

## “NO! NO! NO!” THE CORENBAUM CASE ANSWERS QUESTIONS HOWELL LEFT UNANSWERED

Written by Tracy Tucker



(Photo courtesy of GOOGLE)

In 2011, the California Supreme Court partially tackled the issue of admissibility of the full amount of medical expenses billed v. the lower amount accepted by health care providers. In Howell v. Hamilton Meats & Provisions, Inc. 52 Cal.4th 541, the Supreme Court limited recovery for medical specials to the reduced amount after application of contractual discounts and write-offs, finding that said contractual discounts were negotiated for the benefit of health care providers and not their insureds, thereby finding no violation of the collateral source doctrine. However, the Howell case left important questions unanswered:

1. Is the evidence of the larger amount billed relevant to the reasonableness of past medical services rendered;
2. Is the evidence of the larger amount billed relevant to the determination of damages for future medical care; and
3. Is that evidence relevant to the determination of non-economic damages.

On April 30, 2013, the Court of Appeal Second Appellate District (Division Three) filed its decision in Corenbaum v. Lampkin B236227 answering each of the questions in the negative.

Corenbaum and Carter were injured when a vehicle driven by Lampkin collided with the taxicab in which they were passengers. Two civil actions, later consolidated, were brought and the jury awarded roughly \$1.8 million to Corenbaum and \$1.4 million to Carter for past and future medical care and non-economic damages. Lampkin appealed these separate awards contending that the trial court erred in admitting evidence of the full amounts billed for plaintiffs' respective medical care "when the amounts accepted by their medical providers as full payment were less than the amounts billed".

In its review, the court rejected the argument that the greater amount billed could have relevance to the reasonable

value of past medical expenses reasoning that an injured plaintiff cannot recover more than the amount incurred for past medical damages. Furthermore, for the jury "to consider both evidence of the amount accepted by the medical providers as full payment and evidence of a potentially greater reasonable value would very likely cause jury confusion and suggest the existence of a collateral source payment which would be contrary to the evidentiary aspect of the collateral source rule." Consequently, the court concluded that evidence of the full amount billed for plaintiffs' medical care was not admissible for the purpose of determining plaintiffs' damages for their past medical expenses.

The court also concluded that evidence of the full amount billed is not admissible to support an expert opinion on the reasonable value of future medical services finding that, since the greater value is not relevant to the amount of past medical expense, it cannot be relied upon to evaluate future medical care.

## Proposed California Measure Requires Doctor Drug Tests

Written By Insurance Journal



(Photo courtesy of GOOGLE)

A proposed state ballot measure in California would require doctors to be randomly subjected to drug and alcohol testing.

The San Francisco Chronicle reported the "Pee in the Cup" initiative is being pushed by Bob Pack, a technology mogul and former executive at AOL Inc. and NetZero Inc.

The newspaper reported the initiative might also seek to lift the cap on damages in medical malpractice cases. Pack's young son and daughter were killed a decade ago by a driver under the influence of alcohol and prescription pills.

Pack's campaign already is armed with \$2 million in funding and will launch this summer. The goal is to get the measure on the November 2014 ballot. A spokesperson for the California Medical Association calls the effort a "publicity stunt."



Attorneys at Law

Partner  
Spotlight

Tracy Tucker



Tracy Tucker is a partner with the law firm of Homan & Stone. He has tried in excess of 35 cases to verdict. His practice includes handling defense general liability litigation, construction defect, toxic torts, products liability, conduct disputes, auto SIU (fraud), premises liability, wills, family law, mold, asbestos, silica cases, and criminal cases.

### EVENTS

PRIMA 2013 ANNUAL  
CONFERENCE

WHEN:

Sunday, 6/2/2013 -  
Wednesday, 6/5/2013

WHERE:

Tampa Convention  
Center, Tampa, FL

Join us for PRIMA's  
34th Annual Conference  
in Tampa! For more  
information, contact  
Jennifer Morris at  
703.253.1263 or [jmorris@primacentral.org](mailto:jmorris@primacentral.org).



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