

Jonathan Rosenfeld's Nursing Homes Abuse Blog

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[Colorado Invalidates Nursing Home Arbitration Agreements Signed By Healthcare Proxies](#)



The Colorado Supreme Court handed down a decision in the matter of [Lujan v. Life Care Centers of America](#) that invalidates nursing home arbitration agreements entered into by a healthcare proxy. The Colorado Court held that the power to make medical decisions is different from the ability to consent settle disputes via a private system-- as in done in nursing home cases with mandatory arbitration agreements.

In [Lujan](#), Estella Lujan's son admitted her to a Life Care Center in Colorado and signed off on an arbitration agreement along with other admission paperwork. Three days after Ms. Lujan's admission to Life Care Center, she died.

Ms. Lujan's family filed a wrongful death lawsuit against the facility claiming that her death was due to the facilities negligent care. After, a lawsuit was filed, Life Care Centers filed a motion to dismiss, claiming that the lawsuit should be dismissed due to the fact an arbitration agreement was in place.

By invalidating this mandatory arbitration agreement, this wrongful death lawsuit will be able to proceed though the litigation process and eventually be heard before a jury.

[Nursing Home Arbitration Clauses](#)

An arbitration clause takes the decision of how much money--- if any -- an injured party is receive out of the hands of a jury. In an arbitration setting, one person (who is frequently pre-selected by a nursing home) determines the damages to be awarded to an individual or family. In addition, many arbitration clauses specifically limit the amount an arbitrator may award to an injured party.

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