Phantom Damages Raise Costs for Illinois Residents

Phantom damages are compensatory damage awards for medical expenses that include the amount the patient was billed rather than only including what the patient actually paid. For example, a hospital may bill $20,000 for an emergency room visit, while the amount the hospital actually receives after adjustments may be $8,000. The $12,000 difference is not owed or ever paid in the real world. These fabricated figures are not grounded in any fee schedule or customary standard.

Phantom damages can significantly undermine the fairness and predictability of Illinois' legal system by encouraging speculative claims and overcompensation. This contributes to rising litigation costs and increases the overall cost of the judicial system for all Illinois residents. Illinois courts need to take steps to limit or eliminate phantom damages and focus on awarding compensation based on actual harm.

Overestimation of Damages

Juries are only told the "phantom" large dollar amount billed. They are not informed of the actual amount paid by a patient or their insurer and are not made aware of the financial interest of medical finance companies or their impact on health care costs. As a result, we see higher and higher phantom damage awards and settlement amounts based on exaggerated numbers intended to produce a larger payout for trial lawyers.

Contribution to Growing Litigation Costs

Lawsuit abuse costs Illinois residents an estimated $4,281 annually per household. The use of inflated billed amounts only increases the overall cost of the judicial system, spreading the financial burden on the backs of every Illinois resident.

Unfair Financial Exposure

Defendants may be required to pay for inflated phantom damages that are not grounded in reality. This risk of phantom damages can discourage businesses from operating in Illinois as they may face unpredictable and disproportionate liabilities based on unsubstantiated claims. According to a 2024 report by The Perryman Group, legal system abuse in Illinois already imposes direct costs of $47.8 billion on businesses annually, resulting in annual state gross product loss of $24.08 billion, and more than 208,000 lost.