

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF ARKANSAS

Jason M. Hatfield, P.A.,

*Plaintiff*

v.

Michael McCoy, et al,

*Defendants.*

Case No. 5:22-cv-05110-PKH

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**Notice of Arkansas Probate Court Ruling  
Declaring Hatfield's Attorney's Lien Valid, and  
Declaring all Contracts of Kherkher Garcia, Pirani Law, or  
Nunez Law Firm Invalid, together with Immediate Award of  
\$1.5M to Hatfield pursuant to Hatfield's Valid Lien**

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**Exhibit 1**

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IN THE CIRCUIT COURT  
OF WASHINGTON COUNTY, ARKANSAS  
PROBATE DIVISION

In the Matter of the Estate of Flor Maribel Recinos  
Valle

Case No. 72PR-21-704

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**Order**

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On December 21, 2023, the Estate appeared in opposition to an attorney’s lien as asserted by Jason M. Hatfield, P.A. (“Hatfield”) pursuant to Ark. Code Ann. § 16-22-304. The Estate is represented by Mr. Tony Pirani and Mr. Steve Kherkher. Hatfield is represented by Mr. Mark Murphey Henry.

On April 6, 2022, Hatfield filed a Motion to Enforce Attorney’s Lien with brief in support. The Estate, by Mr. Pirani, opposed such lien. Ark. Code Ann. § 16-22-304(a)(1) creates a lien of attorney which “attaches to any settlement, verdict, report, decision, judgment, or final order in his or her client’s favor, and the proceeds thereof in whosoever’s hands they may come.” Ark. Code Ann. § 16-22-304(e) provides “The court or commission before which an action is instituted, or in which an action may be pending at the time of settlement, compromise, or verdict, or in any circuit court of proper venue, upon the petition of the client or attorney at law, shall determine and enforce the lien created by this section.”

Upon careful consideration of all evidence, live witness testimony, deposition witness testimony, and argument at numerous hearings, and after considering substantial evidence at hearings and by stipulation of the parties, including documents, depositions, and materials revealed in a co-pending federal case that was submitted by

stipulation and agreement of the parties, the Court hereby makes the following findings of fact and law:

### **Determination of Witness Credibility**

1. The witnesses offered in opposition to Hatfield's lien were not credible. It is this Court's specific observation that each such witness offered had been improperly coached.

2. The witnesses and evidence offered in support of Hatfield's lien were very credible.

### **Invalidity of the Estate's Attorney Contracts**

3. The Estate's attorneys, Mr. Tony Pirani, Pirani Law PA, Mr. Steve Kherkher, Kherkher Garcia, LLP, acted pursuant to an "Attorney Employment Contract" involving "Nunez Law Firm," which was admitted into evidence as (Stipulated Exhibit 34).

4. The Court finds that such document, and all subsequently signed engagement contracts involving Mr. Pirani, Mr. Kherkher, or the Nunez Law Firm, are invalid because of the way in which such contracts for representation were procured or solicited.

5. The Court specifically finds that Mr. Tony Pirani, Pirani Law PA, Mr. Steve Kherkher, Kherkher Garcia, LLP, Nunez Law Firm, (or Nunez & Associates) are not entitled to any portion of the \$1.5 million being held in the Court's Registry.

6. The issue of the \$300,000.00 previously distributed is not at this time properly before the Court.

### **Unconstitutionality Argument Waived**

7. Attorneys representing the Estate argued at the December 21, 2023 hearing the Arkansas Attorney Lien Statute is unconstitutional; however, Mr. Kherkher admitted the Estate did not provide notice of such challenge of the statute to the Arkansas

Attorney General. This is a threshold requirement when seeking to challenge the constitutionality of any Arkansas statute. Ark. Code Ann. § 16-111-106.

8. There was no evidence produced in this case that demonstrates the Estate complied with the threshold requirement of giving notice of any challenge to the constitutionality of a statute to the Arkansas Attorney General.

9. The Court therefore finds the Estate, through its attorneys, waived its challenge to the constitutionality of the Arkansas Attorney Lien statute.

### **Hatfield's Lien is Valid**

10. This Court is to apply Arkansas law when assessing the enforceability of attorney's liens.

11. Arkansas Code Ann. § 16-22-304 sets out the procedures to perfect an attorneys' lien in Arkansas. *See Mack v. Brazil, Adlong & Winningham, PLC*, 150 S.W.3d 291, 294-95 (Ark. 2004).

12. It requires "service upon the adverse party of a written notice signed by the client and by the attorney at law . . . representing the client." Ark. Code Ann. § 16-22-304(a)(1).

13. It specifies "notice . . . to be served by certified mail" and "a return receipt" to "establish actual delivery of the notice." *Id.* The Arkansas Supreme Court has held that "strict compliance with the attorneys' lien statute is not required and substantial compliance will suffice." *Mack*, 159 S.W.3d at 295; *Metropolitan Life Ins. Co. v Roberts*, 411 S.W.2d 299, 300 (Ark. 1967).

14. No special form is required for an attorney's lien, although Hatfield's lien fully complies with all aspects of Ark. Code Ann. § 16-22-304.

15. Hatfield's notice identifies with specificity all causes of action involving the deceased and specifically identifies the motor vehicle accident which was the subject

matter of the subsequently-filed case assigned Washington County Circuit Court Case No. 72CV-20-2759. (Respondent's Exhibit 14).

16. Hatfield's notice also outlines his efforts regarding the Estate and creation thereof in order to advance the case in Arkansas courts.

17. In satisfaction of Ark. Code Ann. § 16-22-304(a)(1), Hatfield promptly sent notice of Hatfield's attorney's lien to the adverse party via certified mail, return receipt requested, on December 7, 2020.

18. Hatfield properly served notice of Hatfield's attorney's lien upon the adverse party, J.B. Hunt Transport, Inc. and Keondrick Banks, through counsel Attorney Christy Comstock. Comstock was the proper attorney representing J.B. Hunt Transport, Inc. in that she later filed the original Answer for defendants in Washington County Circuit Court Case No. 72CV-20-2759.

19. The notice of Hatfield's lien was likewise sent to Attorney Steve Kherkher, of Kherkher Garcia, LLP, Houston, Texas, via certified mail, return receipt requested, on December 7, 2020.

20. Both were delivered, signed for, and copies of the green cards directed to Comstock and Kherkher, using PS Form 3811 were proven to be received and returned to Hatfield on December 11 and 12, respectively.

21. Mr. Kherkher does not dispute receipt of such lien notice, agreeing to the admission into evidence of Hatfield's lien notice and accompanying certified mail and return receipt cards (Respondent's Exhibit 14).

22. Hatfield additionally provided notice of the lien to JB Hunt's new attorney Barrett Deacon on July 23, 2021 and Mr. Tony Pirani on that day. (Respondent's Exhibit 31).

23. The Court finds that Hatfield substantially complied with the Arkansas Attorney Lien statute.

24. No party has argued that it was unaware of Hatfield's lien.

25. As a result, the Court finds Hatfield has a perfected lien over all claims and the Estate, generally.

26. The Court will issue a separate Order concerning distribution of \$1.5 million that is being held in the Court's Registry.

IT IS SO ORDERED.

  
CIRCUIT JUDGE GARY ARNOLD