

9/28/12 8:00am

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-007665

09/27/2012

HONORABLE J. RICHARD GAMA

CLERK OF THE COURT
D. Harding
Deputy

AMBER WINTERS, et al.

GEOFFREY M TRACHTENBERG

v.

BANNER HEALTH NETWORK, et al.

CHRISTOPHER L HERING

MINUTE ENTRY

The Court has read and considered Defendants' Motion to Dismiss. The parties have requested oral argument. The Court finds that the briefing is sufficient and that oral argument would not add to the Court's consideration of the issues presented. Accordingly, oral argument is waived pursuant to Ariz. R. Civ. P. Rule 7.1(c)(2) to expedite the business of the Court.

The crux of the issue is whether fifteen (15) of the Plaintiffs ("Plaintiffs") fail to state a claim because they settled the liens in question. *See* A.R.S. §§ 33-931, 36-2903.01. The Court finds that they fail to state a claim.

Under these facts, it is irrelevant whether federal law preempts Arizona law and prohibits hospitals from enforcing statutory liens on AHCCCS accounts. Accord and satisfaction does not turn on whether Plaintiffs would have prevailed on the merits of the dispute that was settled. "Where parties settle a dispute upon a legal question, the fact that there was in truth no actual doubt about the law will not render such settlement nugatory. The fact that the point which was compromised could have been decided only one way under the facts in the case is no ground for repudiating the compromise." *Brecht v. Hammons*, 35 Ariz. 383, 390 (1929), *overruled in part on other grounds by Ariz. Pub. Serv. Co. v. S. Union Gas Co.*, 76 Ariz. 373 (1954); *see also*

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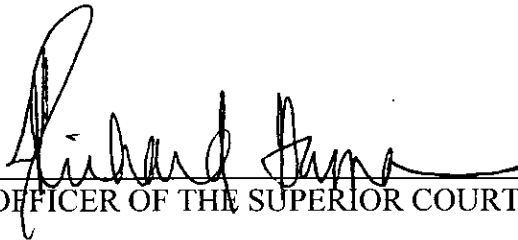
09/27/2012

Emmons v. Super. Ct., 192 Ariz. 509, 513 (App. 1998). The lien settlements are final and binding regardless of the validity of the underlying claims. See *Shelton v. Grubbs*, 116 Ariz. 230, 230-31 (App. 1977); *Flagel v. Sw. Clinical Psychiatrists, P.C.*, 157 Ariz. 196, 200 (App. 1988). The Court agrees with Defendants that the cases relied upon by Plaintiffs are inapposite; none involved accord and satisfaction vis-à-vis settlement of a lien. (See Reply at 5-6.)

Accordingly, based on the foregoing,

IT IS ORDERED granting Defendants' Motion to Dismiss.

Date: September 27, 2012



Richard J. Hume

JUDICIAL OFFICER OF THE SUPERIOR COURT

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.