

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA CIVIL ACTION

VIKKI BLANCHARD,

Plaintiff,

v.

Case No. 23-CA-011601

SOUTHERN-OWNERS
INSURANCE COMPANY,

Defendants.

**ORDER ON DEFENDANT, SOUTHERN-OWNERS INSURANCE COMPANY'S
MOTION IN LIMINE REGARDING PAST AND FUTURE
MEDICAL EXPENSES DAMAGES**

THIS CAUSE having come before the Court upon Defendant, SOUTHERN-OWNERS INSURANCE COMPANY'S Motion in Limine Regarding Past and Future Medical Expenses Damages, the Court having reviewed the pleadings, having conducted heard argument of counsel on April 14, 2025, and being otherwise fully advised in the premises, it is hereby

ORDERED AND ADJUDGED 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 included a provision in Section 30 that "[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." The Complaint in this instant case was filed October 12, 2023, and there is no dispute that the Act applies to the Plaintiff's causes of action.

2. The Act created Florida Statutes Section 768.0427(2) which describes the evidence necessary to prove the amount of damages for past and future medical treatment or services in a personal injury action. The evidentiary requirements of this Section depend on whether the plaintiff's past medical expenses have been satisfied or remain unpaid, and whether the plaintiff had health insurance at the time of medical treatment.

3. It is undisputed that Plaintiff had private health insurance for a portion of her medical treatment and Medicare for the remainder, both of which paid for a portion of her medical expenses. See Pretrial Conference/Trial Order dated March 20, 2025 at §9.

4. It is further undisputed that Plaintiff has a balance of \$128,831.98 for unpaid medical bills that were not submitted to either private health insurance or Medicare. Id.

Constitutional Challenge

5. At the hearing, Plaintiff challenged the application of Section 768.0247 to her claims as unconstitutional. The Plaintiff did not cite any legal authority to support her position, and the Court finds the arguments raised at hearing unconvincing.

Past Medical Expenses That Have Been Satisfied

6. 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 the admissible evidence to evidence of the amount actually paid, regardless of the source.

7. To the extent the Plaintiff seeks to admit evidence of damages for past medical expenses that have been satisfied, that evidence shall be limited to evidence of the amounts actually paid to satisfy the expenses and not the gross amount billed.

Past Medical Expenses That Have Not Been Satisfied

8. Section 768.0427(2)(b) controls the admissibility of evidence offered to prove the amount of damages for past medical treatment that have not been satisfied. Section 768.0427(2)(b) states that “[e]vidence offered to prove the amount necessary to satisfy unpaid charges for incurred medical treatment or services **shall** include, but is not limited to evidence, as provided in this paragraph.” The Legislature then delineated the evidence of past and future medical expenses that “shall” be included depending on whether a plaintiff had health insurance of not:

1. If the claimant has health care coverage other than Medicare or Medicaid, evidence of the amount which such health care coverage is obligated to pay the health care provider to satisfy the charges for the claimant’s incurred medical treatment or services, plus the claimant’s share of medical expenses under the insurance contract or regulation.

2. If the claimant has health care coverage but obtains treatment under a letter or 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 of treatment pursuant to the health care coverage.

Fla. Stat. § 768.0427(2).

9. There is no dispute that the Plaintiff had health insurance and/or Medicare throughout her medical treatment and did not submit the outstanding medical bills to her health insurers. Accordingly, Section 768.0427(2)(b)(2) applies.

10. To the extent the Plaintiff seeks to admit evidence of damages for past medical expenses that have not been satisfied, the Plaintiff is prohibited from presenting evidence of the unpaid bills she is claiming as damages without also presenting

evidence of the amount her health care coverage would have paid to satisfy those bills. It is Plaintiff's burden to present to the jury admissible evidence to do so.

Future Medical Expenses

11. Section 768.0427(2)(c) governs the admissibility of evidence offered to prove a plaintiff's damages for the cost of future medical treatment. Section 768.0427(2)(c)(1) mandates that a claimant who has health care coverage submit evidence of the "amount for which the future charges of health care providers could be satisfied if submitted to such health care coverage, plus the claimant's share of medical expenses under the insurance contract or regulation."

12. To the extent the Plaintiff seeks to admit evidence of damages for future medical expenses, Plaintiff is prohibited from presenting evidence of the cost of future medical treatment that she is claiming as damages without also presenting evidence of the amount her health care coverage would pay to satisfy those same future medical expenses. It is Plaintiff's burden to present to the jury admissible evidence to do so.

13. Accordingly, the Defendant's Motion is GRANTED, and the Plaintiff is precluded in limine from introducing any evidence of unpaid past or future medical expenses inconsistent with this ruling. To the extent Plaintiff seeks to introduce evidence of past medical charges that have been satisfied, she must provide evidence of the amount actually paid to satisfy those charges.

DONE AND ORDERED in Chambers, Lee County, Florida



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Alane Laboda, Circuit Court Judge 751kA3di
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