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Dear Clients:

We want to make you aware of an important new statute that was signed into law last week. Section 2-2301 of the Illinois Code of Civil Procedure requires defendants to provide a Release to the plaintiff within 14 days of written confirmation of a settlement 2-2301(a). Then, upon receipt of an executed Release, defendants have 30 days thereafter to tender the full amount of the settlement to the plaintiff. 2-2301(d).

There are some additional factors to consider as well. For example, where there are liens or subrogation interests, the plaintiff must provide (a) releases of liens, (b) a letter from the attorney agreeing to hold the full amount of the claimed lien in a client fund account pending resolution of the lien, (c) an offer to allow the defendant to hold the full amount of the lien pending resolution, or (d) some other method of resolution of the liens. 2-2301(c). There are also provisions for handling a Medicare lien which mirrors the previously described methods. When there are liens involved, the 30 day time frame does not begin until receipt/agreement of one of these ways in addition to the signed Release. 2-2301(c).

Failure to comply with these provisions can result in the entry of a judgment in the amount of the settlement plus interest from the date the executed Release was tendered, in addition to legal fees and costs in the plaintiff having to file a motion. 2-2301(e).

This law goes into effect on January 1, 2014 and will apply to any and all settlements that occur from that date forward. The following link will bring you to the exact text of the statute: <http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=098-0548>

While we don't see this statute making any significant difference to the way in which our firm handles settlements, it is something to be aware of in the unlikely event that payments are delayed.

As always, if you have any questions, please feel free to contact me or Harvey Paulsen.

Sincerely,



Jon P. Malartsik

