

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2024-015917-CA-01

SECTION: CA04

JUDGE: Mavel Ruiz

LIDIA MASSARINO

Plaintiff(s)

vs.

WAL-MART STORES EAST LP

Defendant(s)

_____ /

**PROPOSED ORDER ON DEFENDANT’S MOTION TO LIMIT EVIDENCE OF
PLAINTIFF’S PAST AND FUTURE MEDICAL EXPENSES AT TRIAL AND MOTION
TO COMPEL PRODUCTION OF REQUIRED DISCLOSURES PURSUANT TO
FLORIDA STATUTE §768.0427**

THIS CAUSE, having come before the Court on Defendant, WAL-MART STORES EAST, LP’s Motion to Limit Evidence of Plaintiff’s Past and Future Medical Expenses at Trial and Motion to Compel Production of Required Disclosures Pursuant to Florida Statute §768.0427, the Court having reviewed Defendant’s motion, Plaintiff’s Response to same, together with all exhibits and filings, and having heard oral arguments on September 21, 2025, hereby GRANTS Defendant’s Motion as follows:

1. House Bill 837 (the “Act”), commonly known as the Florida Tort Reform Bill, was ratified into law on March 24, 2023. The Act includes a provision in Section 30 that states “[e]xcept as otherwise expressly provided in this act, this act shall apply to causes of action filed after the effective date of this act.” In Section 31, the Act provides that “[t]his act shall take effect upon becoming law.”
2. The Act established Florida Statutes Section 768.0427, which addresses the admissibility of evidence to prove medical expenses in personal injury actions, the disclosures of letters of protection (“LOPs”), and the recovery of past and future medical expenses damages.
3. The Act, specifically Section 768.0427, applies to this case.
4. Based on the evidence submitted, Plaintiff had Molina Healthcare Silver 1 100 Plan insurance coverage at the time she underwent treatment for injuries that she relates to the

incident in this lawsuit. However, only one medical provider, HCA Aventura Hospital, submitted her charges to insurance. The remaining providers: Florida Hand Therapy, Fox Physical Therapy, Prestige Anesthesia, Team Post-OP, Prescription Partners, Miami Regional Institute for Joint Reconstruction, Miami Regional OPCO, and Central Magnetic Imaging, all rendered care pursuant to Letters of Protection.

Past Medical Expenses That Have Been Satisfied

5. Section 768.0247(2)(a) governs the admissibility of evidence offered to prove the amount of damages for past medical treatment that have been satisfied, and it strictly limits admissible evidence of the amount actually paid, regardless of the source.
6. To the extent Plaintiff seeks to admit evidence of damages for expenses that have been paid by insurance, that evidence shall be limited to evidence of the amount paid to satisfy the expenses.
7. The medical bills for HCA Aventura Hospital indicate that \$9,409.00 in charges were submitted to Molina Healthcare, of which Molina Healthcare paid \$681.20 and \$8,557.00 was contractually adjusted, leaving a balance of \$170.30. As the contractually adjusted amount is not owed by Plaintiff, it is not admissible.

Past Medical Expenses That Have Not Been Satisfied

8. Section 768.0427(2)(b) governs the admissibility of evidence offered to prove the amount of damages for past medical treatment that have not been satisfied.
9. Section 768.0427(2)(b)(2) states:

If the claimant has health care coverage but obtains treatment under a letter of protection or otherwise does not submit charges for any health care provider's medical treatment or services to health care coverage, evidence of the amount the claimant's health care coverage would pay the health care provider to satisfy the past unpaid medical charges under the insurance contract or regulation, plus the claimant's share of medical expenses under the insurance contract or regulation, had the claimant obtained medical services or treatment pursuant to the health care coverage.
10. Since Plaintiff treated under letters of protection, Section 768.0247(3) also applies and states that in a personal injury action, the plaintiff must disclose a copy of the letter of protection as a condition precedent to asserting a claim for medical expenses for treatment rendered under letters of protection.
11. Where a party files a personal injury action, it is "asserting" a claim for damages. *See, e.g., Assert, Black's Law Dictionary* (11th ed. 2019).
12. Prior to filing this lawsuit and asserting a claim for damages, the following medical providers rendered treatment under letters of protection: Florida Hand Therapy, Prestige Anesthesia, Team Post-OP, Prescription Partners, Miami Institute for Joint Reconstruction, Miami Regional OPCO, and Central Magnetic Imaging.

13. Plaintiff failed to produce the letters of protection prior to filing suit and in fact, did not produce the letters of protection until after the discovery cut off deadline, and Plaintiff still has not produced the letter of protection for her treatment at Miami Regional Institute[1], Miami Regional OPCO[2], and Central Magnetic Imaging[3].
14. Subsequent to the filing of this lawsuit, Plaintiff also sought treatment at Fox Physical Therapy. She executed a letter of protection on September 3, 2024. The letter of protection was not produced by Plaintiff until 2.5 months later, when Plaintiff untimely responded to overdue discovery requests.
15. In addition to failing to meet the condition precedent under the statute, Plaintiff also failed to produce evidence of the amounts that her health care coverage would have paid to her medical providers to satisfy her charges, had the charges been submitted to Molina, in compliance with §768.0427(2)(b)(2).
16. The statute is clear that the admissible evidence offered to prove damages **shall** include the amount that health care coverage would have paid to satisfy the bills.
17. It is well-established that “shall” is a mandatory word that imposes a duty. *See Sanders v. City Of Orlando*, 997 So. 2d 1089, 1095 (Fla. 2008) (“The word ‘shall’ is mandatory in nature.”); *The Florida Bar v. Trazenfeld*, 833 So. 2d 734, 738 (Fla. 2002) (“The word ‘may’ when given its ordinary meaning denotes a permissive term rather than the mandatory connotation of the word ‘shall.’”); *see also Johnson v. Johnson*, 88 So. 3d 335, 338 (Fla. 2d DCA 2012) (“We construe the words ‘shall’ and ‘must’ in this provision to impose a mandatory duty upon the trial court that must be performed before ruling.”).
18. The Legislature chose to use the word “shall” to establish the evidence required to prove entitlement to recover reasonable medical bills in the past and future.
19. The Legislature is well-equipped to use permissive language where it intends to do, and it is not the function of the Court to rewrite statutory language.

Future Medical Expenses

20. §768.0427(2)(c) governs admissible evidence to prove future medical expenses and also mandates that Plaintiff produce evidence of the amount her health care coverage would pay to satisfy any future medical expenses.
21. Plaintiff has not complied with this requirement.
22. Despite the plain language of the statute, Plaintiff failed to produce evidence to support her unpaid past medical expenses and future medical expenses, as required by §768.0427.

It is **ORDERED AND ADJUDGED**:


Defendant’s Motion to Limit Evidence of Plaintiff’s Past and Future Medical Expenses at Trial is hereby **GRANTED**.

[1] A screen capture of the provider's billing system produced by Miami Regional states "LOP" in the billing system, and Plaintiff's medical bill identifies her attorney's law firm as a party on the bill, establishing that the treatment was rendered pursuant to a letter of protection.

[2] Plaintiff's medical bill identifies her attorney's law firm as a party and payer on the medical bill, establishing that the treatment was rendered pursuant to a letter of protection, or similar agreement.

[3] The statement from Central Magnetic Imaging identifies her attorney's law firm and has no mention or reference to insurance, establishing that the treatment was rendered pursuant to a letter of protection, or similar agreement.

DONE and **ORDERED** in Chambers at Miami-Dade County, Florida on this 26th day of September, 2025.



2024-015917-CA-01 09-26-2025 10:55 AM

2024-015917-CA-01 09-26-2025 10:55 AM

Hon. Mavel Ruiz

CIRCUIT COURT JUDGE

Electronically Signed

No Further Judicial Action Required on **THIS MOTION**

CLERK TO **RECLOSE** CASE IF POST JUDGMENT

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