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CHALLENGING THE REASONABLENESS OF MEDICAL BILLS UNDER ILLINOIS LAW

It is well-known in Illinois, that a defendant cannot challenge plaintiff's medical bills based on payments made by insurance, Medicare, Medicaid or any other collateral source. This is commonly referred to as the collateral source rule, which declares "benefits received by the injured party from a source wholly independent of, and collateral to, the tortfeasor will not diminish damages otherwise recoverable from the tortfeasor." *Wilson v. The Hoffman Group, Inc.*, 131 Ill.2d 308 (1989). It is also well-known that if a plaintiff's medical bills are paid, it is a *prima facie* showing that the medical bills are reasonable. *Arthur v. Catour*, 216 Ill.2d 72, 82 (2012). If the medical bill is not fully paid, the plaintiff must present evidence to establish that the medical bills are reasonable. Id. at 96.

It is rare to have a personal injury case where the amount of medical bills incurred, equals the amount of medical bills paid. This traditionally does not occur, because a plaintiff's medical bills are most often reduced by insurance before being paid. Under Illinois law, a plaintiff is permitted to present evidence to a jury that the amount of the medical bills incurred, were the reasonable and necessary medical costs for the injuries alleged. Plaintiff will rely on testimony from her treating physician, which presents evidence that the medical bills were reasonable and necessary. Due to the collateral source rule, a defendant can be left with few defenses to the *prima facie* showing that the paid medical bills are reasonable.

An approach that is gaining traction, is to challenge the medical bills based on industry standards of medical treatment across the country. This begins with a pro-active approach from counsel, who will challenge a treating physician when asked the all too common question "were the medical bills reasonable and necessary for the treatment required for plaintiff's injuries as a result of the incident." Most defense counsel will not press a treating physician on this issue. However, a skilled and knowledgeable defense lawyer should be prepared to cross-examine the treating physician on his knowledge of his companies billing and the coding system of the American Medical Association. Most physicians are not familiar with their own billing and have little knowledge about the coding system. These simple questions can undercut plaintiff's reliance on a treating physician to present evidence that the medical bills were reasonable and necessary.

The amount of medical bills can also be challenged based on the amount paid across the industry. There are a number of reliable expert witnesses who will provide expert testimony for the defense, which will show that the medical bills are not reasonable. This is based on a comparison of the amount of medical bills in your jurisdiction, compared to medical bills across the country. This testimony, coupled with plaintiff's inability to provide a *prima facie* showing that the medical bills are reasonable, is a strong and persuasive argument for a jury to lower the medical bills claims at trial. This strategy is most effective in catastrophic injury lawsuits, which will diminish past and future medical bills (and a life care plan) as the result of serious injury.