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CALIFORNIA SUPREME COURT RULES THAT PLAINTIFF CAN RECOVER ONLY PAID MEDICAL EXPENSES, NOT FULL BILLED CHARGES

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Howell v. Hamilton Meats & Provisions, Inc.
Cal. Supreme Court, Aug. 18, 2011

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In a landmark decision, the California Supreme Court held today that a plaintiff cannot obtain medical expense damages based on his "billed" medical charges, because the plaintiff was not damaged in that amount. *Howell v. Hamilton Meats & Provisions, Inc.* (Cal. Supreme Court, Aug. 18, 2011). The Court held that the plaintiff could recover only the amount of medical expenses actually paid on her behalf. The Court said: "We hold no such recovery is allowed, for the simple reason that the injured plaintiff did not suffer any economic loss in that amount."

Plaintiff Rebecca Howell was seriously injured in an automobile accident negligently caused by a driver for defendant Hamilton. At trial, Hamilton conceded liability and the necessity of plaintiff's medical treatment. It contested only the amount of plaintiff's damages. Hamilton moved to exclude evidence of medical bills that neither plaintiff nor her health insurer, PacifiCare, had paid. Evidence showed that significant amounts of the health care providers' bills had been adjusted downward before payment pursuant to the providers' agreements with PacifiCare and that, under plaintiff's PacifiCare policy, plaintiff could not be billed for the balance. Hamilton argued that because the providers could recover only the amounts paid by plaintiff and her insurer, the larger amounts billed by the providers were irrelevant and should be excluded. Plaintiff argued that reduction of her medical damages would violate the collateral source rule, citing to copies of the patient agreements she had signed, in which she agreed to pay the providers their "usual and customary charges." The trial court granted Hamilton's motion to preclude the billed charges, but the court of appeals reversed, holding the reduction violated the collateral source rule.

The Supreme Court vacated the court of appeals' decision. The Court (1) held that a plaintiff may recover as economic damages no more than the reasonable value of the medical services received and is not entitled to recover the reasonable value if his or her actual loss was less; (2) rejected plaintiff's argument that she had "incurred" liability for the full amount of the bills when she signed patient agreements with those providers and accepted their services; (3) found an exception for donated services: "In jurisdictions where donated services are considered to fall within the collateral source rule, the plaintiff is presumably entitled to recover the reasonable value of the services even though he or she did not incur liability in that amount"; (4) rejected the argument that the tortfeasor obtains a windfall merely because the injured person's health insurer has negotiated a favorable rate of payment with the person's medical provider, and (5) rejected plaintiff's argument that the negotiated rate differential represented a "benefit" she purchased from her insurer as the monetary value of the administrative and marketing advantages a provider obtains through its agreement with the insurer.

The Court held that the negotiated rate differential lies outside the operation of the collateral source rule because it is not primarily a benefit to the plaintiff and, to the extent it does benefit the plaintiff, it is not provided as *compensation* for the plaintiff's injuries. As such, the collateral source rule has no bearing on amounts that were included in a provider's bill but for which the plaintiff never incurred liability. Such sums are not damages the plaintiff would otherwise have collected from the defendant. The Court said that billed expenses are neither paid to the providers on the plaintiff's behalf nor paid to the plaintiff in indemnity of his or her expenses. Because they do not represent an economic loss for the plaintiff, they are not recoverable in the first instance. "The collateral source rule precludes certain deductions against otherwise recoverable damages, but does not expand the scope of economic damages to include expenses the plaintiff never incurred."

The Court also noted that where a trial jury has heard evidence of the amount accepted as full payment by the medical provider but has awarded a greater sum as damages for past medical expenses, the defendant may move for a new trial on grounds of excessive damages.

The Court concluded: "There is, to be sure, an element of fortuity to the compensatory damages the defendant pays under the rule we articulate here. A tortfeasor who injures a member of a managed care organization may pay less in compensation for medical expenses than one who inflicts the same injury on an uninsured person treated at a hospital. But, as defendant notes, [f]ortuity is a fact in life and litigation."

One judge dissented. While agreeing that plaintiff was not entitled to recover the gross amount of her potentially inflated medical bills, he disagreed that her recovery of medical damages must be capped at the discounted amount her medical providers agreed to accept as payment in full from her insurer. Rather, he believed plaintiff should be entitled to recover the reasonable value or market value of such services, as determined by expert testimony at trial.