1. **Does your jurisdiction maintain a collateral source rule?**

   Yes. “Under the common law collateral source rule, ‘[A] wrongdoer is not entitled to have damages, for which he is liable reduced by proof that the plaintiff has received or will receive compensation or indemnity for the loss from an independent collateral source.’” *Wilson v. IHC Hosps., Inc.*, 2012 UT 43, ¶31, 289 P.3d 369, 381 (citing *Mahana v. Onyx Acceptance Corp.*, 2004 UT 59, ¶ 37, 96 P.3d 893). However, the Utah legislature has modified the collateral source rule by statute as it pertains to medical malpractice cases. See, *Wilson, Inc.*, 2012 UT 43 ¶32, 289 P.3d 369, 381; Utah Code Ann. §78B-3-405. While still not appropriate for jury trials, the statute states that “‘upon a finding of liability and an awarding of damages by the trier of fact,’ trial courts ‘shall reduce the amount of the award by the total of all amounts paid to the plaintiff from all collateral sources which are available to him’” *Id.*

2. **Does your jurisdiction allow plaintiff recovery for expenses written off by the healthcare provider?**

   We have found no authority in Utah which has addressed this issue to date. Therefore, any review of this issue would be one of first impression.

3. **Must a plaintiff prove medical services were reasonable or necessary in order to recover?**

   Yes. A plaintiff seeking to recover medical expenses must prove those expenses were reasonable and necessary. *Hansen v. Mt. Fuel Supply Co.*, 858 P.2d 970, 981, (Utah 1993).

4. **Must a plaintiff guarantee reimbursement payment to a healthcare provider if a judgment is rendered or settlement achieved?**

   Absent a lien, no. Utah has adopted the Made Whole Doctrine stating, “[I]n the absence of express terms to the contrary, the insured must be made whole before the insurer is entitled to be reimbursed from a recovery from the third-party tortfeasor.” *Anderson v. United Parcel Serv.*, 96 P.3d 903, 907 (Utah 2004)(internal citations omitted). An insurer’s right to subrogation is provided by statute, “the statutory scheme supplies no further regulations beyond merely granting the right.” *Id.* Thus, “in governing an auto insurer’s right to
subrogation, a court must, of necessity, apply equitable principles in determining how that right is to be exercised.” *Id.*

5. **If an insurance carrier maintains a contractual agreement with a healthcare provider that reduces payments, what can a plaintiff “blackboard” as damages? (I.e., what effect does a pre-existing agreement between an insurance carrier and healthcare provider have on a plaintiff’s ability to recover medical bills?)**

We have found no authority in Utah which has addressed this issue to date. Therefore, any review of this issue would be one of first impression.

*This section of the Compendium was prepared by an attorney not licensed in the State of Utah. Although the attorney used his/her best efforts to set forth the current law, users of this section of the Compendium should rely solely on counsel licensed in the State of Utah.*