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**SUPERIOR COURT APPLIES PA HEARING REQUIRMENTS TO FINRA
SECURITIES ARBITRATION**

MECHANICSBURG, PA -

The Pennsylvania Superior Court handed down a decision May 27, 2009 in the case of *Andrew vs. CUNA Brokerage Services, Inc. & Emmor Boslet*, in which the court ruled that a "hearing" for purposes of FINRA (formerly NASD) arbitration requires testimony, evidence and other elements of a full and fair hearing.

A FINRA (Financial Industry Arbitration Authority) arbitration panel in March 2007 dismissed Fred Andrew's claim against the broker-dealer, CUNA Brokerage Services, Inc., and its registered representative, Emmor Boslet, without providing a full and fair hearing, according to the Superior Court. The Superior Court held that under Pennsylvania law, the "arbitration panel should have conducted a hearing to consider evidence and testimony as to whether Appellant's causes of action are timely."

The arbitration panel in this case had only Mr. Andrew's Statement of Claim, the Respondents' Answer, written motions, and the oral arguments of counsel, to consider before deciding that all applicable statues of limitation had run and that Mr. Andrew's claim must be dismissed. In Pennsylvania, before a statue of limitation is considered to have "run" and thereby bar a claim, the fact finder must determine when the plaintiff knew, or reasonably should have known, that he had a claim.

"The determination of when Mr. Andrew discovered that he had been injured and that the Respondents were responsible for that injury is a question of fact," according to Rob Bleecher, the attorney for Mr. Andrew. "To determine what Mr. Andrew knew and when he knew it requires a "real" hearing with the opportunity for the fact finder to weigh the testimony and evidence presented by both sides," said Bleecher. "The Superior Court confirmed in its decision that this is the law in Pennsylvania and the Court applied that law to FINRA securities arbitrations."

The Superior Court three judge panel ruled unanimously to reverse the lower court's decision. The Court stated: "Accordingly, we vacate the September 3, 2008 judgment and remand this matter to the trial court with instructions to remand to the arbitration panel for an evidentiary hearing and disposition."

Questions regarding the case can be directed to Rob Bleecher, Esquire at 717-691-9809 or rbleecher@pechtlaw.com

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