

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**JOHN H. LAKE**

**APPELLANT,**

**v.  
RONALD LEVY, DIRECTOR  
MISSOURI DEPARTMENT OF  
SOCIAL SERVICES**

**RESPONDENT.**

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DOCKET NUMBER WD74306

DATE: January 15, 2013

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Appeal From:

Cole County Circuit Court  
The Honorable Jon E. Beetem, Judge

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Appellate Judges:

Division Two: Karen King Mitchell, Presiding Judge, Mark D. Pfeiffer, Judge and Gary D. Witt, Judge

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Attorneys:

Thomas G. Pirmantgen, Jefferson City, MO, for appellant.

Rochelle L. Reeves, Jefferson City, MO, for respondent.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**JOHN H. LAKE,**

**APPELLANT,**

**v.**

**RONALD LEVY, DIRECTOR  
MISSOURI DEPARTMENT OF  
SOCIAL SERVICES,**

**RESPONDENT.**

No. WD74306

Cole County

Before Division Two: Karen King Mitchell, Presiding Judge, Mark D. Pfeiffer, Judge and Gary D. Witt, Judge

John Lake is an attorney who represented a claimant in a workers' compensation claim. Because the claimant's medical expenses had previously been paid by Medicaid, the Department of Social Services ("Department") placed a lien on the proceeds of the medical reimbursement portion of any award the claimant should receive. Lake and the employer reached a settlement of the claim. The ALJ approved the settlement, and awarded a twenty-five percent (25%) attorney fee to Lake, on each, the medical expenses and disability expenses portions of the award. To facilitate the claimant's receipt of benefits more expeditiously, Lake agreed that the employer could issue the medical expense portion of the settlement directly to the Department, and Lake would pursue the recovery of his attorney fee lien with the Department. The medical expense portion of the settlement was equal to the entire amount of the Department's lien.

When Lake attempted to recover his attorney lien from the Department, it denied his claim. The Department argued that the ALJ's order did not instruct the Department to pay Lake, and that the Department was not bound by the ALJ's award of attorney fees to Lake because the Department was not a party to the underlying action. Lake then filed a petition in circuit court against the Department for the amount of his attorney lien, claiming that his attorney fee lien, which was established under section 484.130, had statutory priority over the Department's Medicaid lien, pursuant to section 287.266.7. The circuit court granted the Department's motion for judgment on the pleadings, finding that the "debt due the state" could not be reduced according to section 287.266.10 and that to enforce Lake's attorney fee lien would not only be reducing the debt due the State, but it would also be making the State pay Lake's attorney fees, which is also statutorily prohibited. This appeal followed.

**REVERSED AND REMANDED.**

**Division Two holds:** Lake presented a claim upon which relief could be granted. The priority of his attorney fee lien when enforced against the medical expense portion of the settlement proceeds in a workers' compensation case took priority over the Department's Medicaid lien. Because the proceeds were insufficient to pay both liens, the circuit court's grant of judgment on the pleadings in favor of the Department was in error. We hold that 1) an attorney fee lien has statutory priority over the Department's lien for Medicaid reimbursement, 2) paying the portion of the attorney fee lien attributable to the award of medical expenses out of the medical expense portion of the award does not result in the State paying the attorney fees, 3) paying the attorney fee lien does not result in a reduction of the debt owed the Department, and 4) the Department need not be a party to the underlying action in order to be bound by the statutory priority of the liens. Therefore, we reverse and remand for further proceedings.

Opinion by Gary D. Witt, Judge

January 15, 2013

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