

# Florida Supreme Court Declares Hospital Lien Law Unconstitutional Under Florida Constitution's Prohibitions Concerning Special Laws, But Upholds Local Ordinance With Same Effect As Law

June 13, 2012

On June 7, in *Shands Teaching Hospital and Clinics, Inc. v. Mercury Insurance Company of Florida*, SC09-2069 (Fla. June 7, 2012), the Florida Supreme Court invalidated a Special Law that entitled certain Alachua County hospitals to sue an insurer for damages for impairing its liens for medical services. The Court, however, upheld the constitutionality of a local ordinance that mirrored the Special Law. Thus, under the Court's holding, counties are permitted to enact local ordinances entitling hospitals to recover damages from insurance companies for the impairment of their liens. In *Shands*, Krystal Price was struck and injured by a vehicle insured by Mercury Insurance Company and treated at Shands Hospital. Shands thereafter perfected and recorded a lien against Ms. Price for the amount it incurred in treating her. After the lien had been recorded, Mercury tendered \$10,000 to Ms. Price, which was the full amount of its insured's bodily injury coverage. In exchange, Ms. Price released Mercury from further claims. After the settlement, Shands sent a copy of the hospital lien to Mercury. Mercury thereafter paid Shands the remaining \$10,000 of coverage available under its insured's policy. Shands then sued Mercury for the remainder of Ms. Price's medical expenses, alleging Mercury had impaired its lien. Shands' lawsuit was authorized by the Special Law and the local ordinance. The supreme court held the Special Law was unconstitutional under article III, section 11(a)(9) of the Florida Constitution because it created a lien based on a private contract between Shands and its patient. The Court rejected Shands' argument that the

Special Law did not create a "true" lien but instead simply created a cause of action by which hospitals could recover from third parties. It also rejected Shands' argument that the lien was not based on a private contract. In upholding the Ordinance, the Court held that, while an ordinance enacted by the authority of an unconstitutional law is void, the Ordinance here was not enacted pursuant to the Lien Law because nothing in the Ordinance so specified, nothing in the Ordinance conflicted with a state statute, and the ordinance did not occupy a field preempted by the Legislature. Finally, the Court held the amount that can be awarded as damages to the hospital is limited to the amount suffered by the impairment, which is the amount that would actually be collectible. Here, the most the hospital could have collected was the \$10,000 Mercury paid to Ms. Price under its insured's policy.

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