

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA
CIVIL DIVISION D**

ADRIAN BORBA,
Plaintiff,

vs.

CASE NO.: 2024-CA- 119

LONG T. VU,
Defendant.

_____ /

ORDER GRANTING DEFENDANT'S MOTION IN LIMINE

THIS CAUSE having come before to be heard by the Court pursuant to the Defendant's Motion in Limine, more specifically entitled Defendant Long T. Vu's Motion in Limine Pursuant to Fla. Stat. 768.0427, said motion having filed on July 15, 2025, and the Court having reviewed and considered said motion, having reviewed and considered the Plaintiff's Response in Opposition, having considered the argument of counsel, the case law provided and the various relevant orders from differing jurisdictions provided by each, and being otherwise fully advised in the premises, the Court finds as follows:

This case was filed after March 24, 2023, and therefore Fla. Stat. 768.0427(2) is applicable and, in this Court's estimation, required. It is undisputed, from the Plaintiff's deposition testimony, his Answers to Interrogatories, and concession from Plaintiff's counsel, that Mr. Borba did not have insurance at the time of the accident.

As an initial matter, this Court finds that the plain language of this statute is unambiguous, straightforward and mandatory. The Court points specifically to the use of the word "shall" in section (2)(b) and 2(c), which, in this Court's estimation, places the burden of production of evidence as to the prescribed applicable Medicare and Medicaid rates on the Plaintiff, who is seeking the uncovered medical expenses and future medical expenses as damages.

Based upon the foregoing, Fla. Stat. section 768.0427(2)(b)(3) requires that admissible evidence of Mr. Borba's medical bills at trial must include evidence of 120

percent of the Medicare reimbursement rate in effect on the date of Mr. Borba's treatment, or, if there is no Medicare rate for such service, 170 percent of the applicable state Medicaid rate. The reference to the phrase "but not limited to", of course, clearly indicates that the Plaintiff may additionally offer any evidence of the reasonable amounts billed to Mr. Borba for medically necessary treatment and services beyond those indicated in section (2)(b)(3), subject to objection and admissibility. Similarly, section (2)(c), referring to future medical expenses, mandates that the Plaintiff introduce evidence of "120 percent of the Medicare reimbursement rate in effect at the time of trial... or, if there is no applicable Medicare rate for service, 170 percent of the applicable state Medicaid rate". As indicated, the Plaintiff is certainly free to introduce additional evidence of the reasonable amounts of any future care.

Although the trial date is still several weeks away, the Court would be inclined to agree with the Draft Jury Instructions for Discussion found on page 8 of Leon County Circuit Court Judge Stephanie Clark's February 13, 2025 Order entitled Order on Motions in Limine Regarding Medical Expenses. They appear to address the appropriate jury inquiry and effectuates the plain language of this statute.

Based upon the foregoing, therefore, it is hereby **ORDERED AND ADJUDGED** that:

1. The Defendant's Motion in Limine Pursuant to Fla. Stat. 768.0427 is **GRANTED**.
2. Compliance with Fla. Stat. 768.0427(2)(b)(3)&(2)(c) is a condition precedent to the admissibility of the Plaintiff's medical expense evidence and the burden is on the Plaintiff to comply and produce such evidence prior to trial.

DONE AND ORDERED in Manatee County, Florida, this 29th day of August, 2025.


EDWARD NICHOLAS
CIRCUIT JUDGE

Copies furnished to:

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