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Contracts - Infant Bound as Third Party Beneficiary, Doyle v. Giuliucci, 43 Cal Rptr., 297 (1965)

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The Supreme Court used a subjective test in that case and the parol evidence rule was not applied.

In light of the *Durham* and *High Knob* cases a more progressive outlook may be taken by the Virginia courts toward the parol evidence rule. This will be accomplished by a greater utilization of the partial integration and collateral contracts doctrines as exceptions to the parol evidence rule.

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Contracts—INFANT BOUND AS THIRD PARTY BENEFICIARY. Plaintiff's father entered into a contract for medical service with the defendant Ross-Loos Medical Group, the agreement providing coverage for the plaintiff, Robin Doyle, an unemancipated minor, and including a provision for settling disputes by arbitration. A malpractice claim was brought under the policy on behalf of the infant daughter; Ross-Loos referred the matter to arbitration as set forth in the contract. The board of arbitrators found against the infant on the evidence and the lower court entered judgment for the defendant, denying the plaintiff's contention that Robin Doyle, as a minor, could avoid the contract and award and bring a common law action. In *Doyle v. Giuliucci*[1] the California Supreme Court affirmed the findings, holding that the best interests of the child would be served by maintaining the integrity of the contract.

Several previous decisions seem to lay down the rule that should have been decisive here, *i.e.*, the concept that an infant may avoid an arbitration clause in a contract to which he is a party.[2] However the California court held that while an infant may perhaps not bind himself to arbitration in a contract, his parents, in fulfilling a legal duty to provide medical care to the child, can bind the minor as a third party beneficiary. Yet, similiarly, it has also been well established,[3] even in ancient law,[4] that a guardian may not commit his ward's interests to arbitration for the same reasons that the minor himself may not. The only uncertainty

1. Doyle v. Giuliucci, 43 Cal. Rptr. 297, 401 P.2d 1 (1965).

2. Millsaps v. Estes, 137 N.C. 535, 50 S.E. 227 (1906); Jones v. Payne, 41 Ga. 23 (1870); Jones v. Phoenix Bank, 8 N.Y. 228 (1853).

3. Hume v. Hume, 3 Pa. St. 144 (1846); Fowler v. Lewis, 36 W.Va. 112, 14 S.E. 447 (1892).

4. FL. 1. 4, t. 8, s. II, art. 1. (V). (Code of Justinian).

has been whether such an agreement is only voidable or absolutely void.[5]

The justification for this ancient concept stems from the thought than an infant is not possessed with sufficient understanding to prevent himself from being harmed in legal transactions.[6] In the words of a Virginia court in one of the classic explanations of why infant protection is extended to arbitration it was held:

> Although infants are bound by judgments had under the superintendence and protection of the court, yet, where the case is referred to arbitrators, whereby they are deprived of that protection, a submission by infants, even by rule of court, ought not to be sanctioned.[7]

The California court, however, passes over this argument by simply observing that under the California statutes the issue of what is properly the subject of arbitration and the award itself are both reviewable by the court, hence affording the infant the maximum of protection.[8]

The primary reason for the departure from the old rule is the simple realization that an infant will be denied the benefits of prepaid health care unless the insurance companies can be certain that their interests will be protected. At present more than 75% of all Americans have contracted for medical care through some form of health insurance, an indication of the substantial benefits inherent in such a program.[9] In balancing the equities the court concluded that the advantages accruing from this 20th century development far outweigh the possible harm that could result from unfair arbitration of claims.

But this decision may well have significance beyond the narrow field of health insurance contracts for the court observed: "If minors are always free to disaffirm arbitration awards . . . they would be effectively denied the benefits of arbitration." [10] The uncomplicated rationale of this case could easily be extended to all situations involving minors in arbitration.

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5. Chambers v. Kerr, 6 Tex. Civ. App. 373, 24 S.W. 1118 (1894).
6. Millsaps v. Estes, 137 N.C. 535, 50 S.E. 227 (1906).
7. Britton v. Williams, 20 Va. 453 (1819).
8. CAL. CODE CIV. PROC. § 1281.2, 1286.2, 1287, 1294.
9. BUREAU OF STATISTICS, 773 STAT. ABS. at 481 (1965).
10. Doyle v. Giuliucci, *supra* note 1, 401 P.2d at 3.