

## [Failure To Satisfy Statutory Criteria Voids Contingency Fee Agreement](#)

Posted on December 21, 2010 by [David J. McMahon](#)

In [Arnall v. Superior Court](#) (Liker), 2010 DJDAR 17619 (2010), the [California Court of Appeal, Second District](#) decided an important case involving the statutory requirements for contingency fee agreements. The bottom line is: unless a contingency fee agreement satisfies the statutory criteria, including a statement that the fee is subject to negotiation, it is voidable.

Alan Liker (“Liker”) entered into an agreement with Dawn Arnall (“Arnall”) and Ameriquest Mortgage Co. (“Ameriquest”) to provide advisory services. Under the agreement, Liker was to receive \$20,000 per month for nine months, and potentially a success fee under certain conditions.

Subsequently Arnall and Ameriquest terminated the service agreement on the basis that they were void under [Business and Professions Code Section 6147](#) which requires an explicit statement to be contained in contingency contracts that the success fee is not set by law but is subject to negotiation. Liker sued, and Arnall, Ameriquest and the defendants petitioned for summary adjudication. The trial court denied summary adjudication, and the parties sought review.

The Court of Appeal granted the petition noting that under Business and Professions Code Section 6147, an attorney who contracts to represent a client on a contingency fee basis must ensure that the contract is in writing and contains a statement that the fee is not set by law but is negotiable. The failure to comply with Section 6147 renders an agreement voidable.

Because the agreement lacked the statutory language regarding negotiability of the contingent fee, the Court of Appeal reversed the denial of the motion for summary adjudication.