



The *Hearden* Decision: Keeping Wrongful Death Claims out of Arbitration

By Michelle Buxton Hemesath, Esq.

The recent opinion of *Hearden v. Windsor Redding Care Center, LLC* (2024) 103 Cal.App.5th 1010, 324 Cal.Rptr.3d 33 is an important case for plaintiff attorneys seeking to keep wrongful death claims out of arbitration. This case underscores that arbitration agreements signed by residents or their agents do not bind wrongful death heirs, particularly when the underlying action involves elder abuse. It reinforces the independent nature of wrongful death claims and the protection afforded to heirs under California law.

In reaching its conclusion, the *Hearden* court built upon principles outlined in *Avila v. Southern California Specialty Care, Inc.* (2018) 20 Cal.App.5th 835, 230 Cal.Rptr.3d 42. In *Avila*, the court distinguished between elder abuse and professional negligence, emphasizing that claims involving custodial neglect are fundamentally different from those involving professional medical treatment. This distinction proved pivotal in rejecting arbitration in *Hearden*.

Facts and Holding of *Hearden*

The *Hearden* case involved several families, including the Riggs,

Jones, and Martinez families, each presenting unique challenges to the defense’s motion to compel arbitration. These families alleged elder abuse, negligence, violations of the Patient’s Bill of Rights (Health & Safety Code § 1430), unfair business practices, wrongful death, and fraud, following the deaths of their loved ones from COVID-19 complications at Windsor Redding Care Center.

The Riggs Family: Mr. Riggs signed an arbitration agreement on behalf of his wife, purporting to bind her survivorship claims under Code of Civil Procedure § 377.32. However, Mr. Riggs

did not agree to arbitrate his own wrongful death claims. Moreover, the couple’s three adult sons, who also filed wrongful death claims, had not signed any arbitration agreements.

The Jones and Martinez Families: In both cases, arbitration agreements were signed by family members without legal authority to act on behalf of the decedent. The Jones family’s daughter expressly stated that she lacked agency, while the Martinez family’s brother similarly had no power of attorney or formal authorization. The court

found no evidence to support the defense's arguments that these family members had authority to bind their respective wrongful death claims to arbitration.

The trial court declined to compel arbitration, and the facility appealed.

The Difference Between Elder Abuse and MICRA in Wrongful Death Actions

The Medical Injury Compensation Reform Act (MICRA) was designed to limit healthcare providers' liability in medical malpractice cases, including caps on non-economic damages (California Civil Code § 3333.2) and arbitration mandates (§ 1295). However, MICRA does not extend to wrongful death actions based on elder abuse rather than professional negligence.

This distinction is crucial because it allows plaintiffs to sidestep MICRA's constraints, pursue higher damages, and avoid arbitration, which disproportionately benefits defendants. Elder abuse laws aim to protect society's most vulnerable individuals by holding caregivers and facilities accountable for neglect or mistreatment. These protections recognize that the elderly, often entirely reliant on their caregivers, require robust legal recourse for harm.

A significant case shaping this distinction is *Ruiz v. Podolsky* (2010) 50 Cal.4th 838. In *Ruiz*, the California Supreme Court held that arbitration agreements can bind wrongful death heirs even if they are nonsignatories, aligning with MICRA's intent to reduce litigation costs and promote arbitration. However, *Ruiz* also strongly

suggests that MICRA provisions, including § 1295 (arbitration) and § 3333.2 (damage caps), should not apply in elder abuse-based wrongful death actions. This interpretation enables plaintiffs to challenge MICRA's applicability and ensures full judicial scrutiny and fair compensation in such cases.

Why *Ruiz* Did Not Apply in *Hearden*

While *Ruiz* established that arbitration agreements could bind wrongful death heirs in certain circumstances, the factual and legal distinctions in *Hearden* rendered *Ruiz* inapplicable. A breakdown of the families' situations clarifies why:

The Riggs Family

Agency for Elder Abuse Claims: Mr. Riggs signed the arbitration agreement on behalf of his wife, making him her authorized agent for the purpose of her survivorship claims. As such, the arbitration agreement was valid as it pertained to her elder abuse claim.

No Binding Effect for Wrongful Death Claims: However, Mr. Riggs did not bind himself to the arbitration agreement for his own wrongful death claim. Additionally, his three adult sons, who also brought wrongful death claims, had not signed the arbitration agreement and could not be bound by it.

Risk of Inconsistent Rulings: Allowing only the survivorship claims to proceed in arbitration while litigating the wrongful death claims in court would have created a significant

risk of inconsistent rulings on overlapping factual issues, such as the facility's failure to control infection and provide adequate care. Code of Civil Procedure § 1281.2(c) provides that arbitration can be denied where "[a] party to the arbitration agreement is also a party to a pending court action or special proceeding with a third party, arising out of the same transaction or series of related transactions, and there is a possibility of conflicting rulings on a common issue of law or fact." Based on this, the trial court properly denied arbitration for all claims.

The Jones and Martinez Families

No Valid Agency Authority: Both families presented evidence that the arbitration agreements were signed by family members who lacked agency authority to act on behalf of the decedents. The Jones family's daughter explicitly stated she lacked authority, while the Martinez family's brother was not authorized through any formal document, such as a power of attorney.

Independent Nature of Wrongful Death Claims: Wrongful death claims are independent statutory actions under Code of Civil Procedure § 377.60 and are not derivative of the decedent's rights. Accordingly, these claims could not be bound by the arbitration agreements.

Court's Rejection of the Defense: The court rejected the defense's argument that familial relationships alone could establish agency,



affirming that arbitration agreements did not bind the Jones or Martinez families' wrongful death claims.

Why *Hearden* Matters

The *Hearden* decision is a cornerstone ruling for plaintiff attorneys seeking to challenge arbitration agreements and clarify the scope of MICRA in elder abuse cases. While *Hearden* explicitly rejected the applicability of *Ruiz* as to arbitration agreements in cases founded on elder abuse, its implications extend far beyond arbitration.

Under California Civil Code § 1295, arbitration provisions are treated as part of MICRA, sharing the same or similar definitions and framework as other MICRA statutes. If *Hearden* demonstrates that MICRA's arbitration statute does not apply to cases rooted in elder abuse, this logically supports the broader argument that wrongful death cases predicated on elder abuse and reckless neglect—rather than

professional negligence—should not be subject to MICRA at all.

This interpretation carries critical consequences for plaintiffs. Most importantly:

No Cap on General Damages:

By establishing that wrongful death claims arising from elder abuse fall outside the bounds of MICRA, plaintiffs can argue that the non-economic damages cap under Civil Code § 3333.2 should not apply. Such claims, rooted in reckless neglect rather than negligence, aim to address egregious care failures that MICRA was not designed to shield.

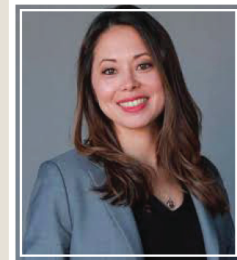
No Arbitration Mandates:

Following *Hearden*, plaintiffs can resist arbitration clauses under Civil Code § 1295 in elder abuse-based wrongful death claims, preserving their right to pursue justice in court.

Strengthening the Distinction Between Negligence and

Reckless Neglect: The decision reinforces the principle that claims involving reckless neglect and systemic failures—such as understaffing or lack of infection control—are fundamentally distinct from professional negligence and should be treated accordingly under the law.

By limiting MICRA's application in elder abuse cases, *Hearden* provides a powerful precedent for plaintiffs to seek full and fair compensation, including uncapped general damages, and avoid the procedural disadvantages often imposed by arbitration agreements. This decision encourages courts to ensure that elder abuse and wrongful death cases receive the judicial scrutiny they deserve, protecting some of society's most vulnerable individuals and their families.



Michelle Buxton Hemesath is a 50% owner of Ikuta Hemesath, LLP, focusing on representing injured victims and their families. She began her legal career defending healthcare providers, gaining invaluable experience and insight into insurance company strategies and complex medical issues. In April 2022, she co-founded Ikuta Hemesath, LLP, bringing her extensive knowledge to advocate for plaintiffs in medical malpractice cases. Michelle and her firm sought publication of the *Hearden* case, which was granted.