

A TORTFEASOR'S INSURANCE COMPANY DOES NOT SATISFY A PROPERLY PERFECTED MEDICAL LIEN SIMPLY BY INCLUDING THE MEDICAL PROVIDER AS A JOINT PAYEE ON A SETTLEMENT CHECK.

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Midtown Medical Group, Inc. v. Farmers Insurance Group
Arizona Court of Appeals, July 15, 2014

A tortfeasor's insurance company does not satisfy a properly perfected medical lien simply by including the medical provider as a joint payee on a settlement check.

Shelby Davidson was injured in a motor vehicle accident caused by a Farmers insured. Kimberly Willis, a Farmers insured, was injured in a separate motor vehicle accident which she caused. Both Davidson and Willis received treatment for their accident-related injuries from Priority Medical Center ("PMC"). PMC had Davidson and Willis each sign a document entitled, "Lien, Contract and Authorization to Release Medical Records," and PMC properly perfected its lien against any insurance recovery by the patients. As to Davidson, PMC also directed Farmers to include PMC on any tort settlement draft, advising that if Farmers failed to do so, PMC would hold Farmers responsible.

Upon settling their respective claims with Farmers, Davidson and Willis each signed a release and received a settlement draft that included PMC as a joint payee. Davidson negotiated her draft without PMC's endorsement. Willis apparently either negotiated her draft or retained it but PMC did not endorse her draft. Because PMC did not receive payment for the medical treatment it provided to Davidson and Willis, it sued Farmers to enforce both liens under A.R.S. § 33-934(A). PMC also sought declaratory relief to permanently enjoin Farmers from paying any claimant without separately satisfying the medical provider's lien.

The superior court dismissed PMC's suit against Farmers, ruling that Farmers had complied with its statutory lien obligations by including PMC as a joint payee on each settlement draft. The court said PMC had a potential case against the bank that accepted Davidson's draft without having both payees' endorsement, and against Willis for failing to pay PMC.

The Arizona Court of Appeals reversed. Under A.R.S. § 33-934(A), if an injured person recovers a settlement or judgment and the medical lien holder is not paid nor has released its lien, the lien holder can sue the insurer responsible for paying all or part of the damages. The statute does not preclude an action against the insurer for non-payment even though the lien holder was a joint-payee on the check. The court also rejected the notion that PMC's remedy was against the offending bank. The bank's separate failure to ensure both payees endorsed the check did not release Farmers from its own lien responsibility. An entity responsible for paying damages can be pursued for the charges, even if it has already transferred funds to the injured party.

Lastly, the Court rejected the argument that PMC could sue to enforce the liens only if Farmers had acted "in derogation of the liens." Even if such a requirement were implicit in the statute, Farmers had, in fact, acted in derogation of the liens in failing to follow the express statutory requirements that it obtain releases from the lien holder. Accordingly, PMC's action against Farmers to enforce its medical liens was reinstated.

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