

Contract Law

A factual finding cannot be overturned on appeal simply because the record contains credible evidence to the contrary. An agency cannot be created by the conduct of the agent alone; conduct by the principal is essential to create the agency. Where the signatory to an arbitration agreement disputed a nursing home's account of when the agreement was signed, and she avered that she did not have authorization to sign the agreement on behalf of her mother, sufficient evidence supported a court's finding that the agreement did not waive the signatory's ability to litigate claims as the mother's successor-in-interest. A nursing home's arbitration agreement was procedurally unconscionable as to a signatory who had signed the agreement as the representative of a resident where the agreement did not state that a person who signs as a resident's representative is agreeing to be bound in both her individual and representative capacity.

Lopez v. Bartlett Care Center; Fourth District, Div. Three; filed July 30, 2019,
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