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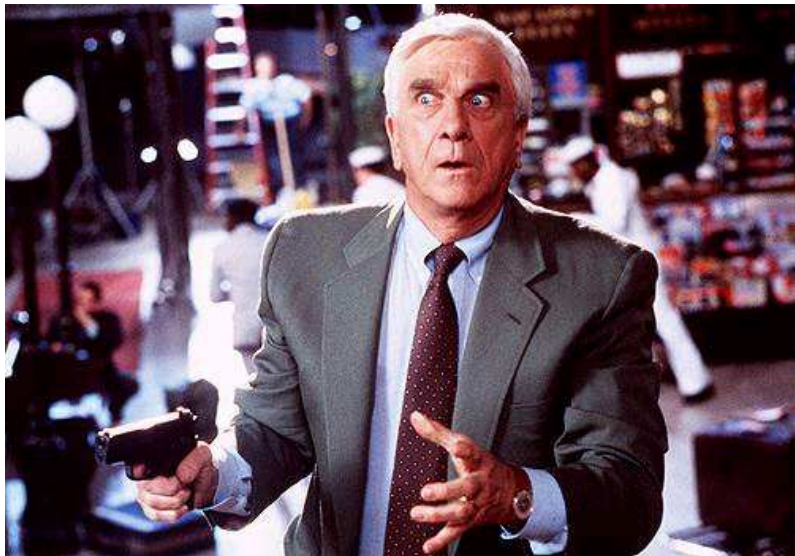
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Posted On: **November 30, 2010** by [John Bratt](#)

Should Contracts Limiting Malpractice Liability Be Allowed?

Picture this: You need a medical procedure, for example, having your gall bladder removed. You arrive at one of the area's fine local hospitals, where you are seen by a doctor and told "Sure, we can help you, as long as you sign this form giving up your right to sue us for damages if you are injured by malpractice."

Sounds like a great deal for them and a terrible deal for you, right? The Cato Institute has issued a paper advocating that agreements like this, in one form or another, should be allowed and upheld



by the courts. Surely they can't be serious? Yes, they are, and no, I won't stop calling you Shirley. RIP, [Leslie Nielsen](#).

Contracts like this are generally unenforceable. They are called "contracts of adhesion", and are not allowed because of the extreme inequality in the bargaining positions of the patient and doctor, among other reasons.

Should patients be forced into unconscionable, one-sided agreements in the name of "freedom to contract"? The Cato Institute says it advocates "Individual Liberty, Free Markets, and Peace" but I think this idea pushes the freedom to contract and the free market a little too far. Obviously, I'm on one side of this debate. But I'm glad there are smart people on the other side pushing the issue, even though I don't agree with them.

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