

---

## TREECE ALFREY MUSAT P.C. COLORADO LEGAL UPDATE

---



TAM is included in the *U.S. News and World Report* listing of Best Law Firms.



TAM is listed in *Best Lawyers'* guide to law firms, an independently vetted list of law firms in the U.S.



TAM is the Colorado member firm of [The Harmonie Group](#), an invitation-only national network of highly qualified, vetted law firms providing comprehensive litigation defense and risk management services.



TAM is listed by Forbes and Martindale-Hubbell in their Top Ranked Law Firms - West for demonstrating the highest level of ethical standards and legal ability.

### COLORADO SUPREME COURT INVALIDATES LIEN RIGHTS ASSERTED AGAINST INSURER BY MEDICAL DEBT COMPANY

May 26, 2015

Today, the Colorado Supreme Court resolved a question of law that gives insurers a position of strength in personal injury cases. In [Allstate Insurance Co. v. Medical Lien Management, Inc.](#), No. 13CS556, the Court determined that Medical Lien Management, Inc. (“MLM”), a medical lien company that agrees to pay for injured plaintiffs’ medical treatment in exchange for a right to all proceeds recovered in litigation for medical bills, cannot assert a valid assignment to receive money for future, contingent medical treatment.

In the underlying case, MLM entered into a “Lien and Security Agreement” with Martinez, who was injured in a car accident by an Allstate insured. Though MLM sent Allstate a notice of the purported assignment, Allstate settled directly with Martinez, who then decided not to pay back MLM out of those funds. MLM sued them both, and Allstate was granted its motion to dismiss on the grounds that the agreement merely authorized Allstate to pay MLM, but did not in fact assign a valid right. The Court of Appeals reversed on the idea that the document was clear enough to indicate the scope and extent of a valid assignment.

The Supreme Court, in reversing the COA, said the appellate panel must have wrongly read the Restatement (Second) of Contracts and misinterpreted Colorado policy. First, the nature of the future assignment for treatment that is unknowable does not satisfy the requirement that an assignment adequately describe a future right. Secondly, the Court held that because the nature of third party rights to conditional payments for medical benefits implicated additional duties on Allstate that could carry new third party insurance bad faith claim risk, as a matter of policy it should be invalidated as potentially imposing a burden on Allstate greater than its date-of-assignment obligations under the insuring contract to Martinez as a third party claimant. Notable in the Opinion is that MLM did not argue its rights to the future payments assignment were based on an explicit contract.

This opinion presents another setback to advocates of the murky world of medical lien financing companies. Also pending before the Colorado Supreme Court this session is the case *Oasis Legal Finance Group, LLC v. Suthers*, 2013 WL 2299721, a cert. petition granted to decide whether or not—as the Colorado Court of Appeals found—medical lien companies engage in financing transactions which appropriately subject the lien companies to the requirements of the Uniform Consumer Credit Code. Stay tuned!