

PUBLICATION

Avoiding a Jury: The Enforceability of Arbitration Clauses in Mississippi

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March 1, 2007

Publication: Mississippi Medical News

Three weeks before a scheduled procedure, a patient was presented with an arbitration agreement by his surgeon.

The contract stated in bold letters that any potential claim of negligence or medical malpractice must be decided by a neutral arbitrator, making clear that the patient waived his right to a jury trial by signing the agreement.

The patient signed the document as requested and the surgeon conducted the procedure. Two months later, the patient died, and his family filed a lawsuit in Hinds County Circuit Court, claiming that the surgeon conducted the surgical procedure negligently and failed to provide the patient with appropriate postoperative care. In response to the lawsuit, the surgeon filed a motion to dismiss and enforce the arbitration agreement but the trial court refused, holding that the contract was patently unfair and unenforceable.