

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

JESS MARIE DONILE DAVISON,

Plaintiff,

vs.

CASE NO. 23-CA-11276

NESTOR FUENTES AND
ACRA ELECTRIC, INC.,

Defendants.

**ORDER GRANTING DEFENDANT'S
MOTION IN LIMINE REGARDING EVIDENCE OF MEDICAL EXPENSES**

THIS CAUSE is before the Court on Defendant's Motion in Limine regarding Evidence of Medical Expenses. The Court held a hearing on March 19, 2025, via Zoom conferencing, has considered the arguments raised by counsel, and is otherwise fully advised in the premises.

It is **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 the instant case was filed on October 3, 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 or 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 the medical treatment.

3. The Defendants submitted evidence that bills incurred by the Plaintiff from St. Lucie

Anesthesia Associates, LLC and Neuroscience and Spine Associates PL for medical treatment in the past had been paid in full. The Defendants also submitted evidence in the form of the Plaintiff's deposition testimony that she had health insurance at the time that she received medical treatment for the injuries she alleged were caused by this accident. The evidence presented by the Defendants was not contested.

4. Plaintiff's counsel proffered that the Plaintiff treated under letters of protection and that she had contacted at least one of the Plaintiff's medical providers who confirmed that it would not have accepted the Plaintiff's health insurance.

Constitutional Challenge

5. At the hearing, the Plaintiff challenged the application of Section 768.0247 to her claims as unconstitutional. The Plaintiff did not cite to 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 amount actually paid to satisfy the expenses.

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 or 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 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.

Fla. Stat. §768.0427(2)

9. There is no dispute that the Plaintiff had health insurance at the time or that she treated under letters of protection and did not submit those medical bills to her health insurer. Accordingly, Section 768.0427(2)(b)(2) applies.

10. Based on the evidence of letters of protection in this case Section 768.0427(3) also applies and requires the disclosures delineated under that section.

11. Section 768.0427(2)(b)(2) mandates that the Plaintiff submit evidence of the amount her health care coverage would have paid to satisfy any unpaid medical charges she is claiming as damages. Therefore, the Plaintiff is prohibited from presenting evidence of the unpaid bills she is claiming as damages without presenting evidence of the amount her health care coverage would have paid to satisfy those bills.

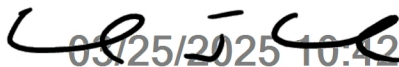
Future Medical Expenses

12. 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.” As a result, the

Plaintiff is prohibited from presenting evidence of the cost of future medical treatment that she is claiming as damages without presenting evidence of the amount her health care coverage would pay to satisfy those bills.

13. Accordingly, the Defendants' Motion is GRANTED, and the Plaintiff is precluded in limine from introducing any evidence of any unpaid past or future medical expenses inconsistent with this ruling. To the extent the 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


03/25/2025 10:42:58
23-CA-011276

Michael T. McHugh, Circuit Court Judge L96LTAq2
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