



# JUSTICE FOR ALL

Quarterly Publication of Benjamin W. Glass, III, & Associates

Volume 4, No. 4

www.injury-law-va.com

Winter 2001/02

## In This Issue...

PAGE 1  
Mandatory arbitration provisions

PAGE 2  
Driving under the influence

Senior scams

Red light running

PAGE 3  
Natural gas safety

Second medical opinions

Who's tougher? Juries or judges?

PAGE 4  
Laser vision surgery

Automobile accidents

Justice for All is published by the law offices of Benjamin W. Glass, III, & Associates. It is for informational purposes only and no legal advice is intended. Each case is different and you are invited to discuss your legal question with Mr. Glass at no initial cost.

Tel: 703-591-9829  
800-683-7427

email: bglass@vamedmal.com

CHECK US OUT ON THE INTERNET!

www.injury-law-va.com

Visit our Web site for lots of good information.

- How to Find an Attorney
- What is Medical Malpractice?
- What to do if You are Denied Insurance Benefits

## Mandatory arbitration provisions

There's an old phrase that's truer than ever:

*The large print giveth,  
and the small print taketh away.*

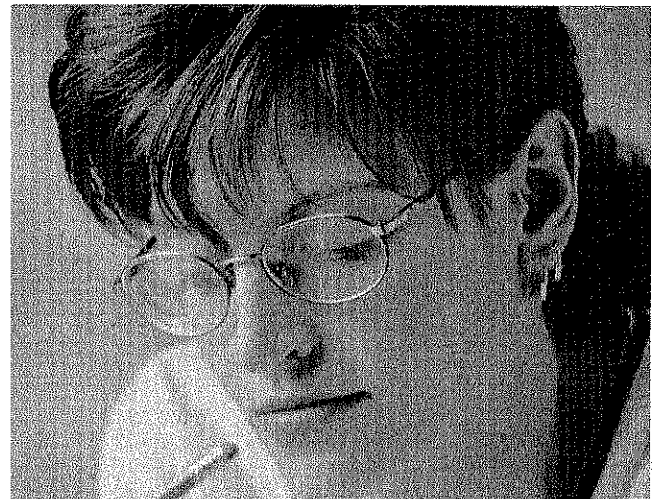
Corporate America has found a new way to take away consumers' and employees' rights. On one hand, companies run impressive consumer, health-care, insurance, and employment ads to market their products and services. On the other, they simultaneously insert mandatory arbitration clauses into the fine print of contracts. They then require consumers or employees to sign these contracts in order to buy a product or service, or get hired. These clauses force consumers and employees to give up their right to take disputes to court.

For instance, consumers may find mandatory arbitration contracts tucked into packaging of products they purchase—which manufacturers consider acceptance of the arbitration requirement. In some places, auto dealers make buyers sign on the mandatory arbitration line before buying cars. A number of health-care providers, and even doctors, compel patients to acquiesce to mandatory arbitration before they will care for them.

What's wrong with mandatory arbitration provisions? Plenty. They bypass people's rights to seek remedies through the civil justice system and leave them not only unprotected against wrongdoing, but afford them little recourse in disagreements. Further, the low-key way in which businesses often present mandatory arbitration provisions fails to make it clear to consumers or

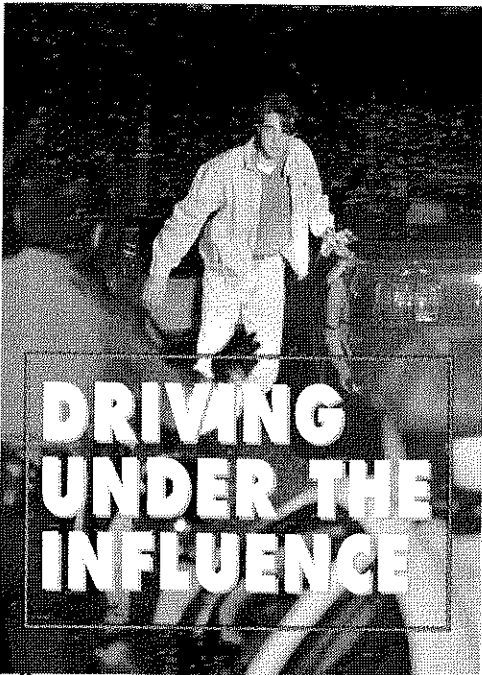
employees what they are really consenting to.

- Mandatory clauses can take away people's right to trial by jury *without their knowing consent.*
- These phrases legally bind consumers to arbitration at the time of purchase, *but many buyers first learn they've given up their rights only after a dispute occurs.*
- Most mandatory arbitration clauses allow the business or employer to unilaterally select the arbitrator.
- Some mandatory arbitration provisions *actually compel workers to pay for the services of firms that arbitrate employment disputes.*



**Consumer groups, elected representatives, and attorneys representing consumers and employees are fighting back against unfair mandatory arbitration tactics. In the meantime, don't forget to always read the fine print in all documents you are asked to sign! If you have questions about your rights, please contact an attorney.**

Protecting the future.



**D**riving under the influence (DUI) is wrong, and no one should ever do it. But drivers who have been arrested for DUI have the right to a comprehensive defense against the charge. Those convicted of DUI may go to jail, face severe financial difficulties, and have difficulty obtaining rehabilitative treatment or purchasing auto insurance.

DUI arrests are not always impartial or evenhanded. For instance, did the state apply due process fairly? Can police fully justify their evaluation and arrest as proper and legal? Was breath or blood testing accurate? *What can drivers do to minimize the potential of DUI arrest?*

■ Don't drive at all when consuming alcohol.

- Designate someone who will avoid all alcohol consumption and drive others to from parties and places of entertainment.
- Select no- or low-alcohol beverages for consumption.

*What should drivers do if stopped or questioned by law enforcement authorities for potential DUI?*

- Remember that almost all states impose penalties for refusing to take blood, breath, urine, or other tests.
- Never try to run or escape from police.
- Avoid making any statements whatsoever to law enforcement officials.
- Obtain the counsel of an attorney as soon as you can after being stopped or detained for alleged DUI.

## SENIOR SCAMS

**W**hile unscrupulous thieves are indiscriminate in their targets, they know that many seniors have good sums of money saved up and look for ways to fleece them.

Anyone with elderly relatives and friends should caution them about the following dishonest con games designed to take advantage of their good will and friendliness.

### Living trusts

Most seniors need a will and some relatively simple estate planning. Law enforcement authorities, however, are hearing about seniors being greatly overcharged for complicated legal documents and services that they really don't need.

### Education scholarships

Grandparents—and their grandchildren—are targeted by phone and mail scholarship scammers. With tuition increases challenging family budgets, everyone should be wary of scholarship offers that require a fee or down payment, or that identify students as finalists in scholarship programs never applied for.

### Bank examiners

Sounding very official, a swindler may call a senior and say that computer records show that someone is trying to make withdrawals from their bank accounts. If the senior provides a "confirming" account number, a real withdrawal is made.



## RED LIGHT RUNNING

### Pedestrians beware

**T**he Department of Transportation's Federal Highway Administration and its "Stop Red Light Running" program reported that 1.8 million intersection crashes occur annually, with costs to the public exceeding \$7 billion. According to 1998 federal government statistics, irresponsible drivers who ran through red lights were responsible for auto crashes that resulted in more than 80,000 injuries and nearly 1,000 deaths.

The situation is serious when more than half of all drivers admit to running red lights, and nine out of ten pedestrians are afraid of being struck by automobiles when they are properly crossing streets at intersections. To be safer, pedestrians should do the following:

- Look left, right, and left again before entering crosswalks.
- Listen for cars, too.
- Follow traffic controls and "Walk/Don't Walk" signals.
- Use crosswalks and safety islands. Never cross from between cars.

### A jury decides

A young woman properly crossing an intersection was struck by a driver, resulting in severe head injuries and knee damage requiring surgery. A former full-time teacher, the woman could work only part-time. When she sued, a jury awarded a monetary verdict to compensate for her loss of income, noting that the driver was responsible because she failed to stop at a red light.

## Natural gas safety

Natural gas utilities protect consumers by posting "No Excavation" signs near pipelines and inspecting gas leaks quickly. Gas products manufacturers equip furnaces, hot water heaters, and other appliances with automatic shutoff valves to prevent problems, too.

Homeowners can take many steps to use natural gas safely. They can have their utility supplier or heating/plumbing firm periodically inspect and adjust gas appliance controls, venting, and safety shut-offs. Services can also test for carbon monoxide presence.

Gas consumers can install carbon monoxide detectors in bedrooms, store flammable materials away from gas appliances, keep gas service emergency telephone numbers at hand, and train their families in effective fire safety and escape practices.

Finally, homeowners can also address gas appliance comfort and safety issues by inspecting and changing furnace air filters to keep circulated air cleaner and setting hot water temperatures at moderate levels to avoid scalds.

### When utilities err

When a homeowner reported the odor of gas, utility workers discovered a leak in a service line across the street from his residence but did not check his home. Several weeks later, the homeowner lit a cigarette lighter outdoors, causing an explosion and flash fire, which resulted in his death several days later. The gas utility settled a wrongful death lawsuit brought by survivors when their lawyer demonstrated that the utility had failed to detect a natural gas leak and replace a service line to the man's home, even though there had been hundreds of line failures due to corrosion over the previous 25 years.



## Second medical opinions

No one should ever feel uncomfortable or awkward about obtaining a second opinion for diagnosis or treatment of a medical problem. As consumers, we usually comparison shop for the best deal on a home appliance or for an office photocopier, so becoming involved in obtaining the highest-quality medical health care should go without saying.

Patients should always understand their medical situations. Some studies show that many suggested surgeries may be unnecessary. Insurance carriers encourage patients to obtain second opinions in many situations. Physicians often welcome second opinions on their assessments from medical colleagues.

To obtain a second medical opinion on a diagnosis, treatment, prescription, biopsy, x-ray, medical test,

diagnostic assessment, or other medical counsel, start with a personal physician. But patients can also seek potential referrals from other doctors, medical societies, relatives, friends, and neighbors. No matter what the approach, feeling comfortable and confident about resolving health issues is the key.

### Failure to diagnose

A patient became unable to walk, following several years of varying treatments for her serious hip and back pain. Her doctor's practice settled out of court when her lawyer demonstrated that the disability resulted from her primary care physician failing to diagnose a spinal cord tumor in a timely manner.



## Who's tougher? Juries or judges?

Anyone listening to the media or water-cooler gossip might think that American juries are out of control, awarding multimillion-dollar settlements quickly and frequently.

Not so, say the Bureau of Justice Statistics and National Center for State Courts, which looked at more than 10,000 state court injury trials in the 75 largest American counties.

It is judges—not juries—who award larger sums. And as for multimillion-dollar awards, juries can be called closed-fisted compared with judges. Very few verdicts are large.

- A trial by jury resulted in punitive damages only 2.5 percent of the time, while a trial before a judge saw punitive damages 7.9 percent of the time—triple the rate.

- The median award from a judge—\$75,000—was higher than the median award from a jury—\$27,000. Again, that's nearly three times higher for the judge.

- Most punitive awards were for less than \$40,000.

Theodore Eisenberg, a Cornell Law School professor who analyzed the Justice Department study, called the results staggering, noting that the "stereotype is that juries are pushovers for plaintiffs... the perceptions are just the opposite of what we are seeing."

The survey concluded that despite the occasional "big money" awards that make headlines, punitive awards are relatively rare and serve an important purpose—to punish businesses that do not look out for the best interests of their employees and customers.

LAW OFFICES  
BENJAMIN W. GLASS, III, & ASSOCIATES  
SUITE 22-B  
3915 OLD LEE HIGHWAY  
FAIRFAX, VA 22030

JUSTICE FOR ALL

PRESORTED  
STANDARD  
U.S. POSTAGE PAID  
MAILED FROM ZIP CODE 17604  
PERMIT NO. 242

Return Service Requested

MEDICAL MALPRACTICE  
AUTOMOBILE ACCIDENTS  
SERIOUS PERSONAL INJURY  
DISABILITY LAW  
INSURANCE DISPUTES  
WRONGFUL DEATH  
LEGAL MALPRACTICE  
TAX MALPRACTICE

*Representing Individuals Against Insurance Companies, Corporations, and the Government*

## Laser vision surgery

The LASIK (*Laser-Assisted In Situ Keratomileusis*) vision-correction procedure is enjoying phenomenal growth as one of our nation's most popular elective surgeries. LASIK surgeons use a computer-operated laser to cut a circular flap in the eye to improve patients' vision.

The procedure was approved by the Food and Drug Administration in 1995 but has some potential side effects. An estimated three percent of patients—30,000 of 1.8 million undergoing the procedure—may suffer lasting complications, such as double vision, halos, and starbursts surrounding light sources at night. Some patients get dry eye syndrome.

Although many patients enjoy improved vision following LASIK surgery, more than a dozen negligence suits have been settled, and more are pending. Critics claim the procedure's promoters promise too much, understate risks, and license underqualified facilities.

### **SURGICAL RISKS**

A patient sued his ophthalmologist after suffering vision limitations following LASIK surgery. The patient's attorney obtained a structured settlement, alleging that the surgeon negligently performed the procedure by keeping the laser on the eye too long.

## Automobile accidents

If you have been injured in an automobile accident, there is no reason not to talk to an attorney immediately, even if you are not ready to hire one.

While accident cases were at one time relatively simple to handle, today they can be very complex. Each case brings with it a host of issues, many of which revolve around the availability and coordination of insurance benefits. For over 18 years, **Mr. Glass** has been representing people injured in accidents. He can give you advice regarding

- Whether you should attempt to negotiate with the insurance company directly (surprisingly, this is not always a bad idea).
- Whether you should sign form releases that the insurance company sends you (usually a bad idea).
- How your own automobile insurance policy may provide payment for medical bills, even if you have other medical insurance.
- Whether to see a doctor recommended by an attorney (the kiss of death to your case in northern Virginia).
- What steps need to be taken to preserve evidence.
- What your time limits are.

All of this information is available at our Web site, [www.injury-law-va.com](http://www.injury-law-va.com), and we are more than happy to meet with you, at no charge, for an initial consultation. There is never any obligation to hire us, and if we do not believe that we can add value to your recovery, we will tell you so.