

May 17, 2012

Arizona Supreme Court Clerk
1501 W. Washington, Room 402
Phoenix, AZ 85007

**RE: Proposed Rule Change
E.R. 1.15**

Dear Sir/Madam:

I strongly encourage you to adopt the proposed change to ER 1.15 authored by Jeff Trachtenberg and David Abney. Messrs Trachtenberg and Abney have identified a major problem in representing Arizona injury victims. They have also proposed a change in ER 1.15 which supports the expeditious resolution of disputes.

As a plaintiff's personal injury lawyer, over the past few years, a significant portion of my time is spent addressing liens. Many of these liens are meritorious. Unfortunately, many are questionable. As a result of the current ER 1.15, I am forced to either hold in trust a portion of my clients' settlement/award funds or negotiate certain questionable liens – with client permission and direction – out of fear that the unmeritorious lien claimant may accuse me of violating the current ER 1.15. In short, on occasion, my client's funds are held hostage due to my ethical obligations.

It is unfair to allow unmeritorious lien claimants to take advantage of my ethical obligations. It is also unfair to force an injury victim – through his attorney – to file an expensive lawsuit against the unmeritorious lien claimant, to have the lien claimed unenforceable or illegal.

In my opinion, the burden should be on the lien claimant to prove that it has a right to the injury victim's funds, not the victim. Giving a lien claimant 30 days to file an action to enforce its alleged lien will stop unmeritorious lien claimants from improperly obtaining injury victim's funds, while at the same time preserving the legitimate lien claimant's right to pursue payment of its lien.

Messrs Trachtenberg and Abney in their proposed rule properly place the burden of proving the validity of a lien claim upon the lien claimant

The proposed change to ER 1.15 should be adopted in its entirety.

Arizona Supreme Court Clerk
May 17, 2012
Page 2

If you have any comments or questions, please contact me:

Carl A. Piccarreta
Piccarreta Davis PC
145 S. Sixth Avenue
Tucson, Arizona 85701
(520) 622-6900 Telephone
(520) 622-0521 Facsimile
carlp@pd-law.com
State Bar #007151

Thank you for your consideration.

Sincerely,

PICCARRETA DAVIS PC

Carl A. Piccarreta

cc: Geoffrey Trachtenberg, Esq.
Levenbaum & Cohen
362 N. Third Avenue
Phoenix, Arizona 85003-1521

David Abney, Esq.
Ahwatukee Legal Office PC
4025 E. Chandler Blvd., 70-A8
Phoenix, Arizona 85048-8893