Filing # 223991826 E-Filed 05/28/2025 09:52:48 AM

IN THE CIRCUIT COURT OF THE
FOURTH JUDICIAL CIRCUIT IN AND
FOR DUVAL COUNTY, FLORIDA

CASE NO.: 16-2023-CA-011925
DIVISION: CV-C

LAVELLE D. DUNHAM,

Plaintiff,
vs.

TYRONE I. SHUFORD and
EUROTRANS EXPRESS INC.,

Defendants.
_____/

ORDER DENYING DEFENDANTS' CORRECTED MOTION IN LIMINE TO LIMIT EVIDENCE OF MEDICAL DAMAGES

THIS CAUSE came before the Court on the Defendants' Corrected Motion in Limine to Limit Evidence of Medical Damages (Dkt. 51). The Court held a hearing on May 20, 2025, and a second hearing on May 23, 2025. The Defendants' Motion presents a single issue. Whether before admitting into evidence unpaid past medical bills, section 768.0427(2)(5), requires the Plaintiff to present expert testimony that the billed amounts are "reasonable."

Background Principles

In analyzing this issue, the Court was mindful of the following principals of statutory construction. "[A]ny fact relevant to prove a fact in issue is admissible into evidence unless its admissibility is precluded by some specific rule of exclusion." *Williams v. State*, 110 So. 2d 654, 658 (Fla. 1959). "A statute will be construed to alter the common law only when that disposition is clear." Antonin Scalia & & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts § 52 (2012)*. "Unless a statute unequivocally states that it changes the common law or is so repugnant to the common law that the two cannot coexist, the statute will not be held to have

changed the common law." *Thornber v. City of Ft. Walton Beach*, 568 So. 2d 914, 918 (Fla. 1990); *accord Emerson v. Lambert, 374 So. 3d 756, 768 n. 15* (Fla. 2023). An additional and important canon of statutory construction applicable in this case is that statutory provisions altering common-law principles must be narrowly construed." *Rollins v. Pizzarelli,* 761 So. 3d 294, 300 (Fla. 2000).

The Parties' Arguments

Defendants argue that based on the legislature's inclusion of the word "reasonable" in § 768.0427(2)(5), the Plaintiff is prohibited from entering into evidence his unpaid medical bills without expert testimony that the billed amount is reasonable. At the hearing on March 20, 2025, the Defendants argued that the Plaintiff's bills are too high while also conceding that 120% Medicare rate was too low, and that the "reasonable" amount was somewhere in between.

Plaintiff responds that, with regard to unpaid past medical expenses in this case, Florida's longstanding common law still prevails. Florida's long-established common law holds that the testimony of a personal injury plaintiff alone is sufficient to present the bills to the jury. *Garrett v. Morris Kirschman & Co., Inc.,* 336 So. 2d 566 (Fla. 1975)("expert testimony was not required in order to render these medical bills in evidence."). "When a plaintiff testifies as to the amount of his or her medical bills and introduces them into evidence it becomes a question of fact for the jury to decide, under proper instructions, whether these bills represented reasonable and necessary medical expenses." *East West Karate Association v. Riquelme,* 638 So. 2d 604 (Fla. 4th DCA 1994); and *Roman v. Sos*, 393 So. 3d 1263 (Fla. 2d DCA 2024)(reversing directed verdict on past medical bills because plaintiff testified as to the amount of his bills and his injuries).

Analysis

Section 768.0427 became effective on March 24, 2023. The parties do not dispute that the new statute applies to this case which arises from a motor vehicle collision on April 2, 2023. With regard to past medical expenses, the relevant portion of the statute is divided into two paragraphs, one for paid bills and another for unpaid bills.

For past paid medical bills a plaintiff "**is limited** to evidence of the amount actually paid, regardless of source of payment." § 768.042(2)(a). [Emphasis added.] The clear language is a departure from the collateral source rule. The collateral source rule permitted plaintiffs to place the gross amount of their medical bills into evidence and any applicable setoffs and reductions were made post-trial. *Joerg v. State Farm Mut. Auto Ins. Co.*, 176 So. 3d 1247 (Fla. 2015); and § 768.76, Fla. Stat.

The paragraph for paid medical expenses included the phrase "is limited to". However, the paragraph for unpaid bills did not.

> (b) Evidence 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. [Emphasis added].
> …

Paragraph (b) includes five sub-paragraphs that identify various forms of evidence for unpaid bills. Sub-paragraphs one through four include Medicare rates, Medicaid rates, health insurance rates and amounts paid by a factoring company. In the instant case, the Plaintiff does not have health insurance, is not a recipient of Medicare or Medicaid, and his bills remain owed to the providers. Sub-paragraph 5 states:

> Any evidence of reasonable amounts billed to the claimant for medically necessary treatment or medically necessary services provided to the claimant.

Paragraph (b) is not an exhaustive list of what evidence the Plaintiff is permitted to introduce for unpaid medical bills. It is well settled that "[t]he verb to *include* introduces examples, not an exhaustive list." Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts § 15, at 132 (2012); accord White v. Mederi Caretenders Visiting Servs. Of Se. Fla, LLC 226* So. 3d 744, 783 (Fla. 2017) ("Commonly, the term 'include' suggests that a list is non-exhaustive …."). Further, confirming that it is not an exhaustive list, it goes on to state "but not limited to". This phrase demonstrates a legislative intent that sub-paragraphs 1 – 5 are examples of types of evidence and do not act as a limitation on what may be admitted.

Moreover, since at least 1976, the Florida Supreme Court has held that a plaintiff is not required to introduce expert testimony as to the reasonableness of the amounts billed. *Garrett* at 571. If the legislature had intended to recede from this longstanding common law doctrine, it could have simply stated that medical bills are not admissible in the absence of expert testimony that they are reasonable. The Court's reading of the statute does not evidence a clear intent to depart from *Garrett* and its progeny.

Conclusion

For the foregoing reasons, the Defendants' Corrected Motion in Limine to Limit Evidence of Medical Damages is hereby DENIED.

DONE AND ORDERED in Chambers at Jacksonville, Duval County, Florida this 28th day of May 2025.

HONORABLE ROBERT M. DEES
CIRCUIT COURT JUDGE

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