

Arbitration: Spouse Had No Authority To Sign Arbitration Agreement.

An elderly nursing home resident fell and broke her hip getting out of bed by herself while heavily medicated. She sued the nursing home for negligence.

At this point in the litigation the issue is whether the case belongs before a jury in civil court, as the patient claims, or before an arbitration panel in alternative dispute resolution, as the nursing home insists.

The law favors alternative dispute resolution through arbitration.

However, neither side is bound to arbitrate unless there is a valid arbitration agreement.

UNITED STATES DISTRICT COURT
ARIZONA

November 12, 2009

The US District Court for the District of Arizona, without passing judgment on the allegations of negligence, has ruled against the nursing home on the issue that the case does not belong in arbitration.

Power of Attorney

The patient herself never signed the arbitration agreement. Her power of attorney named her son as her primary attorney-in-fact and her husband as secondary, with authority to sign contracts only in the event the primary was unavailable or incapacitated. Her husband signed the arbitration agreement at the time of admission. However, there was no evidence the son, the proper party, was unable to sign for her.

Husband Was Told He Had to Sign

The husband was told he had to sign all the papers, including the arbitration agreement, before his wife could be admitted. A nursing-home arbitration agreement must be voluntary; it is void if held out as a condition of admission. **Bossort v. Kindred Nursing**, 2009 WL 3818858 (D. Ariz., November 12, 2009).