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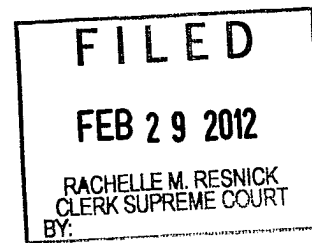


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CLERK SUPREME COURT



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February 28, 2012

SENT VIA U.S. MAIL

Clerk of Court
Arizona Supreme Court
1501 West Washington St., Room 402
Phoenix, Arizona 85007

Re: Support of Petition R-11-0024 Regarding Ethical Rule 1.15

Dear Justices:

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

As attorneys for personal injury plaintiffs, we have found ourselves expending more and more of our time and our clients' funds addressing tenuous lien assertions by third parties. Sometimes those lien assertions do have merit; many times they do not. In situations involving unmeritorious liens, we are often forced to withhold client funds pending resolution of the claim – sometimes for *months* – because of the fear that the claimant may accuse us of not properly fulfilling our ethical duties under Ethics Rule 1.15. In other words, our clients' money is oftentimes held hostage because of our ethical duties. Had these same clients not retained us and still settled their claims, they would have immediate access to their settlement funds.

Not only is it unfair to allow unmeritorious lien claimants to take advantage of our ethical duties with impunity, it is unfair to force an injury victim's attorney, i.e., our firm, 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 unmeritorious lien. The burden should be on the lien claimant to prove that it has a right to the injury victim's funds.

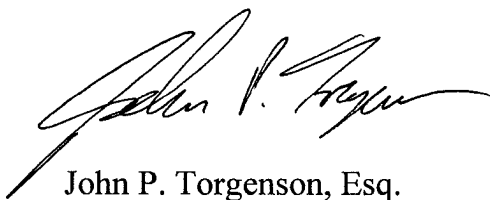
Giving a lien claimant 30 days to file an action to enforce its alleged lien, as Petition R-11-0024 seeks to do, will stop unmeritorious lien claimants from extorting money from injury victims while preserving the right of lien claimants to pursue their claims in those instances in which the propriety of a lien is in material dispute.

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 because the injury victim retained counsel.

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

Very truly yours,

BENEDETTO TORGENSON, PLC



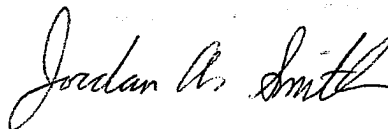
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