

PI Lien Collection Kit

One Call

A. Don't call a PI attorney more than necessary. If they are acting in bad faith it doesn't matter how many times you call. One call we believe is sufficient to alert him or her they might have mistakenly forgot to honor your lien.

Three Easy Steps:

1. Write your Demand Letter giving the PI attorney 72 hours to pay you. This letter has collected millions for hard working doctors. Attorneys don't worry about telephone calls. But they regard written demands as something not to trifle with.
2. If the attorney does not respond, file a complaint with the State Bar. The Bar controls his license to practice. Attorneys who have a number of complaints showing they are not managing their trust account in an ethical manner will lose their license to practice. This is powerful.
3. Sue 'em if they don't pay. It might seem that Small Claims was designed for the health care provider. You can sue 2 times a year up to **\$10,000**, if you are an individual or a sole proprietor. Corporations and other entities are limited to **\$5,000**. In addition, a party (individuals or corporations) can file no more than two claims exceeding **\$2,500** in any court throughout the State of California during a calendar year.

Shawn Steel Law Firm, APLC

Johntawlian@shawnsteel.com

800-626-0003

(MODEL LETTER)

HOWARD FIGHTBACK, DC
8383 Wilshire Blvd. #640
Beverly Hills, CA 90021

CERTIFIED MAIL

Mr. Michael Dewey, Esq.
Dewey, Cheatum & Howe 1900
Century Blvd.
Redwood City, CA 95000

RE: DEMAND FOR PAYMENT IN 72 HOURS
Our Patient/ Your Client : William Victim
Date of Accident : January 1, 2000
Amount of Lien : \$1,500.00

Dear Mr. Dewey:

Enclosed please find a copy of the medical lien signed and dated by you. This lien guarantees that your office will pay our office once the case is settled. We understand that the case was settled recently and that our patient has already received his compensation.

We assume that you will honor your lien contract; but your delay is causing us concern. Accordingly, we demand that full and immediate payment of \$1,500.00 (see copy of bill and report). I am sure you are familiar with the provisions of the Rules of Professional Conduct of the State Bar of California. The Bar charges you as a fiduciary for moneys collected in this case.

If payment is not made we will also have no alternative but to file a lawsuit against you and your firm.

We prefer not to take these measures. But unless we receive the payment within 72 hours from the date of this letter, we will be forced to take these measures.

Sincerely yours,

Howard Fightback, DC

cc: William Victim

Enc: Medical Lien
Medical Report Medical Bill(s) Letter from President of the
State Bar of California P. Terry Anderlini

THE STATE BAR OF CALIFORNIA



335 FRANKLIN STREET
SAN FRANCISCO, CA 94102-4498
(415) 561-8200

RECEIVED
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October 22, 1987

Harold Bradford
Director of Governmental Affairs
California Chiropractic Association
1700 Alhambra Boulevard, Suite 110
Sacramento, California 95816

Dear Mr. Bradford:

Thank you for your letter of October 8, 1987 and the attachments concerning the practice of some attorneys refusing to honor medical liens.

I have contacted members of the State Bar staff about your concerns and have learned that members of the State Bar of California are currently subject to discipline for failing to honor a valid lien.

In Johnstone v. State Bar (1966) 64Cal.2d 153, 155 [49 Cal.Rptr. 97], the attorney represented a client in a personal injury action. The client had collected workmen's compensation benefits from the insurance company and that company was entitled to a lien in the amount of the benefits paid against any recovery in the personal injury action. The personal injury matter settled and a check was issued, payable to the attorney, client, and insurance company. The attorney obtained the endorsements of the client and the insurance company but did not disperse any funds to the insurance company. The attorney was suspended from practice for three months for this and other acts. Concerning the issue of the failure to honor the lien, the court stated:

"When an attorney receives money on behalf of a third party who is not his client, he nevertheless is a fiduciary as to such third party. Thus the funds in his possession are impressed with a trust and his conversion of such funds is a breach of the trust."

In the very recent case of Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020, an attorney was disbarred for, among other things, failing to honor a medical lien:

"In August 1979 Ms. M.L.M. retained petitioner to represent her in a personal injury action. A \$3,500 settlement was paid to petitioner, who then failed to pay his client's outstanding medical bill in the amount of \$1,116 to the Jacobs Medical Group, although both the client and petitioner had signed a medical lien. The review department concluded that in this matter petitioner had wilfully failed to perform the legal services for which he had been employed and had wilfully misappropriated the \$1,116 for his own use."

I have enclosed a copy of the full text of both opinions for your information.

Since the failure of an attorney to honor a valid lien is already considered unethical and therefore serves as a basis for the imposition of attorney discipline, I can only suggest that you encourage members of the California Chiropractic Association to file a complaint with the State Bar if this unfortunate conduct occurs. Any such complaints should be directed to:

Office of Investigations
State Bar of California
1230 West Third Street
Los Angeles, CA 90017
(800) 843-9053

As to an attorney levying "administrative charges" against the payment to the doctors, such conduct, absent an agreement to levy such charges, considered in the totality of the circumstances, might well serve as the basis for imposition of discipline.

In addition, I have forwarded your letter and enclosures to the Committee on Professional Responsibility and Conduct and have requested them to consider issuing an advisory ethics opinion on this topic to raise the level of consciousness of the members of the bar concerning this problem.

I hope the foregoing addresses your concerns. Should you have any additional comments or questions, please do not hesitate to contact me.

Very truly yours,

P. Terry Anderlini
President, State Bar
of California

**THE STATE BAR OF CALIFORNIA CALIFORNIA
ATTORNEY COMPLAINT FORM**

Read the instructions included in this packet before filling in this form.

Please mail to: Office of Chief Trial Counsel / Intake Dept., State Bar of California
845 South Figueroa Street, Los Angeles, California 90017-2515

(1) Your contact information:

Your name: _____

Your address: _____

Your city, state & zip code: _____

Your email address: _____

Your telephone numbers:

Home _____ Work _____ Cell _____

(2) Attorney's contact information: Please provide the name, address and telephone number of the attorney(s) you are complaining about. (NOTE: If you are complaining about more than one attorney, please use a separate form or include on a separate sheet for each attorney the information requested in items #2 through #7.)

Attorney's name: _____

Attorney's address: _____

Attorney's city, state & zip code: _____

Attorney's telephone number: _____

Attorney's California bar license number: _____

(3) Have you or a member of your family complained to the State Bar about this attorney previously?

Yes No

(4) Did you employ the attorney? Yes No

If "Yes," give the approximate date you employed the attorney and the amount, if any, paid to the attorney.

Date employed: _____ Amount paid (if any): \$ _____

If "No," what is your connection with the attorney(s)? Explain briefly.

(5) Include with this form (on a separate piece of paper) a statement of what the attorney(s) did or did not do that is the basis of your complaint. Please state the facts as you understand them. Do not include opinions or arguments. If you employed the attorney(s), state what you employed the attorney(s) to do. Sign and date each separate piece of paper. Additional information may be requested. (Attach copies of pertinent documents such as a copy of the fee agreement, cancelled checks or receipts, and relevant correspondence.)

(6) If your complaint is about a lawsuit, answer the following, if known:

a. Name of court (For example, Superior Court and name of the county)

b. Title of the suit (For example, Smith v. Jones)

c. Case number of the suit _____

d. Approximate date the suit was filed _____

e. If you are not a party to this suit, what is your connection with it? Explain briefly.

(7) Size of law firm complained about:

- 1 Attorney
- 2 – 10 Attorneys
- 11 + Attorneys
- Government Attorney
- Unknown

(8) Translation Information: Not Applicable

If you require that the State Bar utilize formal translation services in order to process your complaint, it may delay our communications with you. Is someone available to provide translation assistance for you so that the State Bar may communicate with you in English?

Yes No

If "no," state the language in which you need formal translation:

Signature _____ Date: _____

THE STATE BAR OF CALIFORNIA
845 SOUTH FIGUEROA STREET LOS ANGELES, CALIFORNIA 90017-2515

OFFICE OF CHIEF TRIAL COUNSEL
INTAKE

TELEPHONE: (213) 765-1000
FAX: (213) 765-1168
<http://www.calbar.ca.gov>

Dear Sir or Madam:

In order to help us evaluate and process your complaint, please complete the California Attorney Complaint Form. The Attorney Complaint Form is available in the "Quick Links" section of the State Bar's website at www.calbar.ca.gov or by going to <http://calbar.ca.gov/Attorneys/LawyerRegulation.aspx>. You may fill out the Attorney Complaint Form online prior to printing and mailing it to the State Bar's Intake Department. (If you can't fill out the form online, download and print it before filling it out by hand.)

You may also use the State Bar's "Attorney Search" tool to see whether the attorney has a public record of prior discipline in California and whether the attorney is licensed to practice law in California. To find an attorney, go to www.calbar.ca.gov and type the attorney's name in the box. You can also go to <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

- Please provide your name, address, zip code, email address (if available), and telephone numbers (work, home and cell).
- Be sure to give the full name, address and phone number of the attorney you are complaining about. If you wish to complain about more than one attorney, use a separate form for each attorney.
- If any of the blank spaces do not apply to your case, write N/A (Not Applicable). If you do not know the size of the attorney's law firm, please state "Unknown" in response to item (7).
- Date and sign the form.
- On a separate sheet of paper, tell us about your complaint against the attorney. Tell us what the attorney did or failed to do that you believe may warrant disciplinary action. We need to know the background of your case. Tell us in your own words what happened.
 - If your complaint is about the attorney you hired, tell us: When did you hire the attorney? What agreement did you make with the attorney? Was the agreement verbal or in writing?
 - If the complaint is about an attorney who has not represented you, please tell us: What is the connection you have with this attorney? If the attorney is representing a person or entity in a dispute with you, please identify that person or entity and explain the nature of the dispute.
- Provide any helpful documents. Send only copies and keep the originals. All documents you send, originals or copies, become the property of the State Bar and are subject to future destruction.
 - If you are complaining about an attorney who represented you, provide copies of written fee agreements, payments or other letters (written or electronic) to the attorney. It may be helpful to provide copies of the front and back sides of all canceled checks and/or copies of receipts showing your payments to the attorney. Any documents in your possession could be very helpful.
 - If you are complaining about some other attorney, provide any court documents or correspondence with the attorney which will help to explain your complaint. If you are represented by counsel in the matter involving the

attorney, please provide your attorney's name, address and telephone number.

If you are not fluent in English and need translation services in order to communicate with the State Bar, please tell us on the complaint form in the section entitled "Translation Information." Please be aware that providing formal translation may delay our communications with you. If you have someone who can provide your own translation assistance and will agree to accept communications from the State Bar in English, please let us know in response to item (8) on the complaint form.

The State Bar will review and evaluate your complaint to determine whether investigation and prosecution is appropriate. You will be notified of our decision in writing. Thank you for your cooperation.

The State Bar of California, Office of Chief Trial Counsel

Some Things You Should Know

The Office of Chief Trial Counsel (OCTC) reviews complaints of unethical conduct by attorneys licensed to practice in California. Should OCTC prosecute allegations contained in your complaint, you may be required to testify before the State Bar Court in order to prove charges against the attorney(s) involved. Below is a list of what OCTC can and cannot do when it considers a complaint against an attorney:

- OCTC can recommend that an attorney be disciplined only for a violation of the California State Bar Act or the California Rules of Professional Conduct.
- OCTC cannot act as your attorney or otherwise help you in legal matters connected with your complaint. For example, OCTC cannot give you legal advice or perform legal service for you (such as pursuing damages or other legal action against the attorney(s) involved in your complaint). You may have legal remedies available to you, but OCTC cannot advise you on your rights in a given situation or what you should do. The State Bar is not a court that can provide civil remedies to you.
- OCTC cannot give you the name of a particular attorney to help you with your legal matters. The State Bar does certify lawyer referral services, and a list of certified lawyer referral services is available on the State Bar's website at <http://www.calbar.ca.gov> or by calling (800) 843-9053. Also, the State Bar pamphlet "How Can I Find & Hire the Right Lawyer?" is available on the State Bar's website by searching for "Consumer Pamphlets."
- OCTC can seek discipline for an attorney's failure to refund an unearned fee or failure to account for fees. Please keep in mind, however, that attorney fees are not refundable simply because you are dissatisfied with your attorney's services. In other words, OCTC cannot decide whether an attorney's fee is reasonable. If you are disputing your attorney's fees, you may seek to resolve the dispute through a fee arbitration process. Information about fee arbitration is available from the State Bar's website at <http://www.calbar.ca.gov> or by calling (800) 843-9053.
- OCTC can seek an order of restitution if an attorney has misappropriated client funds. In addition, the State Bar's Client Security Fund (CSF) may reimburse funds dishonestly taken by the attorney (but not simply because the lawyer acted incompetently, committed malpractice or failed to take certain action). CSF cannot process applications for reimbursement until final discipline has been ordered against the attorney by the California Supreme Court. An application for reimbursement from CSF is available from the State Bar's website at <http://www.calbar.ca.gov> or by calling (800) 843-9053.
- If you have further questions, you may call the Intake Unit's complaint line at (800) 843-9053. Also, the State Bar pamphlet "Having A Problem With Your Lawyer" is available on the State Bar's web site by searching for Consumer Pamphlets. The pamphlet has helpful answers to questions about dealing with an attorney.