

PROTECTING EMPLOYEE & CONSUMER RIGHTS

Is arbitration favorable to consumers and employees?



ATTY. CONRADO JOE SAYAS

Q: AS a consumer who signs agreements in connection with a credit card or cell phone application, I see the term "arbitration" all the time. I even see it in some employment contracts. I heard that arbitration is good for the consumer or employee since it will save money and time. Is this true? Is arbitration really better for consumers and employees?

A: Generally, arbitration is not advantageous to consumers or employees. In fact, the evidence gathered so far by several consumer advocate groups, indicate that arbitration favors the business or company rather than the consumer.

Arbitration is a procedure to resolve disputes without bringing a lawsuit, where the disputing parties refer the dispute to a third party (the arbitrator) who reviews the case and makes a decision that is legally binding on both sides. By agreeing to arbitration, the consumer waives his right to have a judge or jury decide the case.

Arbitration is most commonly used in commercial disputes (where the disputing parties are all business entities). The use of arbitration is far more controversial in consumer and employment disputes (where one party is a business and the other is an individual). Arbitration in a consumer or employment situation is not usually the product of negotiation but is practically imposed on consumers or employees through contract provisions.

Big businesses claim that arbitration is a cheaper alternative to filing a lawsuit. However national studies indicate that in consumer disputes, the high fees associated with mandatory arbitration make it difficult for consumers to vindicate their rights. Most arbitration providers require hundreds of dollars in filing fees. Thousands more are to be advanced for the arbitrator's daily or hourly fees. In employment disputes, however,

California law requires that arbitrator's fees be paid for by the employer.

The biggest downside to consumers though is the waiver of their right to jury trial. Unlike jurors who make independent decisions in trial, arbitrators naturally want repeated business from employer or corporate entities. Hence, some arbitrators may find it hard to rule or award significant damages for consumers and employees.

The bias towards companies

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is practically built into the system. Elizabeth Bartholet, a law professor at Harvard and arbitrator with the National Arbitration Forum (NAF), was removed from arbitrating on her remaining cases when she ruled against a credit card company and sided with a consumer. Bartholet said that arbitrators know fully well that if they rule against corporations too often, their income will dry up.

Consumers and employees also rarely win in arbitration. A review of 34,000 recorded arbitration cases in California revealed that consumers lost 94 percent of the time. Even the arbitration industry agrees that corporations win most of the time. The bottom line is consumers have a greater fighting chance in the courtroom than in arbitration.

The ultimate consequence of agreeing to an arbitration provision lies on the individual's inability to seek redress from the courts. Consider the tragic story of Jamie Leigh Jones:

Jamie was a 20-year-old Halliburton employee in 2005 when she was sent to work in Iraq. While there, she was repeatedly raped, mutilated and disfigured by fellow employees within the company premises. The Depart-

ment of Justice apparently refused to investigate the matter criminally. Because she cannot have her day in criminal court, Jamie wanted to sue the company in civil court. Unfortunately, she was told by the company that any dispute with the company, even one involving charges of rape, must go to arbitration.

Four years from the day of her assault, Jamie is still uncompensated for her damages. She is currently asking the court for the right to sue her employer. Whether she will be allowed to do so is uncertain.

C. Joe Sayas, Jr., Esq. is an experienced trial attorney who has successfully obtained significant results, including several million dollar recoveries for consumers against insurance companies and big business. He is a member of the Million Dollar Advocates Forum—a prestigious group of trial lawyers whose membership is limited to those who have demonstrated exceptional skill, experience and excellence in advocacy. He has been featured in the cover of Los Angeles Daily Journal's Verdicts and Settlements for his professional accomplishments and recipient of numerous awards from community and media organizations. His litigation practice concentrates in the following areas: serious personal injuries, wrongful death, insurance claims, unfair business practices, wage and hour (overtime) litigation. You can visit his website at www.joesayaslaw.com or contact his office by telephone at (818) 291-0088. (Advertising Supplement)

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ATTY. JOEL R. BANDER

THE long waiting time for immigrant visa processing is an issue of important interest to Filipinos. The Philippines is one of the countries with the highest numbers of immigrants in the United States and longest waiting time period for immigrant visa processing. While visa numbers are immediately available to spouses, parents, and minor children of US citizens, other relatives of citizens and immigrants generally wait several years ranging from five to 22 years before they could immigrate into the United States.

A serious problem posed by the lengthy visa processing is the possibility of losing the petition when the petitioner dies before the beneficiary is granted the visa. Under the regulations, when the petitioner dies, an approved I-130 petition is automatically cancelled by operation of law. Thus, even if the petition has been approved and the beneficiary is only waiting to receive the immigrant visa, the petition automatically dies with the death of the petitioner.

However, this problem is ameliorated by an exception provided by the regulations that allows the US Citizenship and

Resurrecting the dead: Humanitarian reinstatement of I-130 Petitions

Immigration Services (USCIS) to grant discretionary reinstatement of "dead" I-130 petitions based on humanitarian reasons. To qualify for reinstatement, the petition must have been approved prior to the death of the petitioner. To invoke this benefit, the principal beneficiary of the visa petition has to request for reinstatement of the approval of the petition and establish that a substitute sponsor is willing to file an affidavit of support and the particular circumstances of the case warrant the reinstatement of the petition.

The substitute sponsor must either be a citizen or national or a legal permanent resident who is at least 18 years of age and has a domicile in the United States. A spouse, parent, mother-in-law, father-in-law, sibling, child at least 18 years of age, son, daughter, son-in-law, daughter-in-law, sister-in-law, brother-in-law, grandparent, or grandchild of the beneficiary may qualify as a substitute sponsor.

There are no clear rules as to what the USCIS must look at in exercising this discretionary authority. However, there is a clear intent that this authority should be used in those cases where revocation would be clearly contrary to the furtherance of justice. The following factors have been considered:

(1) Disruption of an established family unit;

(2) Hardship to US citizens or lawful permanent residents;

(3) If beneficiary is elderly or in poor health;

(4) If beneficiary has had lengthy residence in the United States;

(5) If beneficiary has no home to go to;

(6) Undue delay by DHS or consular officer in processing petition and visa; and

(7) If beneficiary has strong family ties in the United States. It is worth emphasizing that there is no appeal from a denial of a request for reinstatement. Hence, if one believes he or she has a good case for reinstatement, it is very important to ensure that the request is properly and completely done. It is always advisable to consult an immigration lawyer for guidance.

Bander Law Firm, LLP has been providing immigration services for over 15 years and has multilingual staff. Feel free to call Bander Law Firm, LLP at (213) 873-4333 to schedule your consultation regarding your legal concerns. Bander Law Firm provides a full range of legal services in the fields of Immigration, Mortgage Litigation, Personal Injury, Bankruptcy, Criminal and Removal Defense, Civil and Business Litigation, Wage and Hour Litigation and Class Action lawsuits.
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Does hell exist?

DEBT RELIEF



ATTY. LAWRENCE YANG

(Part 2)

LAST month I wrote about Bill Wiese's book called 23 Minutes in Hell. Jesus brought Bill to Hell to let him experience Hell and tasked him with the responsibility of telling people that Hell really exists. He said that he was placed in a prison cell carved from stone and there was no light but he could see that there were two hideous creatures with him in the cell. He knew that the creatures were evil and wanted to harm him. These creatures cursed God and hated God. Bill states that God is not in Hell. Thus, there is no good, no life, and no light in Hell because God is not there. It is there where Lucifer and his cohorts, his demons and minions have been banished forever by God. Unfortunately, humans who have not chosen to believe in Jesus as the Redeemer of Man are also banished there. Devils and demons torment the physical bodies of humans who go there but they do not die, they just feel the physical pain. But it is the absence of God in that place that creates the deepest feelings of hopelessness, despair and suffering, and complete absence of joy and happiness that will convince you to avoid going there at all costs.

Bill states that it was extremely hot in the prison cell and he was completely naked. Thereafter, he found himself next to an "enormous pit with raging flames of fire leaping high into an open cavern. As I looked up into the dark, eerie, tomb-like atmosphere, it seemed to be like a mouth that had swallowed her dead. The flames of her ravenous appetite were never satisfied with the pitiful screams of untold multitudes... The heat was far from bearable, and I desperately wanted to escape before I too would be thrown into that inferno." But how hot was it? Bill compares the heat in Hell to 2,000 to 12,000 de-

grees: "I am reminded of the devastation of the twin towers of the World Trade Center on September 11, 2001, when some people, rather than facing 2,000 degree heat, chose to plummet to their death by leaping out a window. A fall, especially from such great heights, must have been horrendous. It was reported that a person subjected to that temperature would be incinerated in about 15 seconds. Those people chose to make that leap rather than face the intensity of those flames for even 15 seconds. Some scientists have reported that the core temperature at the center of the earth is approximately 12 thousand degrees..."

But humans in Hell do not die. Fire does not incinerate their physical bodies. They just feel intense pain for eternity. Bill further states: "I could see the outlines of people through the flames. The screams from the condemned souls were deafening and relentless. There was no safe place, no safe moment, no temporary relief of any kind." So, if you think you're just going to go to hell and get incinerated in 15 seconds and cease to exist, you're wrong again. You will be in Hell for the rest of eternity getting barbecued by devils and demons and you will not be able to escape.

But you say you don't believe in Hell. Well, it doesn't matter what you believe. Even if you don't believe there is a place called Hawaii that looks like paradise on earth just because you haven't been there, Hawaii still exists. Isn't it logical to do what has to be done to exclude the possibility of not going to Hell just in case it did exist even if you do not believe that it exists?

All you people who have evil in your hearts, doing charity will not save you from Hell but accepting Jesus, as your Savior will.

If you need debt relief, contact my office. I will analyze your case personally.

Lawrence Bautista Yang specializes in bankruptcy, business, real estate and civil litigation and has successfully represented more than five thousand clients in California. Please call Angie, Barbara or Jess at (626) 284-1142 for an appointment at 1000 S. Fremont Ave., Bldg. A-1 Suite 1125 Unit 58, Alhambra, CA 91803. (Advertising Supplement)

To: Restaurant/Health Workers
All Underpaid Workers

From: Bander Law Firm, LLP

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California Law Entitles You to Overtime/ Minimum Wages/Interest/\$\$\$Penalties

Immigration Status DOES NOT MATTER.

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