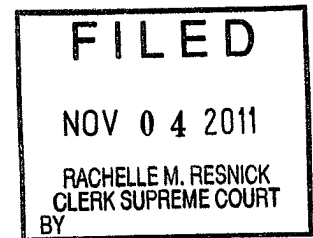




November 3, 2011



Clerk of the Supreme Court
1501 W. Washington Street
Room 402
Phoenix, Arizona 85007

Re: Proposed Change to ER 1.15

To Whom It May Concern:

We have read the proposed change to ER 1.15 authored by Mr. Trachtenberg and Mr. Abney. It concisely explains a major problem and dilemma in personal injury lawsuits where the claimant is represented by an attorney. We encourage the Committee to adopt the proposed rule change.

Over the past few years, more and more of our time as personal injury attorneys is spent addressing lien assertions made by third parties. Some of those lien assertions have merit. Unfortunately, many times they are merely frivolous attempts to take money from our client's settlement proceeds with no factual or legal basis for doing so.

Even for the frivolous lien claimants, because of the fear that the unmeritorious lien claimant may accuse us of not properly fulfilling our ethical duties under Rule 1.15, we are forced to withhold our client's funds pending some sort of resolution with the unmeritorious lien claimant. In other words, the client's money is often held hostage because of our ethical duties. Had our clients not retained an attorney, they would have immediate access to their funds.

It is fundamentally wrong that a company asserting a frivolous lien claim is actually in a better position, with more leverage, because an injury victim hired an attorney. It is it unfair to allow unmeritorious lien claimants to take advantage of our ethical duties. It is also unfair to force an injury victim's attorney to file a lawsuit against the unmeritorious lien claimant to have the lien declared unenforceable or illegal. That improperly places the burden to disprove the validity of the lien upon the injury victim, instead of the party claiming the

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unmeritorious lien. The burden should be on the lien claimant to prove that it has a right to the injury victim's funds.

Giving a lien claimant 30 days to file an action to enforce its alleged lien will stop unmeritorious lien claimants from extorting money from injury victims, while preserving the lien claimant's right to pursue a lien in those instances where the lien claimant believes there is a legitimate legal and factual basis for its claim that a lien is appropriate.

In conclusion, the proposed rule change set forth by Mr. Trachtenberg and Mr. Abney seeks to equitably place the burden of proving a lien claim upon the lien claimant. No longer will it be permissible for unmeritorious lien claimants to hold an injury victim's funds hostage just because the injury victim is represented by an attorney.

The proposed change to ER 1.15 should be adopted in full.

Very truly yours,



Daniel J. Adelman



Scott B. Seymann



Steven J. German



Mark E. Munson