

# Trovillion, Inveiss & Demakis

Trovillion, Inveiss & Demakis, APC has grown in reputation as one of Southern California's premier law firms specializing in representation of employers, insurance carriers and third party administrators in workers' compensation litigation.

SAN DIEGO    LOS ANGELES    ORANGE COUNTY    INLAND EMPIRE

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JANUARY 2016

## **TID FRAUD SEMINAR**

On February 10, 2016, please join TID in partnering with San Diego District Attorney Bonnie Dumanis, San Diego County Supervisor Dianne Jacob, orthopedic surgeon Jeffrey Bernicker and applicant attorney Lisa Hernandez in a panel discussion on identifying and addressing workers' compensation fraud throughout the course of a claim. Join us for a wine tasting after the seminar.

For additional information and registration, please email [Events@TIDLAW.com](mailto:Events@TIDLAW.com) for registration information.

## **NEW OFFICE MANAGER**

TID is pleased to welcome their new office manager, Tonii Lindy. Tonii brings over 15 years of law office management and finance experience with her to the firm. Tonii will be based out of our San Diego office. Please feel

## **PRACTICE POINTER: UTILIZING EAMS LIEN SEARCH FEATURES POST DECEMBER 31, 2015**

The DWC ceased collecting lien activation fees at midnight on December 31, 2015. If a lien activation fee was not paid on or before midnight on December 31, 2015, and lien claimant was not exempt from paying a lien activation fee, the lien was automatically dismissed by operation of law. Since January 1, 2016, use of the EAMS lien search feature to determine whether a lien was dismissed has been difficult. The confusion stems primarily from the fact that the EAMS lien search feature has used various terms to indicate lien status, i.e., active, inactive, paid, unpaid, payable, unpayable, without providing an explanation as to what those terms mean.

Refer to the following when using EAMS' lien search feature to determine whether a lien was dismissed on January 1, 2016 or remains in effect.

The EAMS lien search feature has all the information necessary to determine whether a lien has been dismissed, i.e., case number, claimant name, lien filing date, lien status, lien amount, payment date (*date lien activation or lien filing fee paid*), payment amount (*amount paid for lien filing or lien activation fee*) and exempt indicator.

### **Liens filed prior to January 1, 2013 - Activation Fee**

Pursuant to Labor Code §4903.06, if a lien was filed prior to 1/1/2013, the lien was dismissed by operation of law on 1/1/2016

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unless lien claimant paid the \$100 lien activation fee prior to midnight on 12/31/2015.

To determine if, and when, a lien activation fee was paid, refer to the "payment date" and "payment amount" columns on the EAMS lien search page. The "payment date" column lists the date and time that the lien activation fee was paid. The "payment amount" column lists the amount that was paid, i.e., \$100.00. If the "payment date" and "payment amount" are blank, lien claimant did not pay their activation fee and presumably the lien was dismissed. However, if the "exempt indicator" column ("Y" for Yes, "N" for No) indicates "Yes", an exemption to the activation fee applies, and the lien is still in effect.

#### **Liens filed on or after January 1, 2013 - Filing Fee**

Pursuant to Labor Code §4903.05, if a lien was filed on or after 1/1/2013, lien claimant must have paid a \$150 filing fee at the time of filing. Activation fees are not required for liens filed on or after January 1, 2013 because the lien filing fee takes the place of the lien activation fee.

Again, refer to the "payment date" and "payment amount" to determine when lien claimant paid the \$150 filing fee. For liens filed on or after 1/1/2013, the "payment date" and "lien filing date" should be identical. If the "payment date" and "payment amount" are blank, lien claimant is likely exempt from paying a lien filing fee. Simply refer to the "exempt indicator" column ("Y" for Yes, "N" for No) to determine whether an exemption applies.

If after performing an EAMS lien search you are still uncertain whether a lien was dismissed by operation of law, request that lien claimant provide proof of payment of the lien activation or lien filing fee. Pursuant to Labor Code §§ 4903.05 and 4903.06, lien claimants have the burden of proving payment of the lien activation or lien filing fee.

**Disclaimer: This newsletter is provided to share knowledge and expertise with our colleagues with the goal that all may benefit. The content of this newsletter is for general informational purposes only and is not intended to serve as legal advice or as a guarantee, warranty, or prediction regarding the outcome of any particular legal matter. Nothing contained within this newsletter should be used as a substitute for legal advice and does not create an attorney-client relationship between the reader and Trovillion, Inveiss & Demakis. Legal advice depends on the specific facts and circumstances of each individual's situation. You should not rely on this newsletter without first consulting with a qualified, licensed attorney.**