

Bond Case Briefs

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ARBITRATION AWARD - MASSACHUSETTS

Kaplan v. Shanahan

Appeals Court of Massachusetts - April 10, 2013 - Slip Copy - 83 Mass.App.Ct. 1124

Court affirms arbitration award in which prevailing party was awarded attorneys' fees, as the parties had agreed to be bound by FINRA arbitration rules, which permit such fees.

Plaintiffs claimed error in a judgment entered by a judge in the superior court confirming an arbitration award. The plaintiffs maintain that the arbitrators exceeded their authority when they awarded the defendants their fees because no authority existed for such an award.

The defendants countered, and the arbitrators agreed, that pursuant to the underlying contract and the rules of the Financial Industry Regulatory Authority (FINRA) to which the plaintiffs agreed to be bound, the circumstances of this case permitted attorneys' fees. The judge agreed with the defendants, holding that according to the FINRA Dispute Resolution Arbitrators' Guide, attorney's fees are allowed when the contract includes a clause that provides for the fees and the all of the parties request or agree to such fees, as was the case in this matter.

The plaintiffs filed a FINRA "Arbitration Submission Agreement" stating that they would agree to abide by any award rendered. The parties filed several claims and asked for attorney's fees to be decided as part of the arbitration award. Arbitration award affirmed.