

***Leitinger v. Van Buren Management, Inc. 2007 WI 84, 302 Wis. 2d 110, 736 N.W.2d 1***

Decision Date: 7/3/07

Supreme Court review of published decision of the Court of Appeals reversing a judgment of the Circuit Court for Milwaukee County, the Honorable Jeffrey A. Kremers presiding. Affirmed.

Attorney(s): Arthur P. Simpson and Christine M. Rice

It is a reflection of modern healthcare billing practice that the amounts medical care providers charge and the amounts they expect to receive in return for their services are significantly different. Wisconsin law requires the jury determine the reasonable value of medical services rendered as the proper measure of damages in a personal injury action. The law does not provide that only the amounts billed may be considered by the jury in that determination of value. S&D took an innovative stance on this issue before multiple trial courts successfully arguing that the amounts paid should be considered by the jury as one potential measure of reasonable value based on Wisconsin law. The Court of Appeals halted these efforts by deciding that only the amounts billed may be considered pursuant to the "collateral source rule." S&D argued before the Supreme Court that the collateral source rule serves no bona fide public policy, particularly in the context of attempting to suppress relevant evidence to the jury's determination of reasonable value, i.e. what healthcare providers have chosen to accept as payment in full for their services. The Supreme Court held, as did the Court of Appeals, that the collateral source rule prohibits parties in a personal injury action from introducing the amounts paid to prove reasonable value. The court's decision leaves open the argument that even the amounts billed are inadmissible without a proper foundation showing relationship to reasonableness.