

## 28 No. 3 PIABA B.J. 367

PIABA Bar Journal

2021

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# RECOVERY OF ATTORNEY'S FEES FOR SECURITIES VIOLATIONS - A STATUTORY ANALYSIS

## Introduction

“Can I recover attorney's fees?” This is a question that clients regularly ask Claimant's attorneys, yet it is not always simple to answer. The purpose of this article is to provide practitioners with a guide to the state statutes providing for the imposition of civil liability to the seller of securities and a reference for the damages available under each state's securities statutes, specifically whether the state statute provides for recovery of attorney's fees.

## Methods to Recover Attorney's Fees

The FINRA Arbitrator's Guide provides that a FINRA arbitration panel: [M]ay award attorneys' fees when, for example: 1) the parties' contract includes a clause that provides for attorneys' fees; 2) the governing law provides for attorneys' fees when all of the parties' request or agree to such fees; 3) the fees are required or permitted as part of a statutory claim; or 4) as otherwise provided by law. FINRA does not provide guidance on whether arbitrators may award attorneys' fees. The law may vary widely and may require interpretation that FINRA, as a neutral forum, will not provide. In addition, you should not conduct your own legal research.

If a party requests the recovery of attorneys' fees and you have questions regarding the panel's authority to award such fees, you should request briefs from the parties that identify the basis for awarding attorneys' fees.

**\*368** If the panel determines that a party has a right to recovery, that party must prove the amount to the satisfaction of the panel. The panel may permit testimony or evidence to be submitted during the case-in-chief, or in post-hearing written submissions.<sup>2</sup>

Claimant's contract with the brokerage firm, if any, is unlikely to include a clause that provides for attorneys' fees in the event an arbitration is filed with FINRA. That practically limits Claimant's ability to seek attorney's fees in a FINRA Arbitration on the basis of governing law or a statutory claim.

## State Statutory Attorney's Fee Entitlement

State statutes providing for the recovery of attorney's fees vary widely from state to state. For example, some states provide that a “prevailing party” may recover attorney's fees whereas other states provide that the “purchaser” of a security may recover attorney's fees. In states that statutorily provide for prevailing party attorney's fees, Claimants are not immune from risk in asserting a statutory claim for attorney's fees, because the Respondent may ultimately be the “prevailing” party in a claim.

By way of example, [Florida Statute § 517.211](#), entitled Remedies Available in Cases of Unlawful Sale, provides that “[i]n any action brought under this section, including an appeal, the court shall award reasonable attorneys' fees to the prevailing party unless the court finds that the award of such fees would be unjust.”<sup>3</sup> The prevailing party may be the Claimant or Respondent, and thus asserting a claim for statutory attorney's fees under [Florida Statute § 517.211](#) exposes Claimant to potential liability for Respondent's attorney's fees as it is a two-way prevailing party attorney's fees provision.

Alternatively other states, such as North Carolina, have a one-way attorney's fees provision in the state securities statute which provides that the seller of a security may be liable to the person purchasing the security, who may sue to recover reasonable attorney's fees.<sup>4</sup> Under the North Carolina attorney's fees statute, which has a one-way attorney's fees provision, the seller of securities has no recourse for attorney's fees against the purchaser, even if the purchaser is not successful on his or her statutory claim.

**\*369** In analyzing whether or not to make a claim for statutory attorney's fees in a FINRA arbitration, it is imperative to determine whether the particular state's statute is a Claimant friendly one-way statute or a prevailing party statute, and then to weigh the risk to benefit of making a statutory attorney's fees claim. If the specific state statute is a prevailing party statute, Claimants must be made aware of the risk of asserting a statutory claim for fees.

### Leave Nothing to Interpretation

States have varying rules on whether the court or the arbitrators determine the amount of the attorney's fees award after the entitlement to attorney's fees is determined by the FINRA arbitration panel. In Florida, statutes and case law authorize and endorse the resolution of disputes through arbitration. However, there has been substantial confusion as to the procedure and appropriate forum for recovering attorney's fees incident to arbitration proceedings.<sup>5</sup> [Florida Statute § 682.11](#) provides: “[a]n arbitrator may award reasonable attorney fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration proceeding.”<sup>6</sup> This *Revised Florida Arbitration Code* is silent regarding the procedure for consideration of an application for reasonable attorney's fees. Prior to the revision of [Florida Statute § 682.11](#), in the case of *Turnberry Associates v. Service Station Aid, Inc.*, the court held that arbitrating parties may waive their right to have the circuit court address the issue and agree that the arbitrators may do so.<sup>7</sup> District courts have since consistently addressed this issue in accordance with *Turnberry*.<sup>8</sup>

The uncertainty concerning the procedure for an award of attorney's fees in arbitration proceedings is exacerbated when an award fails to set out the basis for the award of attorney's fees and a trial court must look for “signals” **\*370** or speculate as to the basis of an award.<sup>9</sup> The Florida Arbitration Code provides little guidance as to the contents of an award but, instead, focuses on the procedural framework within which the parties may seek to confirm, vacate, or modify an award.<sup>10</sup> For example, § 682.09(1) states that “[t]he record must be signed or otherwise authenticated by any arbitrator who concurs with the award.” Section 682.14(1)(c) provides for the modification or correction of an award where “[t]he award is imperfect as a matter of form, not affecting the merits of the controversy.” Last, section 682.13 provides a list of criteria upon which an award may be challenged. However, it is limited to concerns which may taint the process such as fraud, partiality and the like, and says nothing about the essentials of an award.<sup>11</sup>

Furthermore, under the FINRA Code it has been held that an award does not have to reflect the precise reasoning, findings of facts, conclusions of law, or ultimately the basis upon which a decision was arrived at by the arbitrators.<sup>12</sup> The court in *Moser* found that “[n]otwithstanding our recognition of this underlying policy, we find the practice of arbitrators not disclosing the basis upon which an award is made inadequate and inconsistent with the policy goals of the arbitration process as provided by the Florida Legislature with regard to the award of attorney's fees.”<sup>13</sup> The court went on to conclude that the “practice of discouraging disclosure of the basis of an award as described in the trial court proceedings also raises concern as to the due process rights of the parties as it relates to a property interest in recovering attorney's fees incurred in litigating securities violations cases.”<sup>14</sup> Courts have long held that rights to attorney's fees granted by statute are substantive rather than procedural.<sup>15</sup> As such, the due process standards necessary in safeguarding such a right must provide for a “meaningful, full and fair” **\*371** hearing to the affected individual.<sup>16</sup>

In the case of *Moser v. Barron Chase Securities, Inc.*, the court held that: where a party brings claims in arbitration based upon several theories, one or more of which provide for the recovery of attorney's fees, the arbitration award must specify the theory under which the claimant prevailed, or otherwise clearly indicate whether the claimant has prevailed on a theory that would permit the trial court to award fees. In the event the award fails to reflect such a finding, the circuit court may remand the matter to the arbitration panel for the purpose of resolving the issue. Thereafter, the circuit court may determine the fee issue in accord with the finding of the arbitrators ... [T]he basis of an award is necessary for the subsequent determination of an entitlement to attorney's fees, an award without a basis is per se inadequate and subject to correction by the trial court.<sup>17</sup>

Therefore, it is of paramount importance that the arbitration panel set forth clearly in its Award the basis under which they are awarding attorney's fees. For example, an award in Florida may read "pursuant to Florida Statute Chapter 517.211, the Panel makes a prevailing party finding for attorney's fees in favor of Claimant, the amount of which is to be determined by a court of competent jurisdiction". Notwithstanding whether Claimant files a petition to confirm the arbitration award with the court and seeks the determination of the amount of reasonable attorney's fees to be awarded by a court of competent jurisdiction or the parties agree that the FINRA arbitrators may make the determination of the attorney's fee amount to be awarded, the basis for such attorney's fees should be set forth in the FINRA Award as a matter of good practice.

### Entitlement is a Start

A FINRA arbitration panel may award entitlement to attorney's fees as part of the FINRA Arbitration Award, but counsel must prove the amount of fees sought to be recovered either to a court of competent jurisdiction or the FINRA Arbitrators. Claimant's attorneys oftentimes enter into contingency fee agreements with their clients, and therefore may make a claim for a percentage of the recovery awarded to the Claimant as set forth in the contingency fee agreement. However, many contingency fee agreements also \*372 provide that in cases where an attorney's fee is awarded by a court or arbitrator or received from Respondent(s), then the law firm will be entitled to the higher of either the contingency fee or the court or arbitrator awarded attorney's fees.

If the fee agreement with the client provides for an award of attorney's fees based on attorney hours, then counsel must prove their request for attorney's fees based on reasonable hours at a rate supported by evidence of what other practitioners in the surrounding legal community with similar experience, knowledge and ability and similar practices charge as an hourly rate. Furthermore, an argument for a lodestar or multiplier may be appropriate in some circumstances. For example, reasonable attorney's fees in Florida are determined using the federal lodestar approach (number of hours reasonably expended multiplied by a reasonable hourly rate gives the lodestar figure), with an addition or subtraction from the lodestar amount depending upon a contingency risk factor and the results obtained.<sup>18</sup>

Furthermore, FINRA Rule 10215 Attorneys' Fees, was implemented on April 16, 2007 and provides that "[t]he arbitrator(s) shall have the authority to provide for reasonable attorneys' fee reimbursement, in whole or in part, as part of the remedy in accordance with applicable law." Additionally, FINRA Rule 10214 Awards, provides that:

[t]he arbitrator(s) shall be empowered to award any relief that would be available in court under the law. The arbitrator(s) shall issue an award setting forth a summary of the issues, including the type(s) of dispute(s), the damages or other relief requested and awarded, a statement of any other issues resolved, and a statement regarding the disposition of any statutory claim(s).

Therefore, when seeking a statutory award of attorney's fees, practitioners must be prepared to plead the statutory basis for the attorney's fee entitlement and present proof to the decision makers to support the reasonable amount of attorney's fees sought. Thus, an award of attorney's fees is a three-step process that requires: (1) filing of proper pleadings; (2) winning the issue of entitlement; and (3) proving, to the court or arbitrators, the reasonable amount of fees to be awarded.

**\*373 Conclusion**

Listed below by state is a summary overview of each of the 50 states' securities statutes and resulting damages that may be sought as a remedy for violation of the statute for review of the applicable attorney's fees provision by state. As practitioners often experience, Claimants are not made whole even if all of their investment losses are recovered because the recovered funds are often used in part to pay reasonable attorney's fees. When representing Claimants in FINRA arbitrations, another method to best assist Claimants may be to seek an award of attorney's fees from the Respondent, in hopes that doing so will result in an improved economic outcome for the aggrieved investor looking to recover his or her investment losses.

**\*374 Civil Liability and the Recovery of Attorney's Fees for Securities Violations | State by State**

JURISDICTION AND RELEVANT LAW	ACTS CREATING LIABILITY TO SELLER	DAMAGES
<b>Alabama</b>	Sells or offers to sell by means of untrue statements of material fact or omission of material fact.	Consideration paid plus 6% interest, costs, <b>attorneys' fees</b> , less the amount of any income received on the security, or for damages if security no longer owned.
AL ST § 8-6-19 Civil liabilities of sellers, agents, etc.; remedies of purchasers	AL ST § 8-6-19	
		<a href="#">AL ST § 8-6-19</a>
<b>Alaska</b>	(b) A person is liable to the purchaser if the person sells a security in violation of AS 45.56.100, or by means of an untrue statement of a material fact or an omission to state a material fact necessary to make the statement made, in light of circumstances under which it is made, not misleading, the purchaser not knowing the untruth or omission and the seller not sustaining the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission.	(b)(1) the purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at the legal rate of interest under AS 09.30.070, or eight percent a year, whichever is greater, from the date of the purchase, costs, and <b>attorney fees</b> as determined by the court, upon the tender of the security, or for actual damages as provided in (3) of this subsection;
<a href="#">AK ST § 45.56.710 Civil liability</a>		
	<a href="#">AK ST § 45.56.710</a>	
		<a href="#">AK ST § 45.56.710</a>
<b>Arizona</b>	A. A sale or contract for sale of any securities to any purchaser in violation of section 44-1841 or 44-1842 or article 13 of this chapter is voidable at the election of the purchaser, and the purchaser may bring an action in a court of competent jurisdiction	Consideration paid for the securities, with interest, taxable court costs and <b>reasonable attorney fees</b> , less the amount of any income received by dividend or otherwise from ownership of the securities, on tender of the securities purchased or the contract

		made, or for damages if the purchaser no longer owns the securities.
AZ ST § 44-2001 Voidable sale or contract for sale of securities; remedy		
AZ ST § 44-2002 Remedy for voidable purchases		
	AZ ST § 44-2001	
	A. A purchase or contract for purchase from a seller of securities made in violation of section 44-1842, 44-1991 or 44-1994 is voidable at the election of the seller of the securities, and the seller may bring an action in a court of competent jurisdiction	AZ ST § 44-2001
		To recover the amount of the seller's damages, with interest, taxable court costs and <b>reasonable attorney fees</b> .
	AZ ST § 44-2002	
		AZ ST § 44-2002
<b>Arkansas</b>	(a)(1) A person is liable to a buyer of a security if the person offers or sells the security:	(2) In a successful action under subdivision (a)(1) of this section, the buyer may recover costs and <b>reasonable attorney's fees</b> plus:
AR ST § 23-42-106 Civil liability		
	(A) In violation of § 23-42-212(b), § 23-42-301, or § 23-42-501(1) or (2), a rule or order of the Securities Commissioner under § 23-42-502 which requires the affirmative approval of sales literature before it is used, or any condition imposed under § 23-42-403(d), § 23-42-404(g), or § 23-42-404(i); or	(A) Upon tender of the security, the consideration paid for the security and interest at six percent (6%) per year from the date of payment, less the amount of any income received from owning the security; or
	(B) By means of an untrue statement of a material fact or a failure to state a material fact necessary in order to make the statement made, in the light of circumstances under which it is made, not misleading, the buyer not knowing of the untruth or omission, and the seller not sustaining the burden of proof that the seller did not know, and in the exercise of reasonable care could not have known, of the untruth or omission.	(B)(i) Damages if the buyer no longer owns the security
		(ii) Damages are the amount that would be recoverable upon a tender of the security less the value of the security when the buyer disposed of the security plus interest at six percent (6%) per

		<a href="#">year from the date of disposition of the security.</a>
	AR ST § 23-42-106	AR ST § 23-42-106
<b>California</b>	It is unlawful for any person to offer or sell a security in this state or buy or offer to buy a security in this state by means of any written or oral communication which includes an untrue statement of material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.	Any person who violates Section 25401 shall be liable to the person who purchases a security from him or sells a security to him, who may sue either for rescission or for damages (if the plaintiff or the defendant, as the case may be, no longer owns the security), unless the defendant proves that the plaintiff knew the facts concerning the untruth or omission or that the defendant exercised reasonable care and did not know (or if he had exercised reasonable care would not have known) of the untruth or omission. Upon rescission, a purchaser may recover the consideration paid for the security, plus interest at the legal rate, less the amount of any income received on the security, upon tender of the security. Upon rescission, a seller may recover the security, upon tender of the consideration paid for the security plus interest at the legal rate, less the amount of any income received by the defendant on the security. Damages recoverable under this section by a purchaser shall be an amount equal to the difference between (a) the price at which the security was bought plus interest at the legal rate from the date of purchase and (b) the value of the security at the time it was disposed of by the plaintiff plus the amount of any income received on the security by the plaintiff.
<a href="#">CA CORP § 25401 Fraudulent and Prohibited Practices</a>		
	<a href="#">CA CORP § 25401</a>	
		<a href="#">CA CORP § 25501</a>
<b>Colorado</b>	(1) It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly:	(3) Any person who recklessly, knowingly, or with an intent to defraud sells or buys a security in violation of section 11-51-501(1) or provides investment advisory services to another person in violation of section 11-51-501(5) or (6) is liable to the person buying or selling such security or receiving such services in connection with the violation for such legal or equitable relief that the court deems appropriate, including rescission, actual

		damages, interest at the statutory rate, costs and <b>reasonable attorney fees</b> .
CO ST § 11-51-501 Fraud and other Prohibited Conduct		
CO ST § 11-51-604 Civil liabilities	(a) To employ any device, scheme, or artifice to defraud;	
	(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or	
	(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.	
	CO ST § 11-51-501(1)	
		CO ST § 11-51-604
<b>Connecticut</b>	(a) Any person who: (2) offers or sells or materially assists any person who offers or sells a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made in the light of the circumstances under which they are made, not misleading, who knew or in the existence of reasonable care should have known of the untruth or omission, the buyer not knowing of the untruth or omission, and who does not sustain the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the untruth or omission	Is liable to the person buying the security, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at eight per cent per year from the date of payment, costs and <b>reasonable attorneys' fees</b> , less the amount of any income received on the security, upon the tender of the security, or for damages if he no longer owns the security.
CT ST § 36b-29 Buyer's remedies		
		CT ST § 36b-29(a)
	CT ST § 36b-29(a)	
<b>Delaware</b>	Offers, sells or purchases a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statement made, in the light of the circumstances under which they are made, not misleading (the buyer or seller not knowing of the untruth or omission), and who does not sustain the burden of proof that the person did not know, and in the exercise of reasonable care could not have known of the untruth or omission, is liable to	Consideration paid for the security, together with the interest at the legal rate from the date of payment, costs, and <b>reasonable attorneys' fees</b> , less the amount of any income received on the security, upon the tender of the security, or for damages if he or she no longer owns the security.

	<p>the person buying or selling the security from or to him or her, who may sue either at law or in equity. Every person who directly or indirectly controls a seller or buyer, every partner, officer, or director of such a seller or buyer, every person occupying a similar status or performing similar functions, every employee of such seller or buyer who materially aids in the sale, and every broker-dealer or agent who materially aids in the sale or purchase are also liable jointly and severally with and to the same extent as the seller or buyer.</p>	
DE ST TI 6 § 73-605 Civil liabilities		
		DE ST TI 6 § 73-605(a)(2)
	DE ST TI 6 § 73-605	
<b>District of Columbia</b>	(a)(1) A person shall be civilly liable to another person who buys a security if the person:	(b)(1) In an action brought under subsection (a)(1) of this section, a buyer may sue at law or in equity:
DC CODE § 31-5606.05 Civil liability	(B) Offers or sells a security by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statement made, in the light of the circumstances under which made, not misleading, the buyer does not know of the untruth or omission and the offeror or seller does not sustain the burden of proof that the offeror or seller did not know, and in the exercise of reasonable care could not have known, of the untruth or omission.	(A) To recover the consideration paid for the security, interest at the rate used in the Superior Court of the District of Columbia from the date of payment, costs, and <b>reasonable attorneys' fees</b> , less the amount of any income received on the security, upon the tender of the security and any income received on it; or
	(a)(2) A person shall be civilly liable to another person who sells a security if the person offers to purchase or purchases the security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it is made, not misleading, the seller does not know of the untruth or omission, and the purchaser does not sustain the burden of proof that the purchaser did not know, and in the exercise of reasonable care could not have known of the untruth or omission.	(B) For damages if the buyer no longer owns the security. The amount of damages shall be the amount that would be recoverable on a tender less the value of the security when the buyer disposed of it, plus interest at the rate used in the Superior Court of the District of Columbia from the date of disposition.
		(2) In an action under subsection (a)(2) of this section, a seller may sue at law or in equity:



	DC CODE § 31-5606.05	(A) On tender of the consideration paid for the security, to recover the security, the amount of any income received on the security, costs, and <b>reasonable attorneys' fees</b> ; or
		(B) For damages if the buyer no longer owns the security.
		DC CODE § 31-5606.05(b)(1)-(2)
<b>Florida</b>	(1) It is unlawful and a violation of the provision of this chapter for a person:	(2) Any person purchasing or selling a security in violation of s. 517.301, and every director, officer, partner, or agent of or for the purchaser or seller, if the director, officer, partner, or agent has personally participated or aided in making the sale of purchase, is jointly and severally liable to the person selling the security from such person in an action for rescission, if the plaintiff still owns the security or for damages, if the plaintiff has sold the security.
FL St § 517.301 Fraudulent Transactions; falsification or concealment of facts	(a)(1) To Employ any device, scheme, or artifice to defraud;	
FL ST § 517.211 Remedies available in cases of unlawful sale	(a)(2) To obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or	
	(a)(3) To engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a person.	
	FL ST § 517.301	FL ST § 517.211 (2)
		In an action brought under this section, including an appeal, <b>the court shall award reasonable attorneys' fees to the prevailing party unless the court finds that the award of such fees would be unjust.</b>
		FL ST § 517.211(6)
<b>Georgia</b>	Liable to the purchaser if the person sells a security in violation of Code Section 10-5-20, or, by means of an untrue statement of a material fact or an omission to state a material fact.	The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at the legal rate of interest from the date of the purchase, costs, and <b>reasonable attorney fees determined by the court</b> upon the tender of the security or for actual damages.

<p>GA ST § 10-5-58 Actions to recover; joint and several liability; right of contribution</p>		
	<p>GA ST § 10-5-58(b)</p>	
		<p>GA ST § 10-5-58(b)(1)</p>
<p><b>Hawaii</b></p>	<p>A person is liable to the purchaser if the person sells a security in violation of section 485A-301 or, by means of an untrue statement of a material fact or an omission of a material fact necessary to make the statement made, in light of the circumstances under which it is made, not misleading, the purchaser not knowing the untruth or omission and the seller not sustaining the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission.</p>	<p>The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at the legal rate of interest, from the date of the purchase, costs, and <b>reasonable attorney's fees</b> determined by the court, upon the tender of the security, or for actual damages as provided in paragraph (3).</p>
<p>HI ST § 485A-509 Civil liability</p>		
	<p>HI ST § 485A-509(b)</p>	<p>HI ST § 485A-509(b)(1)</p>
<p><b>Idaho</b></p>	<p>A person is liable to the purchaser if the person sells a security in violation of section 30-14-301, Idaho Code, or, by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading, the purchaser not knowing the untruth or omission and the seller not sustaining the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission.</p>	<p>The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at the annual rate of interest set forth in section 28-22-104(2), Idaho Code, from the date of the purchase, costs, and <b>reasonable attorneys' fees determined by the court</b>, upon the tender of the security, or for actual damages as provided in subsection (b) (3) of this section.</p>
<p>ID ST § 30-14-509 Civil liability</p>		
	<p>ID ST § 30-14-509(b)</p>	<p>ID ST § 30-14-509(b)(1)</p>
<p><b>Illinois</b></p>	<p>Violation. It shall be a violation of the provisions of this Act for any person:</p>	<p>(A)(1) for the full amount paid, together with interest from the date of payment for the securities sold at the rate of the interest or dividend stipulated in the securities sold (or if no rate is stipulated, then at the rate of 10% per annum) less any income or other amounts received by the purchaser on the securities.</p>
<p>IL ST CH 815 § 5/12 Violation</p>		
	<p>F. To engage in any transaction, practice or course of business in connection with the sale or purchase of securities which</p>	

	works or tends to work a fraud or deceit upon the purchaser or seller thereof.	
	G. To obtain money or property through the sale of securities by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.	(A)(2) if the purchaser no longer owns the securities, for the amounts set forth in clause (1) of this subsection A less any amounts received by the purchaser for or on account of the disposition of the securities.
	H. To sign or circulate any statement, prospectus, or other paper or document required by any provision of this Act or pertaining to any security knowing or having reasonable grounds to know any material representation therein contained to be false or untrue.	If the purchaser shall prevail in any action brought to enforce any of the remedies provided in this subsection, the court shall assess costs together with <b>reasonable fees and expenses of the purchasers' attorney against the defendant.</b>
IL ST CH 815 § 5/13 Private and other civil remedies; securities		
	IL ST CH 815 § 5/12	
		IL ST CH 815 § 5/13(a)(1) and (a)(2)
<b>Indiana</b>	It is unlawful for a person, in connection with the offer, sale or purchase of a security, directly or indirectly:	(1) The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at the greater of eight percent (8%) per annum or the rate provided for in the security from the date of the purchase, cost, and <b>reasonable attorney's fees</b> determined by the court or arbitrator, upon the tender of the security, or for actual damages as provided in subdivision (3).
IC 23-19-5 Fraud and Liabilities		
	(1) to employ a device, scheme, or artifice to defraud;	
	(2) to make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which they were made, not misleading; or	
	(3) to engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.	
	IC 23-19-5	IC 23-19-5-9
<b>Iowa</b>	A person is liable to the purchaser if the person sells a security in violation of section 502.30 or, by means of an untrue statement of a material fact	The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and

	<p>or an omission to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading, the purchaser not knowing the untruth or omission and the seller not sustaining the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission.</p>	<p>interest at the legal rate from the date of the purchase, costs, and <b>reasonable attorney fees</b> determined by the court, upon the tender of the security, or for actual damages as provided in paragraph “c”.</p>
IA ST § 502.509 Civil liability		
		IA ST § 502.509(2)(a)
	IA ST § 502.509(2)	
<b>Kansas</b>	<p>A person is liable to the purchaser if the person sells a security in violation of K.S.A. 2006 Supp. 17-12a301, and amendments thereto, or by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make a statement made, in light of the circumstances under which it is made, not misleading, the purchaser not knowing the untruth or omission and the seller not sustaining the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission. A person acting as a broker-dealer or agent that sells or buys a security in violation of K.S.A. 2006 Supp. 17-12a401(a), 17-12a402(a), or 17-12a506, and amendments thereto, is liable to the customer.</p>	<p>Consideration paid for the security, less the amount of any income received on the security, and interest from the date of the purchase at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto, costs, and <b>reasonable attorneys' fees determined by the court</b>, upon the tender of the security, or for actual damages as provided in paragraph (3). Actual damages in an action arising under this subsection are the amount that would be recoverable upon a tender less the value of the security when the purchaser disposed of it, and interest from the date of the purchase at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto, costs, and reasonable attorneys' fees determined by the court.</p>
KS ST 17-12a509 Civil liability		
	KS ST 17-12a509(b)	
		KS ST 17-12a509(b)(1)
<b>Kentucky</b>	<p>Any person, who offers or sells a security in violation of this chapter or of any rules or orders promulgated hereunder or offers or sells a security by means of any untrue statement of a material fact or any omission to state a material fact is liable to the person buying the security from him, who may sue either at law or in equity.</p>	<p>Consideration paid for the security, together with interest, costs and <b>reasonable attorneys' fees</b>, less the amount of any income received on the security, upon the tender of the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less: (a) The value of the security when the buyer is disposed of it; and (b) Interest at the legal rate per annum from the date of disposition.</p>
KY ST § 292.480 Civil liabilities		

	KY ST § 292.480(1)	
		KY ST § 292.480(1)(a)-(b)
<b>Louisiana</b>	A. It shall be unlawful for any person:	Any person who violates R.S. 51:712(A) shall be liable to the person buying such security, and such buyer may sue in any court to recover the consideration paid in cash or if such consideration was not paid in cash, the fair value thereof at the time such consideration was paid for the security with interest thereon from the date of the payment down to the date of repayment as computed in R.S. 51:714(C)(1), less the amount of any income received thereon, together with all taxable court costs and <b>reasonable attorney's fees</b> , upon the tender, where practicable, of the security at any time before the entry of judgment, or for damages if he no longer owns the security. Damages are the amount which equals the difference between the fair value of the consideration the buyer gave for the security and the fair value of the security at the time the buyer disposed of it, plus interest thereon from the date of payment to the date of repayment as computed in R.S. 51:714(C)(2).
LA R.S. 51:712 Unlawful practices	(2) To offer to sell or to sell a security by means of any oral or written untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, the buyer not knowing of the untruth or omission, if such person in the exercise of reasonable care could not have known of the untruth or omission.	
LA R.S. 51:714 Civil liability from sales of securities		
	LA R.S. 51:712(A)(1)-(2)	
		LA R.S. 51:714
<b>Maine</b>	A person is liable to the purchaser if the person sells a security in violation of section 16301; section 16303, subsection 6; section 16304, subsection 5; or section 16305, subsection 6 or by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to	The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest from the date of the purchase, costs, and <b>reasonable attorney fees</b> , upon the tender of the security, or for actual damages as provided in paragraph C.

	<p>make the statement made, in light of the circumstances under which it is made, not misleading, the purchaser not knowing of the untruth or omission and the seller not sustaining the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission.</p>	
ME ST T. 32 § 16509 Civil liability		
		ME ST T. 32 § 16509(2)(A)
	ME ST T. 32 § 16509(2)	
<b>Maryland</b>	<p>A person is civilly liable to the person buying a security from him if he: (ii) Offers or sells the security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, the buyer not knowing of the untruth or omission, and if he does not sustain the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the untruth or omission.</p>	<p>On tender of the security, to recover the consideration paid for the security, together with interest at the rate provided for in § 11-107(a) of the Courts and Judicial Proceedings Article, as amended, from the date of payment, costs, and <b>reasonable attorneys' fees</b>, less the amount of any income received on the security; or if he no longer owns the security, for damages.</p>
MD CORP & ASSNS § 11-703 Persons civilly liable		
		MD CORP & ASSNS § 11-703(b)(1) (i)-(ii)
	MD CORP & ASSNS § 11-703(a)(1) (i)-(ii)	
<b>Massachusetts</b>	<p>(a) Any person who (1) offers or sells a security in violation of section 201(a), 301, or 405(b), or of any rule or order under section 403 which requires the affirmative approval of sales literature before it is used, or of any condition imposed under section 303(d), or (2) offers or sells a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, the buyer not knowing of the untruth or omission, and who does not sustain the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the untruth or omission, is liable to the person buying</p>	<p>to recover the consideration paid for the security, together with interest at six per cent per year from the date of payment, costs, and <b>reasonable attorneys' fees</b>, less the amount of any income received on the security, upon the tender of the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less the value of the security when the buyer disposed of it and interest at six per cent per year from the date of disposition.</p>

	the security from him, who may sue either at law or in equity	
MA ST 110A § 410 Civil Liabilities		
		MA ST 110A § 410(a)(2)
	MA ST 110A § 410(a)(2)	
<b>Michigan</b>	(2) A person is liable to the purchaser if the person sells a security in violation of section 301, or by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading, the purchaser not knowing the untruth or omission, and the seller not sustaining the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission.	(2)(a) The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at 6% per year from the date of the purchase, costs, and <b>reasonable attorney fees determined by the court</b> , upon the tender of the security, or for actual damages as provided in subdivision (c).
MI ST 451.2509 Civil liability; joint and several liability; statute of limitation; violative contract; waiver prohibited; other rights or remedies.		
		MI ST 451.2509
	MI ST 451.2509	
<b>Minnesota</b>	(b) A person is liable to the purchaser if the person sells a security in violation of section 80A.49 or, by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading, the purchaser not knowing the untruth or omission and the seller not sustaining the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission.	(b) (1) The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest from the date of the purchase, costs, and <b>reasonable attorneys' fees determined by the court</b> , upon the tender of the security, or for actual damages as provided in paragraph (3).
MN ST § 80A.76 Section 509; civil liability		
		MN ST § 80A.76
	MN ST § 80A.76	
<b>Mississippi</b>	(b) A person is liable to the purchaser if the person sells a security in violation of Section 75-71-301 or, by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make	(b)(1) The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at the legal rate of interest from the date of the purchase, costs, and

	<p>the statement made, in light of the circumstances under which it is made, not misleading, the purchaser not knowing the untruth or omission and the seller not sustaining the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission;</p>	<p><b>reasonable attorney's fees</b> determined by the court, upon the tender of the security, or for actual damages as provided in paragraph (3).</p>
MS ST § 75-71-509 Civil liability		
		MS ST § 75-71-509
	MS ST § 75-71-509	
<b>Missouri</b>	<p>1. A person is liable to the purchaser if the person sells a security in violation of section 409.3-301 or, by means of an untrue statement of a material fact or an omission to state a material fact.</p>	<p>(b)(1) The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at the rate of 8% per year from the date of the purchase, costs, and <b>reasonable attorneys' fees determined by the court</b>, upon the tender of the security, or for actual damages as provided in paragraph (3). (b)(3) Actual damages in an action arising under this subsection are the amount that would be recoverable upon a tender less the value of the security when the purchaser disposed of it, and interest at the rate of 8% per year from the date of the purchase, costs, and <b>reasonable attorneys' fees determined by the court</b>.</p>
MO ST 409.5-509 Liabilities--violations--damages--remedies		
	MO ST 409.5-509(b)	
		MO ST 409.5-509
<b>Montana</b>	<p>(1) Any person who offers or sells a security in violation of 30-10-202 or offers or sells a security by means of fraud or misrepresentation is liable to the person buying the security from him.</p>	<p>Any person who offers or sells a security in violation of 30-10-202 or offers or sells a security by means of fraud or misrepresentation is liable to the person buying the security from the offeror or seller, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at 10% a year from the date of payment, costs, and <b>reasonable attorneys' fees</b>, less the amount of any income received on the security, upon the tender of the security, or for damages if the buyer no longer owns the security. Damages are the amount that would be recoverable upon a tender less:</p>



<p>MT ST 30-10-307 Civil liabilities-- limitations on actions</p>		
	<p>(2) Every person who directly or indirectly controls a seller liable under subsection (1), every partner, officer, or director (or person occupying a similar status or performing similar functions) or employee of the seller, and every broker-dealer or salesperson who participates or materially aids in the sale is liable jointly and severally with and to the same extent as the seller if the nonseller knew, or in the exercise of reasonable care could have known, of the existence of the facts by reason of which the liability is alleged to exist. There must be contribution among the several liable persons.</p>	<p>(a) the value of the security when the buyer disposed of it; and</p>
		<p>(b) interest at 10% a year from the date of disposition.</p>
	<p>MT ST 30-10-307</p>	
		<p>MT ST 30-10-307(1)</p>
<p><b>Nebraska</b></p>	<p>(1) Any person who offers or sells a security in violation of section 8-1104 or offers or sells a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made in the light of the circumstances under which they are made not misleading, the buyer not knowing of the untruth or omission, and who does not sustain the burden of proof that he or she did not know and in the exercise of reasonable care could not have known of the untruth or omission, shall be liable to the person buying the security from him or her.</p>	<p>(1) Consideration paid for the security, together with interest at six percent per annum from the date of payment, costs, and <b>reasonable attorney's fees</b>, less the amount of any income received on the security, upon the tender of the security, or for damages if he or she no longer owns the security. Damages shall be the amount that would be recoverable upon a tender less (a) the value of the security when the buyer disposed of it and (b) interest at six percent per annum from the date of disposition.</p>
<p>NE ST § 8-1118 Violations; damages; statute of limitations</p>		
	<p>NE ST § 8-1118</p>	
		<p>NE ST § 8-1118</p>
<p><b>Nevada</b></p>	<p>In connection with the offer to sell, sale, offer to purchase or purchase of a security, a personal shall not, directly or indirectly:</p>	<p>1. A person who offers or sells a security in violation of any of the following provisions: (d) Subsection 2 of NRS 90.570 is liable to the person purchasing the security. Upon tender of the security, the purchaser may recover the consideration paid for the security and interest at the legal rate of this State from the date of payment, costs and <b>reasonable attorney's fees</b>,</p>

		less the amount of income received on the security. A purchaser who no longer owns the security may recover damages. Damages are the amount that would be recoverable upon a tender less the value of the security when the purchaser disposed of it, plus legal interest at the legal rate of this State from the date of disposition of the security, costs and reasonable attorney's fees determined by the court. Tender requires only notice of willingness to exchange the security for the amount specified.
NRS 90.570 Offer, sale and purchase		
NRS 90.660 Civil Liability	1. Employ any device, scheme or artifice to defraud;	
	2. Make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made not misleading in the light of the circumstances under which they are made; or 3. Engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon a person.	
	NRS 90.570	
		NRS 90.660
<b>New Hampshire</b>	(b) A person is liable to the purchaser if the person sells a security in violation of RSA 421-B:3-301 or, by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading, the purchaser not knowing the untruth or omission and the seller not sustaining the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission.	(b)(1) The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at the legal rate of interest from the date of the purchase, costs, and <b>reasonable attorneys' fees</b> determined by the court, upon the tender of the security, or for actual damages as provided in subsection (b)(3).
NH ST § 421-B:5-509 Civil Liabilities		
		NH ST § 421-B:5-509
	NH ST § 421-B:5-509	
<b>New Jersey</b>	(a) Any person who (2) Offers, sells or purchases a security by means of any untrue statement of material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the	(c) Any person who offered, sold or purchased a security or engaged in the business of giving investment advice to a person in violation of paragraph (1), (2), (3), (4) or (5) of subsection (a) of this section is liable to that person,

	<p>circumstances under which they are made, not misleading (the buyer not knowing of the untruth or omission), or (3) offers, sells or purchases a security by employing any device, scheme, or artifice to defraud, or (4) offers, sells or purchases a security by engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person, or (5) engages in the business of advising others, for compensation, either directly or through publications or writings, as to the value of securities, or as to the advisability of investing in, purchasing or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities (i) in willful violation of this act or of any rule or order promulgated pursuant to this act, or (ii) employs any device, scheme or artifice to defraud the other person or engages in any act, practice or course of business or conduct which operates or would operate as a fraud or deceit on the other person, is liable as set forth in subsection (c) of this section.</p>	<p>who may bring an action either at law or in equity to recover the consideration paid for the security or the investment advice and any loss due to the advice, together with interest set at the rate established with interest on judgments for the same period by the Rules Governing the Courts of the State of New Jersey from the date of payment of the consideration for the investment advice or security, and costs, less the amount of any income received on the security, upon the tender of the security and any income received from the investment advice or on the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less the value of the security when the buyer disposed of it and interest at the rate established for interest on judgments for the same period by the Rules Governing the Courts of the State of New Jersey from the date of disposition.</p>
<a href="#">NJ ST 49:3-71 Sale of Securities</a>		
	<a href="#">NJ ST 49:3-71</a>	
		<a href="#">NJ ST 49:3-71</a>
<b>New Mexico</b>	<p>(B) A person is liable to the purchaser if the person sells a security in violation of Section 301 of the New Mexico Uniform Securities Act or, by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statement made, in light of the circumstances pursuant to which it is made, not misleading, the purchaser not knowing the untruth or omission and the seller not sustaining the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission.</p>	<p>(B)(1) the purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at the legal rate of interest from the date of the purchase, costs and <b>reasonable attorney fees determined by the court</b>, upon the tender of the security, or for actual damages as provided in Paragraph (3) of this subsection (D) The customer, if a purchaser, may maintain an action for recovery of actual damages as specified in Paragraphs (1) through (3) of Subsection B of this section, or, if a seller, for a remedy as specified in Paragraphs (1) through (3) of Subsection C of this section.</p>
<a href="#">NM ST § 58-13C-509 Civil liability</a>		
	<a href="#">(D) A person acting as a broker-dealer or agent that sells or buys a security in violation of Subsection A of Section</a>	

	401 of the New Mexico Uniform Securities Act, Subsection A of Section 402 of that act or Section 506 of that act is liable to the customer.	
	(E) A person acting as an investment adviser or investment adviser representative that provides investment advice for compensation in violation of Subsection A of Section 403 of the New Mexico Uniform Securities Act, Subsection A of Section 404 of that act or Section 506 of that act is liable to the client.	(E) The client may maintain an action to recover the consideration paid for the advice, interest at the legal rate of interest from the date of payment, costs and <b>reasonable attorney fees</b> determined by the court.
	(F) A person that receives, directly or indirectly, any consideration for providing investment advice to another person and that employs a device, scheme or artifice to defraud the other person or engages in an act, practice or course of business that operates or would operate as a fraud or deceit on the other person, is liable to the other person.	(F)(1) the person defrauded may maintain an action to recover the consideration paid for the advice and the amount of any actual damages caused by the fraudulent conduct, interest at the legal rate of interest from the date of the fraudulent conduct, costs and <b>reasonable attorney fees</b> determined by the court, less the amount of any income received as a result of the fraudulent conduct
	NM ST § 58-13C-509	
		NM ST § 58-13C-509
<b>New York</b>	No statutory civil liability. Only the attorney-general is empowered to act under the code.	No statutory civil remedy available.
GBL § 23-A		
	GBL § 23-1	
<b>North Carolina</b>	(a) Any person who: (2) Offers or sells a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading (the purchaser not knowing of the untruth or omission), and who does not sustain the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the untruth or omission, is liable to the person purchasing the security from him, who may sue either at law or in equity .	To recover the consideration paid for the security, together with the interest at the legal rate from the date of payment, costs and <b>reasonable attorneys' fees</b> , less the amount of any income received on the security, upon the tender of the security, or for damages if the purchaser no longer owns the security. Damages are the amount that would be recoverable upon a tender less the value of the security when the purchaser disposed of it and interest at the legal rate as provided by G.S. 24-1 from the date of disposition.
NC ST § 78A-56 Civil liabilities		
	NC ST § 78A-56	
		NC ST § 78A-56

<p><b>North Dakota</b></p>	<p>It shall be a fraudulent practice and it shall be unlawful:</p>	<p>Every sale or contract for sale made in violation of any of the provisions of this chapter, or any rule or order issued by the commissioner under any provisions of this chapter, shall be voidable at the election of the purchaser. The person making such sale or contract for sale, and every director, officer, or agent of or for such seller who shall have participated or aided in any way in making such sale shall be jointly and severally liable to such purchaser, together with all taxable court costs, interest as provided in this subsection, and <b>reasonable attorney's fees</b>, less the amount of any income received on the securities, upon tender to the seller, in person or in open court of the securities sold or of the contracts made, or for damages if the purchaser no longer owns the securities. Damages are the amount that would be recoverable upon a tender less the value of the securities when the purchaser disposed of them and interest as provided in subsection 2 from the date of disposition.</p>
<p>N.D. ST 10-04-15 Fraudulent Practices</p>	<p>1. For any person knowingly to subscribe to, or make or cause to be made, any material false statement or representation in any application, financial statement, or other document or statement required to be filed under any provision of this chapter, or to omit to state any material statement or fact in any such document or statement which is necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.</p>	
<p>N.D. St 10-04-17 Remedies</p>		
	<p>2. For any person, in connection with the offer, sale or purchase of any security, directly or indirectly, to:</p>	
	<p>a. Employ any device, scheme, or artifice to defraud;</p>	
	<p>b. Make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made in light of the circumstances under which they are made, not misleading; or</p>	
	<p>c. Engage in any acts, practices, or course of business which operates or</p>	

	would operate as a fraud or deception upon purchasers of the public.	
	N.D. ST 10-04-15	
		N.D. ST 10-04-17
<b>Ohio</b>	(A) Any person that, by a written or printed circular, prospectus, or advertisement, offers any security for sale, or receives the profits accruing from such sale, is liable, to any person that purchased the security relying on the circular, prospectus, or advertisement, for the loss or damage sustained by the relying person by reason of the falsity of any material statement contained therein or for the omission of material facts, unless the offeror or person that receives the profits establishes that the offeror or person had no knowledge of the publication prior to the transaction complained of, or had just and reasonable grounds to believe the statement to be true or the omitted facts to be not material.	(A) Subject to divisions (B) and (C) of this section, every sale or contract for sale made in violation of Chapter 1707 of the Revised Code, is voidable at the election of the purchaser. The person making such sale or contract for sale, and every person that has participated in or aided the seller in any way in making such sale or contract for sale, are jointly and severally liable to the purchaser, in an action at law in any court of competent jurisdiction, upon tender to the seller in person or in open court of the securities sold or of the contract made, for the full amount paid by the purchaser for all taxable court costs, unless the court determines that the violation did not materially affect the protection contemplated by the violated provision.
OH ST § 1707.41 Civil liability of seller for fraud		
OH ST § 1707.43 Remedies of purchaser in unlawful sale		
	OH ST § 1707.41	
		OH ST § 1707.43
<b>Oklahoma</b>	(B) A person is liable to a purchaser if the person sells a security in violation of Section 10 of this section, or by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading, the purchaser not knowing the untruth or omission, and the seller not sustaining the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission.	(B)(1) The purchaser may maintain an action at law or in equity to recover the consideration paid for the security, and interest at the legal rate of interest per year from the date of the purchase, less the amount of any income received on the security, plus costs, and <b>reasonable attorneys' fees determined by the court</b> , upon the tender of the security, or for actual damages as provided in paragraph 3 of this subsection.
OK ST T. 71 § 1-509 Civil liability		
	(D) A person acting as a broker-dealer or agent that sells or buys a security in violation of subsection A of Section 18, subsection A of Section 19, or Section 34 of this act is liable to the customer.	(D) The customer, if a purchaser, may maintain an action at law or in equity for recovery of actual damages as specified in paragraphs 1 through 3 of subsection B of this section; or, if a seller, a remedy as specified in

		paragraphs 1 through 3 of subsection C of this section.
	(E) A person acting as an investment adviser or investment adviser representative that provides investment advice for compensation in violation of subsection A of Section 20, subsection A of Section 21, or Section 34 of this act <sup>4</sup> is liable to the client.	(E) The client may maintain an action at law or in equity to recover the consideration paid for the advice, interest at the legal rate of interest per year from the date of payment, costs, and <b>reasonable attorney's fees determined by the court.</b>
	OK ST T. 71 § 1-509	
		OK ST T. 71 § 1-509
<b>Oregon</b>	It is unlawful for any person, directly or indirectly, in connection with the purchase or sale of any security of the conduct of a securities business or for any person who receives any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise:	(1) Any person who violates or materially aids in violation of ORS 59.135 (Fraud and deceit with respect to securities or securities business) (1), (2) or (3) is liable to any purchaser or seller of the security for the actual damages caused by the violation, including the amount of any commission, fee or other remuneration paid, together with interest at the rate specified in ORS 82.010 (legal rate of interest) for judgments for the payment of money, unless the person who materially aids in the violation sustains the burden of proof that the person did not know and, in the exercise of reasonable care, could not have known of the existence of the facts on which liability is based.
ORS 59.135 Fraud and deceit with respect to securities or securities business		
ORS 59.137 Liability in connection with violation of ORS 59.135		
	(1) To employ any device, scheme or artifice to defraud;	
	(2) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading;	
	(3) To engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon a person; or	
	(4) To make or file, or cause to be made or filed, to or with the Director of the Department of Consumer and Business Services any statement, report	(4) Except as provided in subsection (5) of this section, <b>the court may award reasonable attorney fees to the prevailing party in an action under this section.</b>

	or document which is known to be false in any material respect or matter.	
	ORS 59.135	(5) The court may not award attorney fees to a prevailing defendant under the provisions of subsection (4) of this section if the action under this section is maintained as a class action pursuant to ORCP 32.
		ORS 59.137
<b>Pennsylvania</b>	(a) Any person who: (i) offers or sells a security in violation of section 407(c)1 or at any time when such person has committed a material violation of section 301.2 or any regulation relating to either section 301 or 407(c), or any order under this act of which he has notice; or (ii) offers or sells a security in violation of sections 401, 403, 404 or otherwise by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, the purchaser not knowing of the untruth or omission, and who does not sustain the burden of proof that he did not know and in the exercise of reasonable care could not have known of the untruth or omission, shall be liable to the person purchasing the security from him	who may sue either at law or in equity to recover the consideration paid for the security, together with interest at the legal rate from the date of payment, less the amount of any income or distributions, in cash or in kind, received on the security, upon the tender of the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less the value of the security when the purchaser disposed of it, plus interest at the legal rate from the date of disposition.
PA ST 70 P.S § 1-501 Civil Liabilities		
		PA ST 70 P.S § 1-501
	PA ST 70 P.S § 1-501	
<b>Rhode Island</b>	In connection with the offer to sell, sale, offer to purchase, or purchase of a security, a person may not, directly or indirectly: (1) Employ a device, scheme, or artifice to defraud; (2) Make an untrue statement of a material fact or omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which they are made, not misleading; or (3) Engage in an act, practice, or course of business that operates or would operate as a fraud or deceit on a person.	(A) Upon tender of the security, the purchaser may recover the consideration paid for the security and interest at the legal rate of this state from the date of payment, costs, and <b>reasonable attorney's fees as determined by the court</b> , less the amount of income received on the security. Tender requires only notice of willingness to exchange the security for the amount specified. If that purchaser no longer owns the security, the purchaser may recover damages. Damages are the amount that would be recoverable upon a tender less the value of the security when the purchaser disposed of it, plus interest at the legal rate of this state from the date of disposition of the security, costs,



		and <b>reasonable attorney's fees as determined by the court.</b>
RI ST § 7-11-501 Offers, sales, and purchases		
	RI ST § 7-11-501	
		RI ST § 7-11-605
<b>South Carolina</b>	(b) A person is liable to the purchaser if the person sells a security in violation of Sections 35-1-301 or 35-1-501 or, by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading, the purchaser not knowing the untruth or omission and the seller not sustaining the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission.	(b)(1) The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at the legal rate of interest from the date of the purchase, costs, and <b>reasonable attorneys' fees determined by the court</b> , upon the tender of the security, or for actual damages as provided in paragraph (3).
SC ST § 35-1-509 Civil liability		
	(d) A person acting as a broker-dealer or agent that sells or buys a security in violation of Section 35-1-401(a), 35-1-402(a), or 35-1-506 is liable to the customer.	(d) The customer, if a purchaser, may maintain an action for recovery of actual damages as specified in subsections (b)(1) through (3), or, if a seller, for a remedy as specified in subsections (c)(1) through (3).
	(e) A person acting as an investment adviser or investment adviser representative that provides investment advice regarding securities for compensation in violation of Section 35-1-403(a), 35-1-404(a), or 35-1-506 is liable to the client.	(e) The client may maintain an action to recover the consideration paid for the advice, interest at the legal rate of interest from the date of payment, costs, and <b>reasonable attorneys' fees determined by the court.</b>
	SC ST § 35-1-509	
		SC ST § 35-1-509
<b>South Dakota</b>	(b) Liability of seller to purchaser. A person is liable to the purchaser if the person sells a security in violation of § 47-31B-301 or, by means of an untrue statement of a material fact or an omission to state a material fact.	(b) (1) The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at Category D, § 54-3-16 from the date of the purchase, costs, and <b>reasonable attorneys' fees determined by the court</b> , upon the tender of the security, or for actual damages as provided in paragraph (3).
SD ST § 47-31B-509 Civil liability		
	(f) Liability for investment advice. A person that receives directly or indirectly any consideration for	(f)(1) The person defrauded may maintain an action to recover the consideration paid for the advice and

	providing investment advice to another person and that employs a device, scheme, or artifice to defraud the other person or engages in an act, practice, or course of business that operates or would operate as a fraud or deceit on the other person, is liable to the other person.	the amount of any actual damages caused by the fraudulent conduct, interest at Category D § 54-3-16 from the date of the fraudulent conduct, costs, and <b>reasonable attorneys' fees determined by the court</b> , less the amount of any income received as a result of the fraudulent conduct.
	<a href="#">SD ST § 47-31B-509</a>	
		<a href="#">SD ST § 47-31B-509</a>
<b>Tennessee</b>	(a) It is unlawful for any person, in connection with the offer, sale or purchase of any security in this state, directly or indirectly, to:	(a)(1)(B) shall be liable to the person purchasing the security from the seller to recover the consideration paid for the security, together with interest at the legal rate from the date of payment, less the amount of any income received on the security, upon the tender of the security, or, if the purchaser no longer owns the security, the amount that would be recoverable upon a tender, less the value of the security when the purchaser disposed of it and interest at the legal rate from the date of disposition.
<a href="#">TN ST § 48-2-121 Fraudulent acts or devices</a>		
<a href="#">TN ST § 48-1-122 Civil Liabilities</a>	(1) Employ any device, scheme, or artifice to defraud;	
	(2) Make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or	
	(3) Engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.	
	<a href="#">TN ST § 48-2-121</a>	
		(f) In any such suit under this section, the court may, in its discretion, require an undertaking for the payment of the costs of such suit, and assess reasonable costs, including <b>reasonable attorneys' fees, against either party litigant.</b>
		<a href="#">TN ST § 48-1-122</a>
<b>Texas</b>	(2) Untruth or Omission. A person who offers or sells a security (whether or not the security or transaction is exempt under Section 5 or 6 of this Act) by means of an untrue statement of a	D. Rescission and Damages. For this Section 33:

	<p>material fact or an omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, is liable to the person buying the security from him, who may sue either at law or in equity for rescission, or for damages if the buyer no longer owns the security.</p>	
<p>TX CIV ST Art. 581-33 Civil Liability with Respect to Issuance or Sale of a Security</p>		<p>(1) On rescission, a buyer shall recover (a) the consideration he paid for the security plus interest thereon at the legal rate from the date of payment by him, less (b) the amount of any income he received on the security, upon tender of the security (or a security of the same class and series).</p>
	<p>TX CIV ST Art. 581-33</p>	<p>(3) In damages, a buyer shall recover (a) the consideration the buyer paid for the security plus interest thereon at the legal rate from the date of payment by the buyer, less (b) the greater of:</p>
		<p>(i) the value of the security at the time the buyer disposed of it plus the amount of any income the buyer received on the security; or</p>
		<p>(ii) the actual consideration received for the security at the time the buyer disposed of it plus the amount of any income the buyer received on the security.</p>
		<p>(6) On rescission or as a part of damages, a buyer or a seller shall also recover costs.</p>
		<p>(7) On rescission or as a part of damages, <b>a buyer or a seller may also recover reasonable attorney's fees if the court finds that the recovery would be equitable in the circumstances.</b></p>
		<p>TX CIV ST Art. 581-33</p>
<p><b>Utah</b></p>	<p>It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly to:</p>	<p>(1)(c) Damages are an amount calculated as follows:</p>
<p>UT ST § 61-1-1 Fraud unlawful</p>	<p>(1) employ any device, scheme, or artifice to defraud;</p>	<p>(i) subtract from the amount that would be recoverable upon a tender under Subsection (1)(b), excluding interest, the value of the security when the buyer disposed of the security; and (ii) add to the amount calculated under Subsection (1)(c)(i) interest at: (A)</p>

		12% per year: (I) beginning the day on which the security is purchased by the buyer; and (ii) ending on the date of disposition; and (B) after the period described in Subsection (1)(c) (ii)(A), 12% per year on the amount lost at disposition. (2) The court in a suit brought under Subsection (1) may award an amount equal to three times the consideration paid for the security, together with interest, costs, and <b>attorney fees</b> , less any amounts, all as specified in Subsection (1) upon a showing that:
UT ST § 61-1-22 Sales and purchases in violation--Remedies--Limitation of actions	(2) make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or	
	(3) engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.	
		(a) the violation was reckless or intentional; or
		(b) the violation was of Subsection 61-1-1(2), was negligent, and is demonstrated by clear and convincing evidence that the violation involved an investment by a person over whom the violator exercised undue influence.
	UT ST § 61-1-1	
		UT ST § 61-1-22
<b>Vermont</b>	(b) A person is liable to the purchaser if the person sells a security in violation of sections 5301, 5501, or 5502 of this chapter, the purchaser not knowing the untruth or omission or deceptive nature of the conduct and the seller not sustaining the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission or deceptive nature of the conduct.	(b) (1) The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at the legal rate of interest from the date of the purchase, costs, and <b>reasonable attorney's fees determined by the court</b> , upon the tender of the security, or for actual damages as provided in subdivision (3) of this subsection.
VT ST T. 9 § 5509 Civil liability		
	(d) A person acting as a broker-dealer or agent that sells or buys a security in violation of subsection 5401(a) or 5402(a) or section 5506 of this chapter is liable to the customer.	(d) The customer, if a purchaser, may maintain an action for recovery of actual damages as specified in subdivisions (b)(1) through (3) of this section, or, if a seller, for a remedy as

		specified in subdivisions (c)(1) through (3) of this section.
	(f) A person that receives directly or indirectly any consideration for providing investment advice to another person and that employs a device, scheme, or artifice to defraud the other person or engages in an act, practice, or course of business that operates or would operate as a fraud or deceit on the other person or otherwise violates section 5502 of this chapter is liable to the other person.	(f) (1) The person wronged may maintain an action to recover the consideration paid for the advice and the amount of any actual damages caused by the fraudulent conduct, interest at the legal rate of interest from the date of the fraudulent conduct, costs, and <b>reasonable attorney's fees determined by the court</b> , less the amount of any income received as a result of the fraudulent conduct.
	<a href="#">VT ST T. 9 § 5509</a>	
		<a href="#">VT ST T. 9 § 5509</a>
<b>Virginia</b>	A. Any person who: (i) sells a security in violation of §§ 13.1-502, 13.1-504 A, 13.1-507 (i) or (ii), 13.1-510 (e) or (f), or (ii) sells a security by means of an untrue statement of a material fact or any omission to state a material fact necessary in order to make the statement made, in the light of the circumstances under which they were made, not misleading (the purchaser not knowing of such untruth or omission), and who shall not sustain the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of such untruth or omission, shall be liable to the person purchasing such security. B. Any person who (i) engages in the business of advising others, for compensation, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities in willful and material violation of § 13.1-503, subsection A of § 13.1-504, or of any rule or order under § 13.1-505.1, or (ii) receives, directly or indirectly, any consideration from another person for advice as to the value of securities or their purchase or sale, whether through the issuance of analyses, reports or otherwise and employs any device, scheme, or artifice to defraud such other person or engages in any act, practice or course of business which operates or would operate as a fraud or deceit on	(A) shall be liable to the person purchasing such security from him who may sue either at law or in equity to recover the consideration paid for such security, together with interest thereon at the annual rate of six percent, costs, and <b>reasonable attorneys' fees</b> , less the amount of any income received on the security, upon the tender of such security, or for the substantial equivalent in damages if he no longer owns the security. (B) shall be liable to that person who may sue either at law or in equity to recover the consideration paid for such advice and any loss due to such advice, together with interest thereon at the annual rate of six percent from the date of payment of the consideration plus costs and <b>reasonable attorney's fees</b> , less the amount of any income received from such advice and any other economic advantage.

	such other person, shall be liable to that person.	
VA ST § 13.1-522 Civil liabilities		
		VA ST § 13.1-522
	VA ST § 13.1-522	
<b>Washington</b>	It is unlawful for any person, in connection with the offer, sale or purchase of any security, directly or indirectly:	(1) is liable to the person buying the security from him or her, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at eight percent per annum from the date of payment, costs, and <b>reasonable attorneys' fees</b> , less the amount of any income received on the security, upon the tender of the security, or for damages if he or she no longer owns the security. Damages are the amount that would be recoverable upon a tender less (a) the value of the security when the buyer disposed of it and (b) interest at eight percent per annum from the date of disposition.
WA ST § 21.20.010 Unlawful offers, sales, purchases	(1) To employ any device, scheme, or artifice to defraud;	
WA ST 21.20.430 Civil liabilities--Survival, limitation of actions--Waiver of chapter void--Scienter	(2) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstance under which they are made, not misleading; or	
	(3) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.	
	WA ST § 21.20.010	
		WA ST 21.20.430
<b>West Virginia</b>	Any person who: (a)(2) Offers or sells a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading (the buyer not knowing of the untruth or omission), and who does not sustain the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the untruth or omission, is liable to the person buying the security from him	(a)(2) may assert a claim in a civil action to recover the consideration paid for the security, together with interest at nine percent per year from the date of payment, costs and <b>reasonable attorneys' fees</b> , less the amount of any income received on the security, upon the tender of the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less the value of the security when the buyer disposed of it and interest at nine percent per year from the date of disposition.
WV ST § 32-4-410 Civil liabilities		

	WV ST § 32-4-410	
		WV ST § 32-4-410
<b>Wisconsin</b>	<p>(2) A person is liable to the purchaser if the person sells a security in violation of s. 551.301 or 551.501 and, as to s. 551.501(2), the purchaser did not know the untruth or omission and the seller cannot sustain the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission.</p> <p>(4) person acting as a broker-dealer or agent that sells or buys a security in violation of s. 551.401(1), 551.402(1), or 551.506 is liable to the customer.</p> <p>(5) (5) Liability of unregistered investment adviser and investment adviser representative. A person acting as an investment adviser or investment adviser representative that provides investment advice for compensation in violation of s. 551.403(1), 551.404(1), or 551.506 is liable to the client.</p> <p>(6) A person that receives directly or indirectly any consideration for providing investment advice to another person and that employs a device, scheme, or artifice to defraud the other person or engages in an act, practice, or course of business that operates or would operate as a fraud or deceit on the other person is liable to the other person.</p>	<p>(2)(c) (a) The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at the legal rate under s. 138.04 from the date of the purchase, costs, and reasonable attorney fees determined by the court, upon the tender of the security, or for actual damages as provided in part (c). (2) (c) Actual damages in an action arising under this subsection are the amount that would be recoverable upon a tender less the value of the security when the purchaser disposed of it, and interest at the legal rate under s. 138.04 from the date of the purchase, costs, and <b>reasonable attorney fees determined by the court.</b></p>
		<p>(4) The customer, if a purchaser, may maintain an action for recovery of actual damages as specified in sub. (2) (a) to (c), or, if a seller, for a remedy as specified in sub. (3)(a) to (c).</p>
	WI ST 551.509	<p>(5) The client may maintain an action to recover the consideration paid for the advice, interest at the legal rate under s. 138.04 from the date of payment, costs, and reasonable attorney fees determined by the court.</p>
		<p>(6)(a) (a) The person defrauded may maintain an action to recover the consideration paid for the advice and the amount of any actual damages caused by the fraudulent conduct, interest at the legal rate under s. 138.04 from the date of the fraudulent conduct, costs, and <b>reasonable attorney fees determined by the court,</b> less the</p>

		amount of any income received as a result of the fraudulent conduct.
WI ST 551.509 Civil liability		
		WI ST 551.509
<b>Wyoming</b>	(b) A person is liable to the purchaser if the person sells a security in violation of W.S. 17-4-301 or, by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading, the purchaser not knowing the untruth or omission and the seller not sustaining the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission.	(b) (i) The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at six percent (6%) per year from the date of the purchase, costs, and <b>reasonable attorneys' fees determined by the court</b> , upon the tender of the security, or for actual damages as provided in paragraph (iii) of this subsection;
WY ST § 17-4-509 Civil Liability		
	(d) A person acting as a broker-dealer or agent that sells or buys a security in violation of W.S. 17-4-401(a), 17-4-402(a), or 17-4-506 is liable to the customer.	(b) (iii) Actual damages in an action arising under this subsection are the amount that would be recoverable upon a tender less the value of the security when the purchaser disposed of it, and interest at six percent (6%) per year from the date of the purchase, costs and reasonable attorneys' fees determined by the court.
	(e) A person acting as an investment adviser or investment adviser representative that provides investment advice for compensation in violation of W.S. 17-4-403(a), 17-4-404(a), or 17-4-506 is liable to the client.	(d) The customer, if a purchaser, may maintain an action for recovery of actual damages as specified in paragraphs (b)(i) through (iii) of this section, or, if a seller, for a remedy as specified in paragraphs (c)(i) through (iii) of this section.
	(f) A person that receives directly or indirectly any consideration for providing investment advice to another person and that employs a device, scheme, or artifice to defraud the other person or engages in an act, practice, or course of business that operates or would operate as a fraud or deceit on the other person, is liable to the other person.	(e) The client may maintain an action to recover the consideration paid for the advice, interest at the rate of six percent (6%) per year from the date of payment, costs, and <b>reasonable attorneys' fees determined by the court</b> .
	WY ST § 17-4-509	
		(f)(i) The person defrauded may maintain an action to recover the consideration paid for the advice and the amount of any actual damages caused by the fraudulent conduct,



		interest at six percent (6%) per year from the date of the fraudulent conduct, costs, and <b>reasonable attorneys' fees determined by the court</b> , less the amount of any income received as a result of the fraudulent conduct;
		WY ST § 17-4-509

### Footnotes

1 Sara Hanley represents investors nationwide who have lost their savings and retirement funds as a result of their brokerage accounts being mishandled. Attorney Hanley is the founder of Hanley Law based in Naples, Florida. The firm represents investors in FINRA arbitrations and securities related class actions. [www.finralawyer.org](http://www.finralawyer.org). The author thanks Danielle Teutonico, Esq. for her research of the applicable state statutes in support of this article.

2 FINRA Dispute Resolution Services Arbitrator's Guide, p. 71, Feb. 2021 Edition.



3 FLA. STAT. ANN. § 517.211.

4 N.C. GEN. STAT. ANN. § 78A-56(a)(2).

5  Moser v. Barron Chase Securities, 783 So. 2d 231 (Fla. 2001).

6 FLA. STAT. ANN. § 682.11.

7  Turnberry Associates v. Service Station Aid, Inc., 651 So. 2d 1173 (Fla. 1995).

8 See  Barron Chase Securities, Inc. v. Moser, 745 So. 2d 965, 967 (Fla. 2d Dist. Ct. App. 1999);  Charbonneau v. Morse Operations, Inc., 727 So. 2d 1017, 1020 (Fla. 4th Dist. Ct. App. 1999); GCA, Inc. v. 90 S.W. 8th St. Enterprises, 696 So. 2d 1230, 1233 (Fla. 3d Dist. Ct. App. 1997); Robert Gay Const. Co. v. Ceco Bldg. Sys., 680 So. 2d 1124, 1126 (Fla. 1st Dist. Ct. App. 1996).

9  Moser v. Barron Chase Securities, 783 So. 2d 231, 232 (Fla. 2001).

10 See Air Conditioning Equipment, Inc. v. Rogers, 551 So. 2d 554, 556 (Fla. 4th Dist. Ct. App. 1989).

11 See *id.*

12 See generally Prudential-Bache Securities, Inc. v. Shuman, 483 So. 2d 888, 889 (Fla. 3d Dist. Ct. App. 1986).


13  Moser, 783 So. 2d at 232.

14 *Id.*

15 See, U.S. Security Insurance Co. v. Cahuasqui, 760 So. 2d 1101, 1107 (Fla. 3d Dist. Ct. App. 2000).

16 Rucker v. City of Ocala, 684 So. 2d 836, 841 (Fla. 1st Dist. Ct. App. 1996).

17  Moser v. Barron Chase Securities, 783 So. 2d 231, 236-37 (Fla. 2001).

18  Florida Patient's Compensation Fund v. Rowe, 472 So. 2d 1145, 1150-51 (Fla. 1985).

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