

Medical Expenses in Car Crash Cases after *In re Allstate* and *In re K&L Auto Crushers*

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How we discover
prove up, &
challenge
medical bills
continues
to evolve

- 2019 procedural changes to § 18.001
- *In re Allstate* (Tex. 2021)
- *In re K&L Auto Crushers* (Tex. 2021)
and *In re ExxonMobil* (Tex. 2021)
- Collateral source rule

How we discover
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Questions include:

- How can plaintiffs most efficiently prove up medical expenses?
- Why controvert under 18.001?
- Why challenge a controverting affidavit under 18.001?
- Admissibility of *North Cypress*-type insurance rate information?
- Failure to mitigate defense vs. collateral source rule

18.001 &
Paid vs.
Incurred
Background

Recovery of medical expenses in car crash cases is limited to:

- Amounts actually paid or incurred,
- that are reasonable, and
- necessary

Claimants can only recover medical expenses that are "Paid or Incurred"

- Tex. Civ. Prac. & Rem. Code § 41.0105
- Governs recovery of medical expenses & admissibility of evidence to prove those expenses.
- Provides: "In addition to any other limitation under law, recovery of medical or health care expenses incurred is limited to the amount actually paid or incurred by or on behalf of the claimant."

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"Medical Expenses in Car Crash Cases after *In re Allstate*: an Update from Discovery to Trial "