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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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OSF HEALTHCARE SYSTEM, d/b/a	)	Appeal from the Circuit Court
Saint Anthony Medical Center,	)	of Winnebago County.
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	No. 12-L-346
	)	
JAMES P. KEPPNER,	)	Honorable
	)	Lisa R. Fabiano,
Defendant-Appellant.	)	Judge, Presiding.

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JUSTICE HUTCHINSON delivered the judgment of the court.  
Presiding Justice Burke and Justice Birkett concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court properly granted summary judgment in favor of plaintiff on its claim to recover unpaid medical bills: defendant's partial payment was a satisfaction of plaintiff's health-care-services lien, not a satisfaction of the entire debt.

¶ 2 Plaintiff, OSF Healthcare System, d/b/a Saint Anthony Medical Center, sued defendant, James P. Keppner, for \$66,645.05 in medical bills. The trial court granted summary judgment in favor of plaintiff, and defendant timely appealed. Defendant contends that the trial court erred in granting summary judgment, because there are genuine issues of material fact as to whether

defendant's \$30,300.93 payment to plaintiff constituted an accord and satisfaction. For the reasons that follow, we affirm.

¶ 3

### I. BACKGROUND

¶ 4 Defendant was admitted to Saint Anthony Medical Center from May 28, 2012, through June 4, 2012, for treatment of injuries suffered as a result of a car accident. During this period, defendant incurred \$66,645.05 in medical bills.

¶ 5 On December 21, 2012, after receiving no payment from defendant, plaintiff sued for the total amount due. Plaintiff attached to the complaint an itemization of hospital services and an Agreement for Payment signed by defendant.

¶ 6 Defendant subsequently obtained a \$95,000 settlement pursuant to a personal injury action arising out of the car accident. Plaintiff asserted a lien on the settlement funds under the Health Care Services Lien Act (the Act) (770 ILCS 23/1 *et seq.* (West 2012)).

¶ 7 On February 28, 2013, plaintiff's attorney executed the following document (hereinafter referred to as "Release of Lien"), which had been prepared by defendant's attorney:

**"RELEASE OF LIEN AND LIMITED POWER OF ATTORNEY"**

For and in consideration of THIRTY THOUSAND THREE HUNDRED DOLLARS (\$30,300.93), in full and final payment. Payment of which is guaranteed by [defendant's attorney], the undersigned does hereby release and hold harmless [defendant], [defendant's attorney], and USAA Casualty Insurance Company, with respect to any and all medical liens asserted by [plaintiff], its principals, its corporate entities, its agents and its assigns, arising out [*sic*] medical treatment rendered to [defendant] related to the above-captioned matter. The undersigned hereby grants

Limited Power Of Attorney to [defendant's attorney] to endorse the settlement check relative to the above[-]captioned matter in return [sic] payment of \$30,300.93.”

¶ 8 On April 15, 2013, defendant's attorney mailed a \$30,300.93 check to plaintiff's attorney. The attached cover letter provided that the check was “full and final payment of your lien” and further stated: “Please forward a statement indicating the paid status of the account.”

¶ 9 On October 1, 2013, plaintiff moved for summary judgment, arguing that it was undisputed that defendant owed a remaining balance of \$36,344.12 to plaintiff. In response, defendant maintained that his \$30,300.93 payment to plaintiff was a full and final payment of all amounts due to plaintiff, as evinced by the Release of Lien executed on behalf of plaintiff. The trial court granted plaintiff's motion, and defendant appealed.

¶ 10

## II. ANALYSIS

¶ 11 Defendant contends that the trial court erred in granting summary judgment, because there are genuine issues of material fact as to whether his \$30,300.93 payment to plaintiff constituted an accord and satisfaction. In response, plaintiff argues that summary judgment was proper, because there was no evidence of an agreement by it to accept partial payment to resolve defendant's debt. We agree with plaintiff and find that summary judgment was proper.

¶ 12 Summary judgment is proper where “the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” 735 ILCS 5/2-1005(c) (West 2012); *Abrams v. City of Chicago*, 211 Ill. 2d 251, 257 (2004). A reviewing court's function is to determine whether a genuine issue of fact was raised and, if none was raised, whether judgment as a matter of law was proper. *American Family Mutual Insurance Co. v. Page*, 366

Ill. App. 3d 1112, 1115 (2006). The entry of summary judgment is subject to *de novo* review. *Outboard Marine Corp. v. Liberty Mutual Insurance Co.*, 154 Ill. 2d 90, 102 (1992).

¶ 13 An accord and satisfaction is a contractual method of discharging debts or claims between the parties to such an agreement. For such an arrangement to exist, there must be: (1) a *bona fide* dispute as to the claims pending between the parties; (2) an unliquidated sum owed; (3) consideration; (4) a shared mutual intent to compromise the claims; and (5) execution of the agreement. *Saichek v. Lupa*, 204 Ill. 2d 127, 135 (2003). The accord is the agreement between the parties, while the satisfaction is its execution or performance. *Id.* Because the concept is grounded in contract law, courts focus on the intent of the parties when discerning whether an accord and satisfaction has been reached and subsequently executed. *Id.* Thus, a transaction will constitute an accord and satisfaction only where both parties intend it to have that effect. *Holman v. Simborg*, 152 Ill. App. 3d 453, 456 (1987). When a payment of less than what is claimed is tendered and accepted, it will not constitute an accord and satisfaction of the entire claim unless it can be demonstrated that the creditor intended to accept it as full satisfaction. *Id.* “In the absence of such intent, the partial payment will operate as a discharge of only the amount paid, and the creditor will be entitled to maintain an action to recover the balance of his claim.” *Id.*

¶ 14 Defendant argues that “[d]uring the process of settling his case, Defendant agreed to pay and Plaintiff agreed to accept \$30,300.93 as full and final payment of his bill for treatment.” The record is devoid of any evidence to support this claim. Defendant’s reliance on the language of the Release of Lien, specifically the words “full and final payment,” is unconvincing. The Release of Lien, which was drafted by defendant’s attorney, when read in its entirety, makes clear that the \$30,300.93 payment was made to release the medical lien asserted by plaintiff.

Curiously, defendant also relies on the transmittal letter sent by his counsel along with the \$30,300.93 payment. According to defendant, that letter established “the explicit understanding that it was a full and final payment.” However, the letter expressly provides that the check was “full and final payment *of your lien.*” (Emphasis added.) As there is no evidence of plaintiff’s intent to accept the \$30,300.93 as payment of the entire claim, there can be no accord and satisfaction.

¶ 15 Further, as plaintiff notes, the Health Care Services Lien Act explicitly authorizes plaintiff to collect the remaining amount due. Section 10(a) of the Act authorized the creation of the lien. It provides:

“Every health care professional and health care provider that renders any service in the treatment, care, or maintenance of an injured person \*\*\* shall have a lien upon all claims and causes of action of the injured person for the amount of the health care professional’s or health care provider’s reasonable charges up to the date of payment of damages to the injured person. The total amount of all liens under this Act, however, shall not exceed 40% of the verdict, judgment, award, settlement, or compromise secured by or on behalf of the injured person on his or her claim or right of action.” 770 ILCS 23/10(a) (West 2012).

Section 45 of the Act provides:

“Amounts not recovered under lien. Nothing in this Act shall be construed as limiting the right of a health care professional or health care provider, or attorney, to pursue collection, through all available means, of its reasonable charges for the services it furnishes to an injured person. *Notwithstanding any other provision of law, a lien holder*

*may seek payment of the amount of its reasonable charges that remain not paid after the satisfaction of its lien under this Act.”* (Emphasis added.) 770 ILCS 23/45 (West 2012).

Therefore, as plaintiff asserts, its receipt of defendant’s payment in satisfaction of the lien did not extinguish its right to seek the remaining balance due. See *Progressive Universal Insurance Co. of Illinois v. Taylor*, 375 Ill. App. 3d 495, 500 (2007).

¶ 16

III. CONCLUSION

¶ 17 For the reasons stated, we affirm the judgment of the circuit court of Winnebago County.

¶ 18 Affirmed.