

## **Could Bernie Madoff Help Your Career? Uptick in Securities Litigation and Arbitrations**

*By Ronald Singh*

The number of arbitration claims filed with the Financial Industry Regulatory Authority (FINRA), which is the forum where most securities disputes are resolved, has surged since the 2008 indictment of Bernie Madoff and the revelation of the greatest Ponzi scheme our country has ever witnessed. Since that time, countless other indictments have come down, similar schemes have been exposed, and many investors have seen their savings wiped out. This recent increase of securities litigation and arbitration has increased the need for lawyers with these practice skills. Could securities litigation and arbitration be the right practice area for you?

### **What does practicing securities litigation and arbitration involve?**

Securities litigation and arbitration involves representing individual customers, brokers, and brokerage firms in federal and state court, FINRA, the New York Stock Exchange (NYSE), and other arbitral venues in all matters arising from the purchase and sale of securities and investments. The products at issue can include common stocks, annuities, bonds, collateralized mortgage obligations, commodities, derivatives, foreign currencies, insurance-related products, mutual funds and private placements, and unit trusts. The legal theories of liability and remedies arise under several federal and state acts and statutes and other more common legal theories.

Many lawyers choose a career in securities litigation because they like the idea of working in a more business-related legal capacity. However, what those lawyers quickly learn after entering the practice area is that you are still litigating and enmeshed in discovery, depositions, and trial preparation.

### **What type of experience do you need to succeed as a securities litigator?**

A background in finance undoubtedly helps when you are pouring over your first set of accounts statements and reviewing your first set of compliance manuals. While a finance background can aid you throughout your career as a securities litigator, any litigator with an eagerness to learn the law can learn the terminology and adapt after handling a few cases.

### **How do I gain the necessary experience?**

If you are seriously considering a transition to securities litigation and arbitration, you should consider assisting in securities litigation or arbitration to gain experience (even experience in a limited capacity can help you decide whether to make the transition). Research opportunities in your current firm, and ask to be staffed on any new or ongoing matters where you can build your experience. Although searching for a trade settlement date in hundreds of pages of accounts statements or listening to hours of recorded conversations between a broker and client may become tedious, it might give you a new perspective and the insight you need to decide if a transition is right for you. If you are unable to garner securities and arbitration experience at your current firm, take the opportunity to hone your litigation skills in other practice areas.

Another way to gain experience is through volunteering as an arbitrator for a bar association, local community group, or your local or state courts, which is a great way to gain the decision-making and judgment skills that are needed to successfully evaluate claims. For example, in court cases, you can watch how attorneys present their cases and take mental notes to help you prepare for trying your first securities matter. You also can take classes or seminars to fill gaps in your knowledge. Check your local or state bar associations for CLEs and other programs that teach the substantive area of securities law and address any changes to it.

### **How do I make the transition?**

Once you are ready to make the transition, you should consider seeking to work with partners in your current firm (if there is a securities litigation practice group). While interviewing for positions, you should emphasize how your litigation background can be readily transferable and valued in a securities litigation practice. If you are a transactional lawyer, a direct transition to securities litigation may not be as easy; however, you should try to secure any litigation experience to highlight your interest in litigating. Finally, seek out a mentor who practices in securities litigation and can guide you through this process.

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