

BALINT'S BULLETIN

CLIENT LAW UPDATE

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Access to Justice Denied-- Arbitration

I have been a member of the American Association for Justice (AAJ)—an organization that promotes the rights of injured persons and access to justice—since I began practicing law in 1974. In America today, vast swaths of the population have been deprived of any access to meaningful justice. Arbitration was originally conceived as an alternative to the court system. For the most part it can only be done by contract. Once there is a contract to arbitrate disputes, the courts are eliminated from the process. No one should have any problems with this, if—and it's a big "if"—the agreement is negotiated. Thanks to Republican control of Congress and the extreme rightward shift of our Supreme Court, arbitration contracts have been elevated to the level of sacred, even if not negotiated. Corporations have been inserting arbitration clauses in their contracts without consumers' knowledge. Look at the fine print of your credit card "agreement." The same is true of employment contracts, nursing homes admission agreements, internet provider and telephone contracts, etc. Whenever these so-called contracts exist, no matter how egregious the company's misconduct,

there is no right to be in court. The following is a summary of a recent AAJ press release:

"The American Association for Justice released a groundbreaking new report detailing the fundamental truths of forced arbitration using data provided by the arbitration providers themselves. The Truth About Forced Arbitration examines five years of data on consumer and employment forced arbitrations reported by the nation's two largest arbitration providers and found that **Americans are more likely to be struck by lightning than they are to win in forced arbitration.**

Though there are more than 800 million arbitration clauses estimated to be in effect, this new study found there are only 6,000 consumer arbitration claims filed every year. On average, only 382 consumers a year win a monetary award in forced arbitration.

Similarly, 60 million workers are subject to forced arbitration, but only 0.02% of these workers tried to pursue a claim. Over the five years studied, only 282 employees were awarded monetary damages in forced arbitration, which is less than one-tenthousandth of one percent of covered workers.

Over the five years studied, consumers brought 6,012 claims valued at at least \$3.7 billion

in damages. They won monetary awards in just 131 cases. In contrast, banks brought 137 cases, yet somehow won monetary awards in 314.

In the five years studied, there were only 16 nursing home arbitrations reported at AAA. Ten were brought by consumers and six were brought by corporations. No consumers won any of their cases while corporations won four of the six they initiated.

Given the prevalence of forced arbitration clauses, evidence of just how few cases are ever pursued through forced arbitration makes clear that forced arbitration is providing virtual immunity to Corporate America. This report offers a clear reason for the disparity between the number of forced arbitration clauses in effect and the number of cases that are ever filed by consumers and workers: forced arbitration is a rigged, secretive, corporate-designed system in which the odds are stacked

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against ordinary Americans.

According to Huffington Post, the report "shows that not only do companies typically emerge victorious from arbitration, but, perhaps more damning, they rarely even have to use the process."

Voting Recommendations: November Elections

November 5, 2019 is election day. Our hard-earned right to vote is precious. All eligible voters should use this right not only for major national elections but for all elections. Here in Washington State, it is particularly easy to vote by mail with free postage. All any of us has to do is look at our voters' pamphlet and consider the offices in play and the issues to be decided. Allow me to share one recommendation for statewide issues. I strongly recommend voting against I-976, a repeat attempt by political activist Tim Eyman to reduce our car tabs to \$30. Since no one likes to pay taxes, the knee-jerk reaction would be to vote for any initiative or law that reduces our taxes. But on both the national and local levels, reducing tax revenues creates huge deficits. These deficits result in reduced services or in additional borrowing. Borrowing by issuing bonds pushes off the problems to future generations and consumes debilitating chunks of tax money just for interest payments. There is no free lunch. Reducing revenues for the car license tabs, as painful as they are, would drastically affect the ability of our governments to address the deterioration of our infrastructure, including roads. Our roads and highways are a mess

already. Do we really want to allow them to deteriorate further?

For Seattle City Council I recommend (By Districts):

1. Phil Tavel
2. Mark Solomon
3. Egan Orion
4. Alex Pedersen
5. Debora Juarez
6. Dan Strauss
7. Jim Pugel

Medical Superstitions

Doctors, like almost everyone else, hold superstitious beliefs that they pass along to their patients. Drug companies in particular like to stoke superstition and create expectations of magical cures. Doctors should stop recommending treatments that are scientifically unproven. Each of us should heed the same avoidance of superstition. Here are some common medical beliefs which have been disproven by scientific studies:

- Fish oil reduces the risk of heart disease
- Children should not be exposed peanut products before age 3
- Ginkgo biloba extracts protect against memory loss and dementia
- Step counters and calorie counters guarantee weight-loss
- Vitamin C prevents colds and other maladies (including cancers)
- Multivitamins for most people promotes health
- Antibiotics should be prescribed for colds and other viruses

Doctors are partially responsible for our opioid crisis and the high cost of drugs. First, by overprescribing narcotics and not closely monitoring patients who take them. Second, by giving in to patients who request certain drugs they see advertised on television.

Smoking Again

My law practice consists almost exclusively of personal injury cases, including medical and legal malpractice. For 45 years, I have been helping people whose lives have been drastically changed due to someone else's negligence. Yet as the philosopher Maimonides observed 700 years ago, many of our miseries are self-induced. One sure way to create miseries is to smoke. I watched my mother die of lung cancer after a lifetime of smoking. Despite being informed about the dangers of smoking, 42 million Americans still smoke. The tobacco companies, ever clever and devious, often target young people. Today, 9 of 10 smokers started smoking before the age of 19. Vaping is just the latest trick to hook young people on nicotine and on the smoking habit. Every day, nearly 4,000 youngsters light up their first cigarette or its equivalent. Statistically, 1,000 of them will become lifetime smokers. At least 21 serious illnesses, including various cancers, are associated with smoking. Chronic kidney disease is just one example, the treatment for which costs the American taxpayer \$60 billion a year. Scientists estimate that 480,000 premature deaths each year are caused by these 21 diseases. I hate to see my clients and friends succumb to these maladies. The most efficient attack is to prevent smok-

ing in the first place, including products targeted to kids. Once hooked there are programs to help quit smoking. The Affordable Care Act requires that insurers cover programs to quit smoking, with no co-pays and for at least two efforts a year involving four counseling sessions and free anti-addictive drugs. Please quit and support any and all legislative efforts to reduce smoking.

HBO Special: True Justice: Bryan Stevenson's Fight for Equality

I recommend watching this documentary at <https://www.hbo.com/video/documentaries/true-justice-bryan-stevenson-s-fight-for-equality/videos/full-documentary>

Expert Witness—Translations into English

"I recently called an old engineering buddy of mine and asked what he was working on these days. He replied that he was working on 'Aqua-thermal treatment of ceramics, aluminum and steel under a constrained environment.' I was impressed until, upon further inquiry, I learned he was washing dishes with hot water under his wife's supervision."

Thanks to my friend Maureen O'Hara for this little tidbit. I've struggled over the last 45 years to getting doctors and other expert witnesses to bring their technical jargon down to ordinary English. This story is a perfect example.

Snapple Trivia

I drink diet Snapple and like many others enjoy the trivia offered on the bottle caps. Here are some of them:

- The Bible is the world's most shoplifted book.
- Flamingos turn pink from eating shrimp.
- If you keep a goldfish in a darkroom it will eventually turn white.
- An ant's sense of smell is stronger than a dog's.
- Elephants are the only mammals that cannot jump.
- Your mind blanks over 10 million times a year.
- The tongue is the fastest healing part of the body.
- The average human produces 10,000 gallons of saliva in a lifetime.
- No word in the English language rhymes with month [also, purple, orange, silver, wolf, opus, dangerous, marathon, discombobulate].



Cranky Old Man

I feel particularly sensitive to challenges facing the elderly. There are many reasons for this sensitivity. Above all, my mother worked at one of the premier nursing homes in this country, The Kline Galland Home in Seattle. I spent time there during junior high school and high school talking with some of the residents, playing chess with one of them (I never won), keeping

them company, and listening to the stories of their lives. My first real job, in fact, was at the Galland Home. The other more recent reason for my sensitivity: I am getting there myself. So this anonymous poem sent to me by Maureen O'Hara resonated with me:

What do you see nurses?
. What do you see?
What are you thinking . . . when
you're looking at me?
A cranky old man, not
very wise,
Uncertain of habit with
faraway eyes?

Who dribbles his food and
makes no reply.
When you say in a loud voice . .
'I do wish you'd try!'
Who seems not to notice . . . the
things that you do.
And forever is losing A
sock or shoe?

Who, resisting or not lets you
do as you will,
With bathing and feeding
The long day to fill?
Is that what you're thinking? . . . Is
that what you see?
Then open your eyes, nurse . . .
you're not looking at me.

I'll tell you who I am As I
sit here so still,
As I do at your bidding, as I
eat at your will.
I'm a small child of Ten with
a father and mother,
Brothers and sisters who
love one another.

A young boy of Sixteen
with wings on his feet.
Dreaming that soon now a
lover he'll meet.
A groom soon at Twenty
my heart gives a leap.
Remembering, the vows
that I promised to keep.

At Twenty-Five, now I have
young of my own.
Who need me to guide And a
secure happy home.
A man of Thirty My young
now grown fast,
Bound to each other With
ties that should last.

At Forty, my young sons
have grown and are gone,
But my woman is beside me
to see I don't mourn
At Fifty, once more, Babies
play 'round my knee,
Again, we know children My
loved one and me.

Dark days are upon me My
wife is now dead.
I look at the future I shud-
der with dread.
For my young are all rearing

young of their own.
And I think of the years
And the love that I've known.

I'm now an old man and
nature is cruel.
It's jest to make old age
look like a fool.
The body, it crumbles
grace and vigor, depart.
*There is now a stone
where I once had a heart.

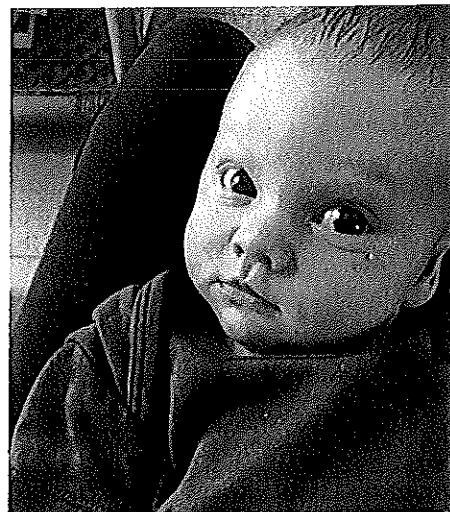
But inside this old carcass
A young man still dwells,
And now and again my
battered heart swells.

I remember the joys I
remember the pain.
And I'm loving and living
. . . life over again

I think of the years, all too few .
. gone too fast.
And accept the stark fact
that nothing can last.
So open your eyes, people
. . . open and see.
Not a Cranky Old Man! -- Look
closer see ME!

Ida Balint

I want everyone to meet the
newest edition to the Balint clan.
Ida was born on July 14, 2019.
Her parents are Benjy Balint &
Karina Korecky .



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