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## PRACTICE AREAS

Workers Compensation

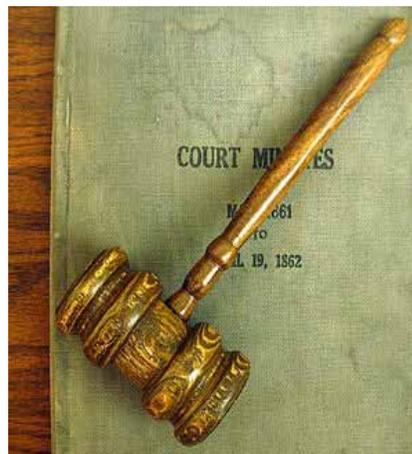
Personal Injury

Motor Vehicle Accidents

Wrongful Death

# Illinois Court Holds Personal Injury Attorneys Can Recover Fees From Hospital Lien

6/10/10



[Wendling v. Woolard; Howell v. Dunaway](#), Nos. 110199 & 110200 Cons., 5th District of Illinois, is a case that was decided in March 2010.

At issue in this case was whether a hospital's statutory lien for services rendered to an injured plaintiff, which was filed pursuant to the Health Care Services Lien Act, should be subject to a reduction under the common-fund doctrine for attorney fees incurred by the injured plaintiff.

The common fund doctrine is a concept that allows attorneys to recoup litigation expenses and attorney fees from funds that were created or increased in value due to the attorney's efforts. The hospital argued that the common fund doctrine did not apply to hospital liens created by the Health Care Services Act.

The Court disagreed, noting that the action before the court more



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closely resembled that of an enforcement of a statutory lien, as opposed to one for the collection of a debt.

Accordingly, the Court held that the common fund doctrine applied to Health Care Services Act liens. The Court explained that the enforcement of the lien was dependent upon the creation of the fund:

(The)hospital's lien specifically attaches only to the settlement funds that are recovered by the debtor in a suit to recover damages for the very injuries which gave rise to the hospital's debt... (W)ithout the creation of the fund against which to enforce its lien, a hospital would have to use its own legal resources to recover the monies due to it... If we did not allow a division of legal costs, hospitals would be encouraged to sit back and reap the rewards of another's labor at that party's expense. We do not believe that is consistent with public policy.

All and all a good decision for [Illinois personal injury attorneys](#). It ensures that lawyers receive compensation for the hard work performed on behalf of their injured clients.

Howard Ankin of Ankin Law Office LLC ([www.ankinlaw.com](http://www.ankinlaw.com)) handles [workers' compensation](#) and [personal injury cases](#). Mr. Ankin can be reached at (312) 346-8780 and [howard@ankinlaw.com](mailto:howard@ankinlaw.com).