I. Collateral Source

A. A plaintiff may submit to a jury the total amount of his or her medical expenses, even if a portion of the expenses were reimbursed or paid for by his or her insurance carrier. The collateral source rule is a well established principle of Rhode Island law, and prevents defendants in tort actions from reducing their liability with evidence of payments made to injured parties by independent sources. Esposito v. O'Hair, 886 A.2d 1197, 1199 (R.I. 2005).

B. The fact that all or a portion of the plaintiff's medical expenses were reimbursed or paid for by his or her insurance carrier is not admissible at trial. Rhode Island courts have repeatedly held that "the injured person is entitled to be made whole, since it is no concern of the tort-feasor that someone else completely unconnected with the tort-feasor has aided his victim". Gelsomino v. Mendonca, 723 A.2d 300, 301 (R.I. 1999).

C. A defendant cannot reduce the amount plaintiff claims as medical expenses by the amount that was actually paid by an insurer. Rhode Island's collateral source rule "requires the negligent party to pay in full the damages suffered by the injured person without credit for any amounts received by the injured person from sources independent of the negligent party." Moniz v. Providence Chain Co., 618 A.2d 1270, 1271 (R.I. 1993).

II. Accident and Incident Reports

Accident and incident reports can be protected as privileged attorney work product prepared in anticipation of litigation. "The provisions of the Superior Court Rules of Civil Procedure pertaining to discovery generally are liberal, and are designed to promote broad discovery among parties during the pretrial phase of litigation." Henderson v. Newport Cnty. Reg'l Young Men's Christian Ass'n, 966 A.2d 1242, 1246 (R.I. 2009). In Henderson, the report at issue was prepared by a risk abuse management company to investigate sexual abuse of children by one of defendant's employees. In so requesting the report, defendant's counsel specifically stated the request was made in anticipation of potential litigation and that all information learned in compiling the report would remain confidential between the defendant and defendant's counsel. Id. at 1245. The report was prepared and the cover contained the language "Attorney Client Work Product - PRIVILEGED AND CONFIDENTIAL," and was provided only to the defendant's Board of Directors and counsel. Upon learning of the report, plaintiffs first attempted to obtain a copy of the report via subpoena, and when that failed,
requested an in-camera review to determine whether the report was discoverable. The trial justice ruled in favor of the plaintiffs and ordered the defendants to produce the report.

On review, the Supreme Court held that the report was qualifiedly immune from discovery and would not be produced to plaintiffs, absent a showing of substantial need for the report or inability to obtain equivalent material from the report. In examining the report, the court found that the letter authored by defendant's attorney revealed that the report was made in anticipation of litigation, and that nothing in the record indicated that the defendant had previously commissioned this type of investigation and that there was no indication that the investigation was solicited for any other reason than in anticipation of the impending lawsuit. The plaintiffs also failed to show a substantial need for the report and could obtain material equivalent to the report without undergoing undue hardship. As such, the report was shielded from discovery based on the work-product privilege.