

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2817

By: Sullivan

4
5
6 AS INTRODUCED

7 An Act relating to attorneys; amending 5 O.S. 2001,
8 Section 9, which relates to attorney fees; providing
9 maximum award of fees under theory of quantum meruit
10 if attorney fee agreement or contingent fee agreement
11 exists; and providing an effective date.

12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 5 O.S. 2001, Section 9, is amended
15 to read as follows:

16 Section 9. Should the amount of the ~~attorney's~~ attorney fees be
17 agreed upon in the contract of employment or attorney fee agreement,
18 then ~~such attorney's~~ the lien of the attorney and cause of action
19 against ~~such~~ the adverse party shall be for the amount or portion of
20 the property so agreed upon. If the fee ~~be~~ is not fixed by contract
21 or agreement, the lien and cause of action, ~~as aforesaid~~, shall be
22 for a reasonable amount for not only the services actually rendered
23 by ~~such~~ the attorney, but for a sum, which it might be reasonably
24 supposed, would have been earned by ~~him~~, the attorney had ~~he~~ the

1 attorney been permitted to complete ~~his~~ the contract, and been
2 successful in the action, ~~and such.~~ The attorney, in order to
3 recover, need not establish that ~~his~~ the client, if the case has
4 gone to trial, would have been successful in the action, but the
5 fact of settlement shall be sufficient without other proof to
6 establish that the party making the settlement was liable in the
7 action. Should the contract be for a contingent fee and specify the
8 amount for which action is to be filed, then the lien and cause of
9 action, ~~as aforesaid~~ shall be for the amount contracted for if fixed
10 at a definite sum of money or for the percentage of the amount or
11 property sued for as mentioned in ~~said~~ the contract or agreement
12 where the fee is fixed on a percentage basis, not exceeding
13 thirty-three and one-third percent (33 1/3%) of the amount sued on
14 where the settlement is before a verdict or judgment and, if made
15 after verdict or judgment, then the full contract price. If an
16 attorney fee agreement or contingent fee agreement exists, an award
17 of attorney fees under quantum meruit shall not exceed the
18 reasonable amount to which the attorney would have been entitled
19 pursuant to the attorney fee agreement or contingent fee agreement.

20 SECTION 2. This act shall become effective November 1, 2008.

21

22 51-2-8297 MMP 12/18/07

23

24