I. Collateral Source

A. Can plaintiff submit to a jury the total amount of his/her medical expenses, even if a portion of the expenses were reimbursed or paid for by his/her insurance carrier?


B. Is the fact that all or a portion of the plaintiff’s medical expenses were reimbursed or paid for by his/her insurance carrier admissible at trial or does the judge reduce the verdict in a post trial hearing?

No. In Georgia the collateral-source rule bars the defendant from taking any credit toward the defendant's liability and damages for such payments. Id.

C. Can defendants reduce the amount plaintiff claims as medical expenses by the amount that was actually paid by an insurer? (i.e. where plaintiff’s medical expenses were $50,000 but the insurer only paid $25,000 and the medical provider accepted the reduced payment as payment in full).


II. Accident and Incident Reports

Can accident/incident reports be protected as privileged attorney work product prepared in anticipation of litigation or are they
deemed to be business records prepared in the ordinary course of business and discoverable?

In determining whether materials were prepared in anticipation of litigation, Georgia courts focus on whether such materials can reasonably be viewed as having been prepared in response to the actual prospect of litigation, rather than having been prepared in the regular course of business. Investigatory material that was generated during a routine investigation conducted following an accident does not fall within the work-product doctrine, even though the investigation was conducted under direct supervision of attorney. However, an incident investigation cannot be considered a routine investigation where, by the time it was undertaken, an injured customer had already threatened the defendant with a claim. See O.C.G.A. § 9-11-26(c); Alta Refrigeration, Inc. v. Americold Logistics, LLC, 301 Ga. App. 738, 688 S.E.2d (2009).