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NEWS & EVENTS

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Traub Lieberman Partner Colleen E. Hastie Successfully Moves to Compel Arbitration in Negligence/Malpractice-Based Lawsuit Against Skilled Nursing Facility

Related Attorneys:

Traub Lieberman Partner Colleen E. Hastie successfully compelled arbitration of a negligence and malpractice lawsuit against its client, a Skilled Nursing Facility ("SNF"). The Plaintiffs filed the Summons and Complaint on November 6, 2020 for causes of action sounding in negligence, wrongful death, loss of support, and violations of New York Public Health law. The Plaintiff's Decedent was a resident of the SNF from October 13, 2018 to April 5, 2019.

On October 31, 2018, Decedent signed an Admissions Agreement (the "Agreement") wherein she agreed to submit to binding arbitration any claim for any injuries allegedly arising from the resident's admission to the SNF. Based on the terms of the Agreement, SNF served a Demand for Arbitration, pursuant to the terms of the Agreement and moved to dismiss the complaint and compel arbitration on the basis that the correct forum for the dispute is American Arbitration Association. The Plaintiff, citing both the Federal Arbitration Act and New York statute, argued that the agreement is unconscionable because it unfairly favors SNF and that Decedent lacked the capacity to sign a legally binding agreement.

New York County Supreme Court Justice, Eileen Rakower, in granting SNF's motion, held that the parties clearly and unmistakably delegated the threshold question of arbitrability to the arbitrator. Plaintiff failed to show the agreement is procedurally and substantively unconscionable, with the court adopting SNF's reasoning that (i) the arbitration clause is not hidden and is conspicuously bolded and underlined; (ii) the agreement contains a bolded statement in capital letters that the undersigned has read and understood and agreed to the terms of the agreement; and (iii) the terms of the arbitration provision renders arbitration accessible and available for both parties.

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