVESTMENTS, LLC, No. 17-1711 \(1st Cir., 10/15/18\)](#)**. In this case, experts assist the Court on three pivotal issues; one expert actually develops the test adopted by the Court to resolve one of the issues. **[READ MORE](#)**

**[FRANKLIN AMERICAN MORTGAGE CO. vs. THE UNIV. NAT'L BANK OF LAWRENCE, No. 18-5035 \(6th Cir., 12/6/18\)](#)**. What distinguishes this case is the absence of experts; the failure to use expert testimony potentially cost the losing party a significant tactical victory. **[READ MORE](#)**

## SER ACTIVITIES - WHAT'S CIRCLING AT THE ROUNDTABLE?

**Contributor: David Keogh ([djkconsulting@optonline.net](mailto:djkconsulting@optonline.net))**

*(ed: Meeting once a year to exchange views and learn more about professional interests lies at this organization's roots. The Committees of SER work throughout the year to manage our finances, to increase our membership, to plan the organization's future, and to prepare for the success and the funding of our next Conference. At least two members of the Board sit on each Committee, but non-Board members — past Board members and those who might one day want to join the Board — are a major strength of the SER Committee system. This column will familiarize members with the Board's Committees and their ongoing activities.)*



The committees of The Securities Expert Roundtable are hard at work to continually enhance the value of membership. We are pleased to report the following... **[READ MORE](#)**

## MEMBER ACHIEVEMENTS - BRINGING CREDIT TO THE PROFESSION

**Contributor: Elizabeth Falk (elizabeth@falkfinancialanalysis.com)**

(ed: In their daily lives and in their professional pursuits, SER members are engaged in a host of activities that reflect well on them and that all SER members should know about. Whether it's writing an article, hosting an event, joining a professional committee, or just pursuing a smart practice, we report on those efforts here each quarter. Look to the "Newsroom" section of the SER Website for more frequent, timely reports on the activities of our members and let us know when you learn of an SER "member achievement" we should be recognizing.)



### **SER MEMBER IN NJ CLINIC CONFAB WITH SEC COMMISSIONER** SER

member George Friedman participated in a small group discussion on February 7 at the Seton Hall University School of Law in Newark, hosted by the School's Investor Advocacy Project.. [READ MORE](#)

### **SER MEMBER NAMED TO CALIFORNIA STATE BAR EXPERT ROLLS** SER

Member Mason Dinehart contacted SER to advise that he was recently asked to apply to the California State Bar to serve on the Bar's list of expert witnesses. [READ MORE](#)

**SER BOARD MEMBER TAKES ON ADDITIONAL BOARD ROLE MRFC** SER Director and Member Bob Lawson has been asked to join the Credential Board of the Master Registered Financial Consultant (MRFC) Certification Program. [READ MORE](#)

**NEW MARGIN ARTICLE BY SER MEMBER CONTRASTS THE TWO TYPES OF MARGIN: CPM AND REG-T** Paul Carroll, an SER Director and Principal of Sententia LLC, recently penned an article, titled "Customer Portfolio Margin — Know Before You Go." [READ MORE](#)

## COMMENT LETTERS, SPEECHES & TESTIMONY

**Contributor: Jerry DeNigris (jdenigris@riversidefinancial.com)**

(ed: In this column, we look back to the prior quarter with a view to spotlighting regulatory or litigation developments that leaders and major institutions in the securities world are talking, writing and worrying about. We invite SER members to point out rulemaking, legislation, regulatory notices and policy speeches that are creating "buzz" in the securities community.)



### **COLBY COMMENTS AT SIFMA COMPLIANCE & LEGAL SOCIETY CONFERENCE**

**DRAW BLOG REACTIONS.** The C&L Society held its 2019 Annual Conference on March 24-27 and many SER members were in attendance — their numbers lost, of course, among the massive roster of over 1,900 attendees. Not much in the way of press coverage comes out of the Conference sessions, so we looked to the Blog posts for some reactions from the meetings. [READ MORE](#)

### **NEVADA'S PROPOSED FIDUCIARY RULE ATTRACTS SOME LIVELY COMMENTS.**

The comment period closed March 1 on Nevada's proposed fiduciary standard rule, with some submitted comments that must have raised eyebrows at the State's Securities Division. [READ MORE](#)

## STATISTICS, EVENTS & RESOURCES

**Contributor: Patti Koetting (pk@pkoetting.com)**

(ed: This column seeks to apprise members of events, products and services that can be useful to them in their professional activities,

including and especially the SER Website. Unless specifically stated, SER does not endorse or sponsor any of the products and services mentioned herein.)



## Securities Experts Roundtable Annual Conference

Members of the Securities Experts Roundtable will gather this summer in the Twin City of Saint Paul, Minnesota for their 27th Annual Conference and Membership Meeting. Held over two days, the conference provides in-depth presentations...

[Read more](http://www.securitiesexpert.org)  
[www.securitiesexpert.org](http://www.securitiesexpert.org)

### Quarterly Stats

**Website:** Results for each month in the first quarter of 2019 for both visits and visitors beat the average monthly results for all of 2018!

2018 - Unique Visitors 1,219; Total Visits 2,229

Jan - Unique Visitors 1,367; Total Visits 3,329

Feb - Unique Visitors 1,278; Total Visits 2,288

Mar - Unique Visitors 1,390; Total Visits 2,499

**LinkedIn:** 119 Followers



## 28th Annual National Expert Witness Conference, April...

Founded in 1980, SEAK has trained well over 20,000 expert witnesses, physicians, lawyers and nurses nationwide, and is located on Cape Cod, MA.

[Read more](http://store.seak.com)  
[store.seak.com](http://store.seak.com)

### IMPORTANT REMINDERS

With increasing website traffic, it is more important than ever to keep your SER profile up to date. Log in and update your photo, expertise, address, or number.

[Log In To Update](#)

**Final Note:** The Contributors are members of the SER Public Relations Committee. They have designed this newsletter for the membership and worked to gather material for this inaugural issue. Members can help by sending Contributors information and suggestions for content in future issues. Members should also visit SER's "Newsroom" section of the Website periodically, as many of the items that appear here will be first posted in the Newsroom.

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**Mission Statement:** SER provides continuing professional education and promotes ethics and integrity among its members while remaining dispute neutral as an organization.

**Disclaimer:** This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. The publisher is not engaged in rendering legal, accounting or other professional service or advice. If legal advice or other expert assistance is required, the services of a competent professional person should be sought.

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