

## ILLINOIS LAW MANUAL

### CHAPTER X

### SETTLEMENTS & RELEASES

#### H. ATTORNEY LIENS

The Illinois Attorney's Lien Act provides attorneys a legal method of enforcing payment of their bills by their clients, upon completion of a case. Briefly stated, the purpose of the Attorney's Lien Act is to assist attorneys in the collection of their fees. In Re Whitford, 101 B.R. 559 (1989); Unger v. Checker Taxi Co., 30 Ill. App. 2d 238 (1st Dist. 1961).

Attorneys shall have a lien upon all claims, demands, and causes of action which may be placed in their hands by their clients for suit for the amount of any fee which may have been agreed upon. 770 ILCS 5/1. In the absence of an agreement, the lien shall be for a reasonable fee plus costs and expenses. Id.

To enforce such a lien, an attorney shall serve written notice upon the party against whom the client may have a suit, claim, or cause of action. Id. The lien attaches to any verdict, judgment or order, and to any money or property which may be recovered on account of such suit, claim, or cause of action, from the time of service of the notice. Id.

In general, an attorney's lien is served on the party defendant, notifies the defendant of the attorney's claim, and prevents the defendant from making a settlement in disregard of the lien. In Re Chicago Flood Litigation, 289 Ill. App. 3d 937 (1st Dist. 1997). However, the attorney's lien cannot attach until some recovery is had for the client. City of Chicago v. Korshak, 276 Ill. App. 3d 597 (1995). In the case of settlement, the right of the lien attaches to the entire amount agreed upon. Sutton v. Chicago Ry. Co., 258 Ill. 551 (1913).

A litigant can settle his own case and satisfy and release judgment without the knowledge or consent of his lawyer, notwithstanding an attorney's lien. Beale v. Edgemark Financial, 297 Ill. App. 3d 999 (1st Dist. 1998). However, the settling litigant must stand ready to pay the lawyer that portion of the proceeds which the client agreed to pay the lawyer. Process Color Plate Co., Inc. v. Chicago Urban Trans. Dist., 125 Ill. App. 3d 885 (1st Dist. 1984). The attorney cannot compel the continuation of the litigation merely to protect his lien rights. Herbster v. North American Co. for Life and Health Ins., 150 Ill. App. 3d 21 (2nd Dist. 1986); Anastos v. O'Brien, 3 Ill. App. 3d 1015 (1st Dist. 1972).

A client cannot deprive his attorney of a lien by discharging the attorney, except for good cause. Neuberg v. Michael Reese Hosp. Foundation, 123 F. 3d 951 (7th Cir. 1997); Mason v. Papadopoulos, et al., 12 Ill. App. 2d 140 (1st Dist. 1956). If an attorney is discharged by his client without cause and before final judgment or settlement, the attorney is not entitled to recover contract fees but is limited to the reasonable fees for services rendered. Lewsadir v. Wal-Mart Stores, Inc., 296 Ill. App. 3d 169 (4th Dist. 1998). An attorney's unethical conduct may defeat the attorney's lien. Neuberg v. Michael Reese Hosp. Foundation, 123 F. 3d 951 (7th Cir. 1997); Ryan v. Penn. Rail Co., 268 Ill. App. 364 (1st Dist. 1932).

If an attorney files his or her lien after being terminated by the client, the lien is not perfected. Anderson v. Anchor Organization for Health Maintenance, 274 Ill. App. 3d 1001 (1st Dist. 1995).