

# 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

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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

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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

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**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: **Adam Gana, Esq.** | Gana Weinstein LLP

**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

**Brian Neville, 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**

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## 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

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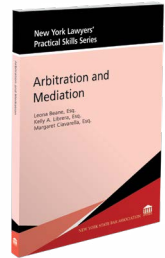
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### Arbitration and Mediation

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.



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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

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**Fax** **518.463.5993**  
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### Please Note

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