

PROFESSIONAL LIABILITY UPDATE

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By Jennifer A. Becker

County of Los Angeles v. Construction Laborers Trust Funds for So. Cal. Admin. Co.
(2006) 137 Cal.App.4th 410

The Second District holds that an attorney has the right to an equitable lien based on an oral agreement when the parties have acted in reliance that a lien existed.

Trust Funds obtained a federal judgment against Mohag Construction Co. Christian Juarez had a written fee agreement with Mohag to provide services in the Trust Fund litigation that granted him a lien on any claims that were the subject of the representation.

Juarez also represented Mohag in other matters not set forth in the written fee agreement and billed Mohag under the same terms set forth in the fee agreement. During the pendency of a matter involving the County of Los Angeles Juarez asserted an attorney fee lien on any settlement proceeds pursuant to the retainer agreement and confirmed this in a letter to the County, copied to his client. After the case was settled the County interpleaded the settlement funds uncertain of which lien had priority.

The trial court prioritized the liens on a first in time basis and gave Juarez priority over Trust Funds finding that the lien was established in the written fee

agreement. On appeal Trust Funds asserted that Juarez could not assert an attorney's fee lien on the basis of an oral agreement.

An equitable lien can arise from a contract that reveals an intent to charge particular property with a debt or out of general considerations of justice pertaining to the parties and their dealings. A promise to pay from a specific fund can create an equitable lien if a party can show detrimental reliance or unjust enrichment.

Mohag was aware that Juarez was relying on a lien to recover his fees. It was in Mohag's interest when Juarez continued to work for Mohag in reliance on the security of the lien. Juarez detrimentally relied on the existence of a security interest. Because he acted responsibly by continuing the representation despite not being paid he deserves the protection of a court of equity. Mohag and Juarez behaved

under the assumption that a security interest existed. Mohag would have been unjustly enriched if it retained Juarez's attorney fees from the settlement funds.

Trust Funds did not challenge the date on which the lien was created; it only challenged the creation of a lien through an oral agreement. An equitable lien is not an express agreement but is an equitable remedy of restitution imposed by the court. A contractual relationship may play a role in the imposition of an equitable lien, but it is not created by contract.

The court also rejected Trust Funds' contention that the security interest was invalid without Mohag's written consent. The court held that written consent is not required for an interest created by operation of law.

Comment: This decision reflects the court's reluctance to allow the rules pertaining to attorney-client relations to benefit parties outside the attorney-client relationship. Had Mohag been asserting that the lien was invalid because it did not consent, the outcome may have been different.