

**CHAPTER 32-39**  
**VOLUNTARY PARTIAL PAYMENT OF CLAIMS**

**32-39-01. Voluntary service or partial payment not admissible.**

No voluntary service or partial payment of a claim, including a claim of medical malpractice, against any person based on alleged liability of that person for injury or damage arising out of any occurrence may be construed as an admission of fault or liability. Evidence of the service or payment is not admissible in any action for the purpose of determining the amount of any judgment or the liability of any person with respect to the occurrence.

**32-39-02. Voluntary service or payment not admission of liability.**

No receipt of a voluntary service or partial payment of a claim, including a claim of medical malpractice, against any person based on alleged liability of that person for injury or damage arising out of any occurrence may be construed as a waiver or release of the claim by the person receiving the service or payment, unless a written waiver or release is given. No receipt, provision, or payment of a voluntary service or partial payment of a claim may reduce the amount of damages which may be pleaded and proved in a court proceeding between the parties.

**32-39-03. Agreement by parties - Credit for service or payment.**

Upon final voluntary compromise settlement of any claim, including a claim of medical malpractice, against any person based on alleged liability of that person for injury or damage arising out of any occurrence, the parties may make any agreement they desire concerning previous voluntary services or partial payments of the claim. If the claim is tried in a court, after entry of judgment involving the claim, the value of any previous voluntary service or partial payment of the claim must be deducted from the amount of the judgment if the value thereof was included in the assessment of damages contained in the judgment. If, after entry of judgment involving the claim, it is determined by the judgment that the amount of injury or damages is less than the value of the previous services and voluntary payments, the provider of the services or payer of the payments has no claim for relief for the recovery of amounts by which the voluntary services or payments exceed the final court judgment.