Although attorney liens have existed in statutory form in Washington since 1863, they remain a comparatively “underdeveloped” remedy for lawyers pursuing payment. In particular, the lien statute—RCW 60.40.010—does not include a specific procedure for foreclosing a lien. The federal district court in Seattle recently provided an illustration of one potential avenue: a supplemental proceeding within the case creating the lien.

*Jacobson v. INC Research LLC*, No. 2:13-cv-01519-JCC, 2015 WL 852608 (W.D. Wash. Feb. 24, 2015) (unpublished), was an ERISA claim by plaintiff against her former employer and its insurer. The parties reached a settlement and reported it to the court. Later, plaintiff told her lawyer—who had the case on a contingent fee—that she would not pay the fees owed. At that point, the lawyer filed a lien notice with the court. The defendants deposited that disputed portion of the settlement into the court and were dismissed. The lawyer then moved to enforce the lien through a supplemental proceeding.

The court agreed, relying on *King County v. Seawest Inv. Associates, LLC*, 141 Wn. App. 304, 315, 170 P.3d 53 (2007), in which the Court of Appeals noted that courts have broad latitude to fashion remedies for lien enforcement in light of the ambiguity in the statute itself. The court also invoked ancillary federal
jurisdiction to retain the case. The court found that the lawyer had substantially performed the agreed services under the contingent fee contract and enforced the lien based on the contingent fee due. Because the defendants had paid the disputed portion of the settlement into the court, the court, in turn, directed the clerk to disburse the funds to the lawyer.

*Jacobson* will not be a perfect solution in every circumstance. But, for lawyers whose work has created a defined fund in a litigation context, enforcing the lien in the same proceeding will often be the simplest route.

**ABOUT THE AUTHOR**

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