

# Court Finds Panel Did Not Manifestly Disregard Law When It Entered FINRA Award in Favor of Investment Firm and Advisors in Dispute over Fraud Committed by Late NFL Player's Agent



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Thursday, June 13, 2019

The widow of a former NFL football player sued the player's sports agent and financial adviser, alleging that the former player was defrauded by the agent in connection with the loss of the proceeds of the player's life insurance policy. The plaintiff alleged that upon the player's death, the insurance proceeds were paid to a trust, for which the agent acted as trustee without authorization. The funds were depleted by the agent, and the plaintiff asserted claims of breach of fiduciary duty, negligence, and fraud against the agent and the agent's investment firm and financial advisors.

The matter went to FINRA arbitration, and the panel concluded that the investment firm and the financial advisors were not legally responsible for the harm. The plaintiff moved to vacate the award on the ground that the panel manifestly disregarded the law when it reached the conclusion that "the Investment Firm and

Investment Advisors were not required to conduct any investigation into the obviously suspicious and fraudulent behavior.” The firm and advisors moved to confirm the award, arguing that the plaintiff’s motion to vacate the award was untimely beyond the three-month limitation period. They relied upon the early issuance of the award, which contained two out of three signatures of the panel. The plaintiff relied upon a later date on which the third signature on the award was issued.

The court avoided ruling on the issue of timeliness, noting that some case law did support raising grounds for vacatur as a defense to a motion to confirm, even after the limitations period has expired. Turning to whether the panel manifestly disregarded the law, the court explained that, assuming “manifest disregard” is even a valid ground for vacatur in the Fifth Circuit, the panel did not disregard the existence of a clearly governing legal principle. The panel determined that “the Trustee of the trust was the person solely responsible for the asset destruction of the trust” and that the plaintiff failed to present any breach of a fiduciary duty “under any law or regulation.” The court concluded that “the Panel considered the existence of governing law, but found that a fiduciary duty did not exist under this law. Plaintiff’s issue with the arbitration decision is not that the Panel ignored the law entirely, but that the Panel did not reach Plaintiff’s desired outcome when applying the law. Therefore, even under the ‘manifest disregard of the law’ standard, Plaintiff’s motion for vacatur fails.” The court therefore denied the motion to vacate and confirmed the award.

[\*Warren v. Geller\*](#), No. 2:11-cv-02282 (E.D. La. May 3, 2019).

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