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IN RE ARBITRATION

) Arb No. 14187
)
) ORDER: Motion for
) Summary Judgment

7 Claimant

8 vs.

9 Respondents

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12 A telephone hearing on Respondents' Motion for Summary Judgment was heard March 21,
13 2017. appeared on behalf of Respondents and appeared as
14 Claimant. Claimant has no Counsel.

15 Upon reviewing the Motion and supporting papers, comments of Claimant and Respondents'
16 Counsel, and the Response papers and email evidence submitted by Claimant, and upon assur-
17 ances by them that neither party offered or wanted to offer additional evidence:

18 IT IS HEREBY ORDERED: That Respondents Motion is Granted.

19 STATEMENT OF DECISION:

20 Respondents moved for Summary Judgment on 2 grounds:

21 1. Claimant failed to respond with appropriate evidence to Respondents' declared
22 evidence that it had established by Dr. that there was no breach of the standard of care in a
23 claim for medical malpractice. Thus the burden of proof shifts to Claimant to establish with ex-
24 pert testimony that a triable issue remains regarding assertion of medical malpractice. Such did
25 not occur.

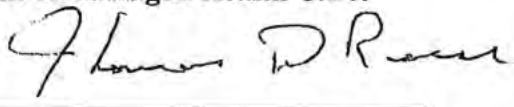
26 2. Claimant's claim for professional negligence is barred by the Statute of Limitations,
27 CCP 340.5. The injury, and hence the discovery of it, occurred in November 2014 through Feb-
28 ruary 2015. The Demand for Arbitration was filed May 22, 2016, more than one year after dis-
covery of the injury.

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The Arbitrator finds that CCP 340.5 applies to a claim for medical malpractice; not CCP 335.

On the morning of the Hearing, Claimant asked that the case not proceed, including the subject Motion presumedly, until [redacted] has produced data regarding the subject container so as to determine what drug was used that is subject to the medical malpractice claim. The request is DENIED. Without commenting on the relevance of this request, it is this sort of information that is typically sought through the discovery process; i.e, depositions, for example.

Nothing in this arbitration decision prohibits or restricts the enrollee from discussing or reporting the underlying facts, results, terms, and conditions of this decision to the Department of Managed Health Care.



3/21/17

Thomas D. Reese