S T A T E O F N E W Y O R K

1232

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. SEMINERIO -- read once and referred to the Committee on Judiciary

AN ACT to amend the judiciary law, in relation to contingent fees for attorneys in claims or actions for personal injury

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The section heading and subdivisions 1, 2 and 5 of section 474-a of the judiciary law, as amended by chapter 485 of the laws of 1986, are amended to read as follows:

Contingent fees for attorneys in claims or actions for medical, dental or podiatric malpractice, OR FOR PERSONAL INJURY, INCLUDING DEATH. 1. For the purpose of this section, the term "contingent fee" shall mean any attorney's fee in any claim or action for medical, dental or podiatric malpractice, OR FOR PERSONAL INJURY, INCLUDING DEATH, whether determined by judgment or settlement, which is dependent in whole or in part upon the success of the prosecution by the attorney of such claim or action, or which is to consist of a percentage of any recovery, or a sum equal to a percentage of any recovery, in such claim or action.

2. Notwithstanding any inconsistent judicial rule, a contingent fee in a medical, dental or podiatric malpractice action, OR AN ACTION FOR PERSONAL INJURY, INCLUDING DEATH, shall not exceed the amount of compensation provided for in the following schedule:

30 percent of the first $250,000 of the sum recovered;
25 percent of the next $250,000 of the sum recovered;
20 percent of the next $500,000 of the sum recovered;
15 percent of the next $250,000 of the sum recovered;
10 percent of any amount over $1,250,000 of the sum recovered.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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5. Any contingent fee in a claim or action for medical, dental or podiatric malpractice, OR FOR PERSONAL INJURY, INCLUDING DEATH, brought on behalf of an infant shall continue to be subject to the provisions of section four hundred seventy-four of this [chapter] ARTICLE.

S 2. This act shall take effect immediately and shall apply to all retainer agreements executed on or after such effective date.