\*\*\* ENFORCING THE PROMISE TO ARBITRATE\*\*\*

**Time Traveling Group Exercise**

In these exercises, imagine you are a time-traveling attorney, with the ability to jump through time portals (sort of like “The Butterfly Effect,” “Back to the Future,” and “The Time Machine”). Aside from some basic rules (you can’t go back a day and buy up the winning Lotto numbers, for example), things are pretty laid back. Your trip originates in the present time.

**Team 1**: You’ve decided to don your powdered wig and provide legal advice in colonial New York City, circa 1750. Your client, “Avi’s Rent a Horse,” located at One Beaver Street in New York City, complains to you many of his customers can’t be trusted to bring the horses back in good shape, to pay their bills, and to take good care of the horses by feeding and watering them periodically. He wants to make customers sign a contract at the time they enter into their agreements to rent the horses. Avi is a deeply religious person, and advises you that the scriptures encourage the use of arbitration, so he would like to put an arbitration clause in the rental agreement. He wants your advice. What would you tell your client about the “pros and cons” of using an arbitration clause?

**Team 2**: You decide to zip ahead to the “Roaring Twenties” and then think it would be very cool to tele-transport to the exact same location, in the year 1929. While New York City has changed quite a bit from 1750, the familiar Beaver Street address has changed just relatively little. Avi’s heirs dropped the apostrophe, and updated the company name to reflect those new fangled automobiles, so the name is now “AVIS Rent a Car.” Your client complains that customers rent cars and can’t be trusted to bring them back in good shape, to pay their bills, and to take good care of the cars by topping off the radiator periodically. Some of the customers take their cars over to New Jersey which, he tells you, has the worst drivers in the country. He has had bad experiences in court, with it taking over six months to get a resolution. Your client wants to put an arbitration clause in the rental agreement. What would you tell him about the “pros and cons” of using an arbitration clause? Remember, you can’t tell your client that the market is about to crash.

**BOTH Teams**: Getting into the “Back to the Future” thing, you decide to head into the future, moving ahead to the year 2025 -- the 100th anniversary of the Federal Arbitration Act – and go to the same location on Beaver Street. To your surprise, there have been a few changes. Now, the location houses “HertzBudgAvis Rent-a-Lev,” where customers can rent magnetic levitation vehicles from the entity that resulted from the merger-crazy year of 2015. Customers, of course, don’t sign contracts in the literal sense…they touch their index finger to a reader that electronically records their digital signature.

Your client complains that customer rent maglev vehicles and can’t be trusted to bring them back in good shape, to pay their bills, and to take care of their cars by topping off the maglev converter periodically. Some of the customers take their maglev vehicles to New Jersey, which, she tells you, has the worst maglev operators in the universe. She has had bad experiences in court, with it taking over six years to get a resolution. Your client wants to put an arbitration clause in the rental agreement. What would you tell her about the “pros and cons” of using an arbitration clause?

**Hint**: this one requires you to project ahead to where things may be headed.