

Recovery & Resolution

A LEGAL NEWSLETTER FOR
HEALTH CARE PROFESSIONALS



Graham Lundberg & Peschel *Founded 1979*

Is Your Medical Lien Enforceable?

By Cydney Campbell Webster, Managing Attorney

A lien for your health care services can be filed pursuant to RCW 60.44 when there is a third-party tortfeasor responsible for your patient's injuries. First, a lien must be filed before settlement occurs (RCW 60.44.020). Second, and more importantly, a lawsuit must be initiated within one year of the date of filing your lien (RCW 60.44.060). Third, your lien must meet the statutory requirements to be valid. For instance, the tortfeasor, if known, must be named on the lien. It is important to try to obtain the name of the tortfeasor if your patient has not provided it to you. If you file

a lien indicating that the tortfeasor's name is unknown and a lawsuit is filed against the third-party insurance company in an attempt to enforce the lien, the insurance company will have the opportunity to conduct discovery. This will include obtaining a copy of your complete patient file, including the in-take information. If, in the in-take information, the tortfeasor's name is disclosed, the court will find that your lien is not valid and that your case should be dismissed.

You need to pay attention to when the settlement with your patient occurs to en-

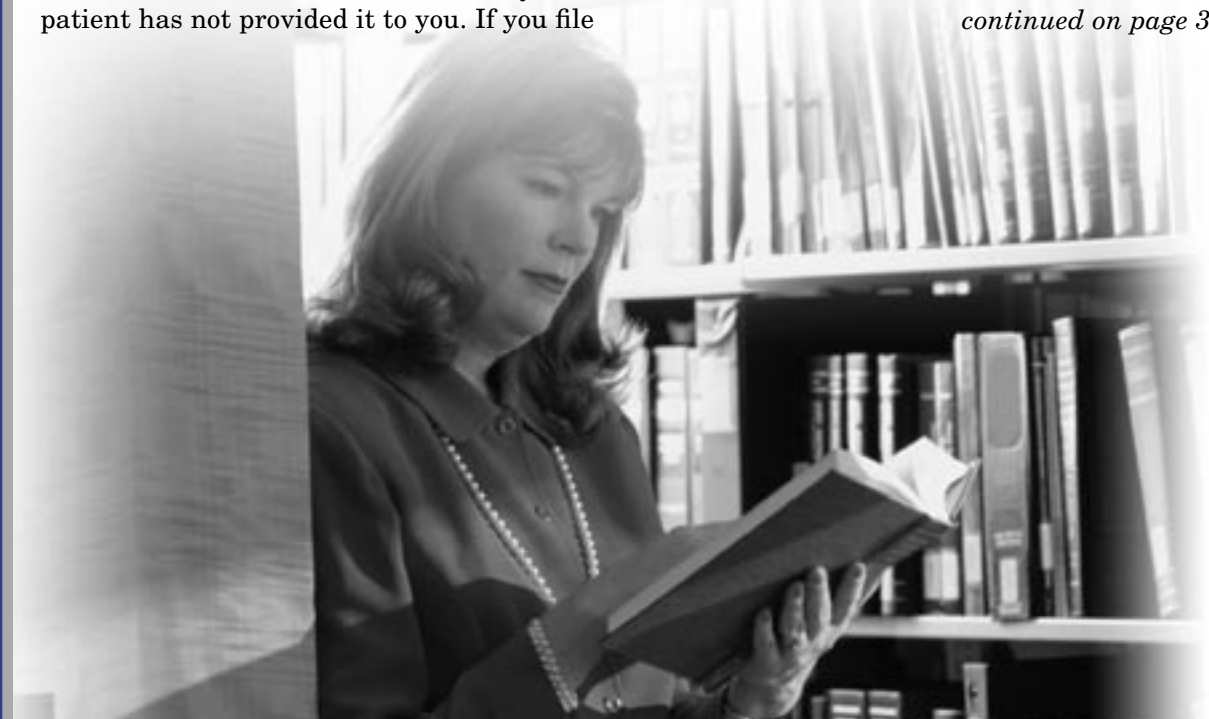
continued on page 3

Inside this month's R&R...

Taking Action On Your Unpaid Bills on page 2

Attorney Spotlight — Aaron Adee on page 2

Upcoming Seminar Schedule on page 3



Plan to Attend This Free Educational Seminar...

WHAT YOU NEED TO KNOW ABOUT MEDICAL LIENS

See page 3

Taking Action On Your Unpaid Bills

By *Cydney Campbell Webster, Managing Attorney*

If you have not been paid for the services you have provided to your patient, you can file a lawsuit against your patient in small claims court. If you have a properly filed medical lien, you can also file an action against the insurance company in small claims court. These claims can be brought together in the same lawsuit. You can bring a small claims suit for recovery of money only for an amount up to \$4,000.00. If your bills exceed \$4,000.00, you may be able to bring separate actions for separate dates of service. To determine where you need to file your lawsuit, you should review RCW 3.66.040. An attorney cannot represent you in small claims court. If you are filing to enforce your lien, you may consider hiring an attorney to bring the suit in District Court, where the jurisdictional limit is \$50,000.00, because if you prevail, the Defendant may be ordered to pay your attorneys' fees.

After you file a small claims action, your case will be heard generally between 40 and 90 days of the date of filing. A judge will allow each party to tell his or her side of the story, and you can bring evidence such as your medical bills, records, receipts, copy of your lien and anything else that will prove your case. Courts have information to walk you through filing a small claims action if this is the route you decide to take.

However, it is best to try and avoid going to court. Before filing a lawsuit, send a letter to your patient and the insurance company letting them know that you have a properly filed lien, and if they do not pay your outstanding balance, then you will either pursue a claim

against them in small claims court or District Court.

Hopefully, you will not have to file a lawsuit if you have a properly filed lien. Always send a copy of the lien to the third-party insurance adjuster to ensure the

adjuster has record of your lien. Please call the attorneys of Graham Lundberg & Peschel if you have any questions regarding filing a lawsuit in small claims court or District Court to recover your unpaid bills.



Attorney Spotlight – Aaron Adee

Aaron Adee is an associate attorney for the North Sound Offices of Graham Lundberg & Peschel, P.S., Inc. Aaron devotes his practice to personal injury and wrongful death claims.

Born and raised in Seattle, Aaron attended Ballard High School before earning a B.A. in Political Science at the University of California, San Diego. Aaron stayed in San Diego to study law at California Western School of Law. After graduating from law school, Aaron began his legal career as a contract attorney at Preston Gates & Ellis where he worked on various

litigated matters. Aaron later practiced at the general litigation firm of Burkett, Burdette & Fogarty before joining Graham Lundberg & Peschel, P.S., Inc., in March 2005. Aaron is a welcome addition to Graham Lundberg and Peschel's litigation team.

Aaron is a member of the Washington Bar Association, King County Bar Association and the Washington State Trial Lawyers Association, for which he serves on the Rules Committee.

When he is not advocating for his clients, Aaron enjoys reading, running and watching movies.





Is Your Medical Lien Enforceable?, continued

sure you enforce your lien within the one-year statute of limitations. If the settlement occurs close to the end of the one-year time period after which you filed your lien, you will have a very short period of time in which to file a lawsuit to enforce your lien. If the case settles within the year that you filed the lien and you file a lawsuit after the end of that one-year period, most likely the court will dismiss your case because you did not file a lawsuit in time. You can renew your lien as long as a settlement has not occurred.

It is important to note that filing a medical lien is not complete protection. The statute states, "all the said liens for service rendered to any one person as a result of any one accident or event shall not exceed 25% of the amount of an award, verdict, report, decision, decree, judgment or settlement." If the case settles for \$10,000.00 and you have a lien for an unpaid balance of up to \$2,500.00 you may be paid in full as long as there

are no other liens. The insurance company will write you a check for your unpaid balance, or they might simply add your name to the settlement check. If you do not receive reimbursement for your entire balance after filing a statutorily compliant lien, the patient is always responsible for any balance that is unpaid by the tortfeasor's insurance. Sometimes the third-party insurance carrier will attempt to argue that the bills are not reasonable and necessary and will not pay the full balance under the medical lien. This is something to be aware of as well.

Another way to ensure that you receive full payment of your bill is to have your patient see an attorney whom you trust will pay your outstanding bills directly out of the settlement proceeds when the case resolves. If you have any questions regarding filing a medical lien or how to enforce a medical lien, the attorneys at Graham Lundberg & Peschel are available to answer your questions.

BACK BY POPULAR DEMAND! What You Need to Know About Medical Liens

Graham Lundberg & Peschel welcomes you and your office staff to attend a **FREE** Educational Seminar.

Join us in a discussion regarding:

- **When to file a lien or satisfaction of lien**
- **How to file a lien or satisfaction of lien**
- **How to enforce your liens**
- **How much is your lien really worth?**

This is one seminar you cannot afford to miss! Seating is limited so sign up today.

Wednesday, **February 15**
Tacoma – La Quinta Inn

Thursday, **February 16**
Renton – Holiday Inn

Thursday, **February 23**
Bellevue – Red Lion Bellevue Inn

Thursday, **February 23**
Port Orchard – McCormick Woods Country Club

Wednesday, **March 1**
Tacoma – Holiday Inn Express

Thursday, **March 2**
Everett – Quality Inn

Thursday, **March 9**
Seattle – Best Western Executive Inn

Enclosed is an RSVP form. Plan to attend this informative seminar!

- All Seminars: 12:30 – 2:00 pm
- Complimentary Lunch Will Be Served
- Doctors of Chiropractic, Massage Therapists, and Physical Therapists will earn 1.5 CE credits
- Registration is limited to four attendees per office



We are a team of legal professionals working together to advocate for the injured while being recognized in the community for providing the highest level of service.

CONVENIENTLY LOCATED

For the convenience of your personal injury patients, we offer several meeting locations throughout Puget Sound and Peninsula communities. Attorney consultations are encouraged and always free.

- Auburn**253-931-1111
- Bellevue**425-827-1111
- Burien**206-241-1708
- Everett**425-252-1111
- Federal Way** ...253-946-1111
- Gig Harbor**253-853-5005
- Lacey**.....360-786-1717
- Lakewood**253-274-1111
- Lynnwood**425-775-1111
- Marysville**360-658-1111
- Port Orchard** ..360-876-5005
- Puyallup**253-845-1112
- Renton**425-235-1111
- Seattle**206-448-1992
- Silverdale**.....360-876-5005
- Tacoma**253-627-7701

Attorneys

- John M. Graham
- Scott F. Lundberg
- Brian J. Peschel
- Kenneth B. Golden
- Cydney Campbell Webster
- Aaron L. Adee
- Sean A. Ayres
- Tara L. Eubanks
- John D. Webber
- Carrie D. Umland
- Rodney G. Zerr

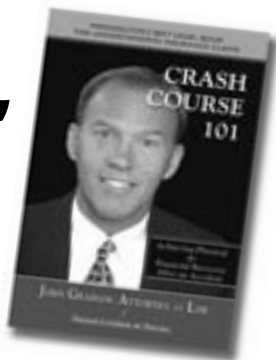
Paralegals

- Annie Akamatsu
- Patricia Clanton
- Patti Cryder
- Judy Hanson Earle
- Leslie Gesterling
- Lorna Holland
- Grace Stephens
- Catherine Torkelson
- Heather Webb

Administration

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- Trish Driver
- Kay Duff
- Teresa Garcia
- Lynne Golden
- Aleena Hodges
- Lap Huynh
- Heather Kelly
- Jeanne Kelly
- Cortney Krawiecki
- Kevan Lee
- Ann Maki
- Martha McDonald
- Becky Moilanen
- Erin Roudybush
- Melanie Shotts

We Rewrote the Book!
“Crash Course 101”
 The 4th Edition of
“Crash Course” is Here!
 by John Graham, Attorney at Law



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Or Call Toll Free

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