

Response to Question 1:

I have been an arbitrator for FINRA and its predecessors, the NYSE and NASD, since 1990. During that time, I have presided on relatively few arbitrations involving clients using non-attorney representatives.

In New Jersey, non-attorneys representing clients in arbitrations are, at least arguably, practicing law without a license. It follows that an arbitrator who presides over or is a panelist in such an arbitration may be aiding and abetting the practice of law without a license. New York appears not to have a similar view. In my experience, NARs do not self-regulate; they will represent clients regardless of whether state bar rules regard such representation as practicing law without a license.

One must look closely at papers filed with FINRA to discover when a claimant is represented by a non-lawyer; NARs do not make their status obvious.

My experiences with NARS have, without exception, been negative: NARs have been discourteous to everyone and made numerous baseless objections and irrelevant arguments, resulting in unnecessarily long and unpleasant hearings. I now decline to serve on any panel where a client is represented by a non-lawyer.

Response to Question 2:

I have presided in arbitrations involving claimants who represented themselves, sometimes with the help and moral support of a close relative. I found arbitrations in these situations to proceed reasonably.

Responses to Questions 3 and 4: No information.

Response to Question 5:

Based on my experience, I believe FINRA should amend the Codes to prohibit NAR firms from representing clients in FINRA cases.