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**\*BREAKING NEWS: CALIFORNIA SUPREME COURT UPHOLDS *HANIF* DECISION REGARDING MEDICAL DAMAGES\***

Under the earlier decision in *Hanif v. Housing Authority* (1988) 200 Cal.App.3d 635, a plaintiff could not collect damages for incurred medical expenses which were in excess of the amounts actually paid by a plaintiff's health care insurers. In that case, the Court of Appeal ruled that "[t]o be recoverable, a medical expense must be both incurred *and* reasonable."

The plaintiffs' bar challenged the longstanding *Hanif* rule in the case of *Howell v. Hamilton Meats & Provisions, Inc.* (August 18, 2011), arguing that a plaintiff should be entitled to recover the full amount of medical costs billed, regardless of whether that amount was actually paid by his health care insurer (whether government or private). Earlier today, the Supreme Court rejected this argument, and upheld the *Hanif* decision.

In *Howell*, plaintiff Rebecca Howell was seriously injured in an automobile accident which had been negligently caused by a driver for defendant Hamilton Meats & Provisions, Inc. At trial, Ms. Howell's husband and her surgeon testified that Ms. Howell had been billed a total of \$189,978.63 for her medical care. The jury awarded Ms. Howell the identical amount in damages for her past medical expenses. Defendant Hamilton then asked the trial court to reduce this damages award by \$130,286.90, and presented evidence that plaintiff's health care provider, PacifiCare, had paid only \$59,691.73 as full payment for her treatment. The trial court reduced the judgment, but the Court of Appeal reversed the trial court's order.

Plaintiff argued that the *Hanif* ruling did not apply to situations involving private health insurance, and the Supreme Court rejected her argument. Because her health care providers had accepted discounted amounts as full payments of the medical

costs billed pursuant to preexisting agreements with PacifiCare, the Court ruled that Ms. Howell “cannot meaningfully be said ever to have incurred the full charges.”

The Supreme Court held that “an injured plaintiff whose medical expenses are paid through private insurance may recover as economic damages no more than the amounts paid by the plaintiff or his or her insurer for the medical services received or still owing at the time of trial.” Also, the Court ruled that evidence of such lower amounts is relevant to prove a plaintiff’s damages for past medical expenses and, assuming it satisfies other rules of evidence, is admissible at trial. Further, “evidence of the full billed amount is not itself relevant on the issue of past medical expenses,” and if a jury hears evidence of the actual amount paid and awards a greater sum, the defendant may move for a new trial based on an excessive damages award.

With this ruling, defendants in personal injury lawsuits should continue to investigate the true extent of medical damages claimed by personal injury plaintiffs. If a plaintiff or a plaintiff’s health care insurer has enjoyed the benefit of a discount from a medical care provider, then a defendant can reap the benefits of that discount, as well. Defendants will continue to be able to use the lesser amount to their advantage in settlement negotiations and trial.

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