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A Claim for Medical Expenses Is Limited to the Rate Negotiated by Plaintiff's Insurer - So Rules The California Supreme Court in Howell

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Adding its voice to a continuing national debate, the California Supreme Court has adopted the minority rule and held that tort damages for past medical expenses are limited to those amounts actually paid and accepted as full payment for the services provided, when such amounts are determined by an existing agreement with the plaintiff's insurance carrier. In such a case, an amount otherwise "billed" using rates outside of the agreement is irrelevant. In its [opinion](#), the Court explained that only the prenegotiated amount actually paid by, or on behalf of, the plaintiff to settle a previous medical bill is recoverable as economic damages, because such a payment is the extent of plaintiff's actual loss. As a result, the collateral source rule does not apply, because the issue is the measure of plaintiff's actual damages, not how they were paid. The Court noted that, to be recoverable, such damages must be both reasonable and actually incurred. While acknowledging that this could result in wildly different damages for the same injury, depending on whether the plaintiff was insured, this does not change the measure of a particular plaintiff's damages. The Court noted a similar disparity in lost income damages between different plaintiffs with identical injuries. There were several amicus briefs filed in this matter, including one prepared by Sedgwick. For more details about Howell, see the [Damages update page](#).