

1 Hon. Harvey A. Schneider, Ret.
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7 **IN THE MATTER OF**
8 **ARBITRATION BETWEEN**

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10) **ARBITRATION**
11 Claimant,) **OIA # 11826**
12 v.)
13) **[PROPOSED] ARBITRATION**
14) **AWARD**
15 Respondent.)
16)
17)

18 On September 16, 2013, this matter was heard before the Honorable Harvey A. Schneider,
19 Judge of the Superior Court, Retired, sitting as the sole Arbitrator. Claimant, _____,
20 appeared in Pro Per. Respondent, _____, was represented by
21 _____, Esq. of _____.

22 **RESPONDENT'S MOTION IN LIMINE**

23 Respondent filed a Motion in Limine to Preclude Claimant from Offering Expert Testimony
24 at Arbitration pursuant to Code of Civil Procedure section 2034.300. Respondent's Motion in
25 Limine was not opposed by Claimant.

26 The Arbitrator finds that Respondent timely served a Code of Civil Procedure section 2034
27 Demand for Expert Exchange on January 8, 2013, pursuant to Code of Civil Procedure 2034.260.
28 The Arbitrator finds that on May 6, 2013, Respondent complied with section 2034.260 in designating

1 its expert witnesses. The Arbitrator finds that Claimant, then represented by his attorneys,
2 , failed to comply with Respondent's Demand for Exchange for Expert
3 Witnesses and that no expert witnesses have ever been designated on behalf of Claimant in this
4 action.

5 Based on the foregoing findings, the Arbitrator granted Respondent's Motion in Limine to
6 Preclude Claimant from Offering Expert Testimony at Arbitration.

7 **RESPONDENT'S MOTION FOR NONSUIT**

8 Respondent moved the Arbitrator for nonsuit pursuant to Code of Civil Procedure section
9 581(c). The Arbitrator granted the motion for nonsuit and bases that decision on the following
10 grounds:

- 11 1. In this medical malpractice case, Claimant can only establish
12 negligence on the part of Respondent through expert
13 testimony. Claimant was precluded from offering any expert
14 testimony and, as such, Claimant cannot establish negligence
15 on the part of Respondent;
- 16 2. Claimant can only establish causation in this medical
17 malpractice action through expert testimony. Since Claimant
18 was precluded from offering expert testimony at Arbitration,
19 Claimant cannot establish causation between Respondent's
20 alleged negligent conduct and any injury claimed by
21 Claimant.

17 **AWARD**

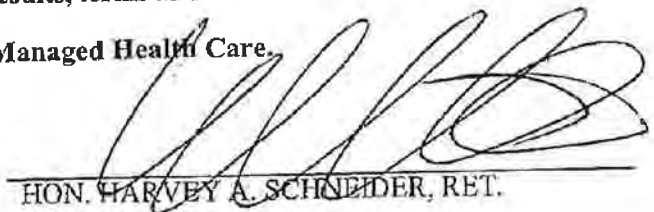
18 For the reasons stated above, the Arbitrator rules in favor of Respondent,
19 , and against Claimant,

20 IT IS SO ORDERED.

21 **Nothing in this arbitration decision prohibits or restricts the enrollee from discussing**
22 **or reporting the underlying facts, results, terms and conditions of this decision (or Settlement**
23 **Agreement) to the Department of Managed Health Care.**

24 Dated

25 *September 18, 2013*

26 
HON. HARVEY A. SCHNEIDER, RET.

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IN THE MATTER OF THE ARBITRATION BETWEEN

Claimant,
v.
Respondent.

ORDER GRANTING MOTION FOR
SUMMARY JUDGMENT

Claimant (Claimant) has filed a claim against Respondent
The essence of Claimant’s claim is that she was negligently treated by several doctors at
during her hospitalization of August 28—August 31, 2015.

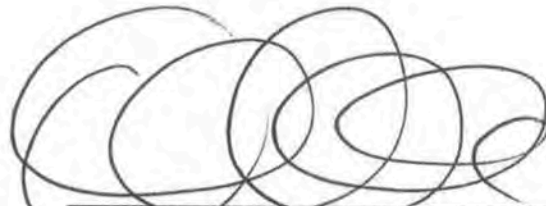
The arbitrator understands why Claimant believes she was mistreated during
her hospitalization. The arbitrator also understands the difficulty Claimant has
encountered by reason of her self-representation. The fact is, however, that Respondent
has presented to the arbitrator the declaration of two medical experts who have opined
that no doctor at was negligent in the treatment of Claimant and that Claimant
has presented no medical expert declaration to counter Respondent’s declarations.

1 Absent such declaration from Claimant, the arbitrator has no alternative but to grant
2 Respondent's Motion for Summary Judgment. (*Barton v. Owens*) (1977) 71 Cal.App.3d
3 484; *Tresener v. Barber*) (1978) 68 Cal.App.3d656).

4 Moreover, because of the above ruling the arbitrator has no reason to rule on
5 Respondent's objections to the several responses filed by Claimant.
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8 **Nothing in this arbitration decision prohibits or restricts the enrollee from discussing**
9 **or reporting the underlying facts, results, terms and conditions of this decision (or**
10 **Settlement Agreement) to the Department of Managed Health Care.**
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16 Dated: 5-23-2018



17 Harvey A. Schneider, Judge (Ret.)
18 Arbitrator
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