

**UNITED STATES DISTRICT COURT  
for the  
SOUTHERN DISTRICT OF NEW YORK**

|                               |   |                                      |
|-------------------------------|---|--------------------------------------|
| JOHN M. FIFE,                 | ) |                                      |
|                               | ) |                                      |
| Plaintiff,                    | ) | Civil Action No.: 1:20-CV-10716 (AT) |
| v.                            | ) |                                      |
|                               | ) |                                      |
| FINANCIAL INDUSTRY REGULATORY | ) |                                      |
| AUTHORITY, INC.               | ) |                                      |
|                               | ) |                                      |
| Defendant.                    | ) |                                      |

**FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC.’S  
NOTICE OF MOTION TO DISMISS COMPLAINT**

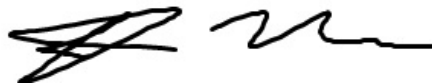
PLEASE TAKE NOTICE that, upon the Memorandum of Law and supporting Declaration and Exhibits submitted herewith, defendant Financial Industry Regulatory Authority, Inc. (“FINRA”), by its undersigned counsel, will, and hereby does, move for an Order, pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, to dismiss Plaintiff John M. Fife’s Complaint against FINRA in its entirety.

The Complaint must be dismissed under Fed. R. Civ. P. 12(b)(1) because this Court lacks subject matter jurisdiction. The Securities Exchange Act of 1934, 15 U.S.C. § 78a, *et seq.* provides the exclusive remedy for disputes arising from FINRA’s exercise of its regulatory functions and disciplinary actions and requires Plaintiff to exhaust his administrative remedies.

The Complaint also must be dismissed under Fed. R. Civ. P. 12(b)(6) because Plaintiff cannot state a claim—equitable or otherwise—against FINRA. There is no private right of action against FINRA for the relief Plaintiff seeks. FINRA also has absolute immunity from claims, such as Plaintiff’s, arising from FINRA’s regulatory and oversight functions.

For all these reasons, Plaintiff's Complaint must be dismissed in its entirety and with prejudice.

**FAEGRE DRINKER BIDDLE & REATH LLP**



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Dated: March 29, 2021