

Arbitration: Surrogate Cannot Sign For Patient.

The patient was admitted to the hospital for head injuries from a fall. He was put on a ventilator. He could not speak, but he was alert and aware of his surroundings and could communicate effectively by responding to questions with hand and eye signals. The hospital admissions coordinator, speaking only in English, got his wife to sign an arbitration agreement.

A lawsuit was filed on his behalf against the hospital for negligence by hospital staff in managing his ventilator care. The hospital tried unsuccessfully to have the civil lawsuit thrown out and to force the patient into arbitration.

The Court of Appeal of California commented on the fact the wife did not understand English. The basis for the court's ruling, however, was that a family member who can make other healthcare decisions for a patient does not have inherent authority to consent to arbitration.

Del Prado v. THC Orange County, Inc., 2006 WL 3555563 (Cal. App., December 11, 2006).