

## Memorandum in Support

### DISPUTE RESOLUTION SECTION

Dispute Resolution # 1

June 17, 2010

S. 8049

By: Senator Sampson

A. 8697

By: M. of A. Titone

Senate Committee: Judiciary

Assembly Committee: Judiciary

Effective Date: 90<sup>th</sup> day after it shall have become  
a law

**AN ACT** to amend the judiciary law, in relation to authorizing an attorney to attach a charging lien to awards and settlement proceeds that clients receive through alternative dispute resolutions and settlement negotiations

**LAW AND SECTION REFERRED TO:** Sections 475 and 475-A of the judiciary law

### **THE DISPUTE RESOLUTION SECTION SUPPORTS THIS LEGISLATION**

The Dispute Resolution Section of the New York State Bar Association has considered the proposed amendments to Judiciary Law Sections 475 and 475-A (the “Lien Law”), and the Report by the Committee on Professional Responsibility of the New York City Bar (the “City Bar Report”), recommending said amendments to the Judiciary Law.

As described in the City Bar Report, the purpose of the proposed amendments is to bring the Lien Law up to date. As currently written, the Lien Law only permits an attorney to attach a charging lien to a client’s recovery in an “action, special or other proceeding in any court or before any state, municipal or federal department, except a department of labor.” An attorney may not attach a lien to the proceeds of a recovery obtained as a result of arbitration, mediation, or pre-litigation negotiated settlements generally.

With the substantial expansion of arbitration and mediation since the Lien Law was last amended in 1955, it seems appropriate to amend the Lien Law to provide its benefits to attorneys in connection with recoveries through arbitration, mediation, and other forms of alternate dispute resolution, as well as through pre-litigation negotiated settlements generally. The amendments expand the Lien Law to provide for charging liens in such circumstances.

The Legislation and Arbitration Committees of the Section have unanimously voted to endorse the City Bar Report's recommendation of the proposed amendments to the Lien Law.

The Section, after due consideration, endorses the City Bar Report's recommendation of the proposed amendments to the Lien Law.

For the reasons stated above, the Dispute Resolution Section of the New York State Bar Association **SUPPORTS** this legislation.

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Section Chair: Edna Sussman, Esq.