

## Index to the AHLA Arbitration Toolkit Case Grid

1. **Decision Date** – The date that the case was decided by the court in MM/DD/YYYY format.
2. **Case Name** – The style of the case as it appears in the decision.
3. **Provider Type** – Corresponds to the type of health care provider determined based on who the principle defendant in the case was that was sued by a patient or consumer in the case. The abbreviations are as follows:

<i>NH</i>	=	Nursing Home (whether a skilled nursing facility or nursing facility)
<i>ALF</i>	=	Assisted Living or other type of long term care term care facility other than a nursing home.
<i>HOSP</i>	=	Hospital
<i>MD</i>	=	Physician or other type of individual provider (as opposed to a facility)
<i>OTHER</i>	=	Any provider defendant that does not fit into the above categories.
4. **Jurisdiction** – Since most of the cases are state court cases or cases deciding questions of primarily state law, the jurisdiction corresponds to the two-letter abbreviation of the state in which the case is brought, even if the case was brought in federal court.
5. **Court** – This field identifies whether the court that decided the case was a trial court, an appellate court, or the Supreme Court or other highest court in the state. Please use one of the following abbreviations (no periods):
  - “*TRL*” if the decision is a state trial court decision or order or if the case is a U.S. District Court Case
  - “*APP*” if the decision is that of the intermediate appellate level in the state (usually court of appeals or a U.S. Court of Appeals decision
  - “*SC*” if the case was heard by the highest state court or is a U.S. Supreme Court case.
6. **Arbitration Enforced / Not Enforced?** – This field identifies if the arbitration agreement was upheld or not. “Yes” means the court ordered enforcement of the arbitration agreement and “No” indicates they did not.
7. **Condition of Admission or Services?** – This field identifies if the facility using the arbitration agreement included within the agreement that the clause was a condition of admission to the facility or of receiving services in the facility. The abbreviations are as follows:

<i>REQ</i>	=	The facility required the arbitration agreement to be signed prior to and as a condition of admission or receiving services and there was <b>no</b> recession or opt out clause.
<i>OPT</i>	=	The facility required the arbitration agreement to be signed as a condition of admission or receiving services, <b>BUT</b> the agreement did contain a recession or opt out clause.
<i>VOL</i>	=	Executing the agreement was a purely voluntary choice for the consumer and was not a condition of admission, regardless of whether there was an opt-out clause.
<i>N/A</i>	=	The information on the agreement is not available from the facts of the case.

8. **Issues Addressed Section** – This section attempts to index for the user what issues are decided in the case by using a “check box” approach to the most common issues that come up in these type of arbitration cases. The issues are listed across the top –

***Unconscionability*** – The issue of substantive or procedure unconscionability was an issue in the case or was decided, if this column is marked with an “X”.

***Federal Arbitration Act Preemption*** – The court’s opinion discussed or addressed whether the arbitration clause at issue was governed by the Federal Arbitration Act, if this column is marked with an “X”.

***Violation of CMS Regulations*** – For arbitration agreements that come up in the nursing home setting, plaintiffs often make the argument that the agreement violates 42 C.F.R. §483.12 which prohibits skilled nursing facilities and nursing facilities from accepting additional “consideration” as a condition of admission or continued stay. If this issue or the issue of consideration for the agreement was discussed or decided, this column is marked with an “X”.

***Capacity/ Authority of Signing Party*** – If the court’s opinion discussed or addressed whether the party or parties that signed the agreement actually had the authority to bind the plaintiffs or the resident to the agreement (e.g., if a family member signed the agreement and the court declined to enforce it because the resident did not grant them that authority), this column is marked with an “X”.

9. **Signator(s) to the Agreement** – Often in these cases an important issue is who signed the agreement. This column indicates what individuals signed the agreement based on the facts of the case. The abbreviations are as follows:

<i>PT</i>	=	<b>Resident or Patient.</b> “PT” if the individual who received the services signed the agreement. This could be a resident or patient in the case of a facility defendant, or a patient in the case of a doctor.
<i>RP</i>	=	<b>Responsible Party.</b> “RP” if an individual acting as the responsible party (BUT NOT UNDER COLOR OF LAW) signed the agreement. For example, a family member or spouse, or a child would be classified as a responsible party.

**NOTE:** If the individual is the Durable Power of Attorney or has been appointed as a conservator or surrogate under state law, use the “LREP” notation and not “RP”.

*LREP* = **Legal Representative.** The individual who signed the agreement signed as the patient’s legal representative, and was empowered to do so by operation of some state statute. This could include a conservator, guardian, power of attorney, health care power of attorney, or surrogate under state law.

*N/A* = **Not Available.** The information on who signed the agreement is not available from the facts of the case.

If more than one party signed the agreement, **ALL** the individuals that signed are noted by using more than one notation.

10. **Limitations Beyond Forum Change** – If it was possible to identify from the facts of the case whether the arbitration agreement does more than change the forum of the dispute (i.e., limit damages, take away remedies, etc.) it is noted either “**YES**” in this column if the agreement does so, or “**NO**” in this column if the agreement does not do so. If that could not be determined, “**N/A**” is noted.

11. **Citation** – The citation to the case in a standard legal citation format.