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

ARTHUR FIELDS,
Plaintiff,
v. 24-CA-2671

CABLE DAWG CONSTRUCTION OF SWFL LLC,
Defendant.

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

This matter is before this Court, after hearing on October 13, 2025, on Defendant's Motion in Limine Regarding Evidence of Medical Expenses, filed September 3, 2025 (Doc. 116). The Parties' arguments present two issues:

1. Whether section 768.0427(2), Florida Statutes, requires Plaintiff to introduce the evidence listed in the statute; and
2. Whether section 768.0427(3) precludes any of Plaintiff's claims for damages.

I. Section 768.0427(2) does not create a burden of production.

Defendant argues that under section 768.0427(2), Plaintiff is required to introduce evidence of Medicare or Medicaid reimbursement rates. Section 768.0427(2) merely authorizes the admission of the listed evidence—it does not require Plaintiff to introduce the evidence.

Paragraphs (2)(b) and (2)(c) of section 768.0427 use the word "shall" in the phrase "shall include, but is not limited to." But that does not mean a plaintiff is required to introduce the listed categories of evidence. Depending on the context in which it is used, the word "shall" can have either a permissive or a mandatory sense. *E.g.*, *Belcher Oil Co v. Dade County*, 271 So. 2d 118, 121 (Fla. 1972) (applying "[a] permissive rather than mandatory construction" to the word "shall" in a Florida statute).

To the extent the word "shall" is used in its mandatory sense in section 768.0427(2), it concerns the admissibility of evidence—not a burden of production. Indeed, statutes and rules of evidence often use the word "shall" to require a *court* to *admit* evidence—not to require a *party* to *produce* evidence. *E.g.*, § 28.30(3), Fla. Stat. (photographs "shall be admissible in evidence"); § 92.07, Fla. Stat. (judgments "shall be admissible in evidence"); § 92.26, Fla. Stat. (sworn copy of a writing "shall be admissible in evidence"); § 440.25, Fla. Stat. (expert medical advisor's report or testimony "shall be admitted into evidence"); § 772.15, Fla. Stat. (a verdict or adjudication of not guilty "shall be admissible in evidence").

These types of statutes use the word "shall" to signify that a *court* must *admit* such evidence when it is proffered, produced, or presented by a party—not to signify that a *party* must *proffer, produce, or present* such evidence. After all, courts—not parties—admit evidence. Parties—not courts—proffer, produce, and present evidence.

Further, "[a]ll statutory provisions must be read together in order to achieve a consistent whole." *Dirty Duck 16004 LLC v. Town of Redington Beach*, 376 So. 3d 774, 779 (Fla. 2d DCA 2023) (cleaned up). Here, interpreting section 768.0427(2) to create a burden of production would conflict with the remainder of the statute.

Specifically, paragraphs (2)(b) and (2)(c) include catchalls that refer to "*[a]ny* evidence of reasonable amounts billed" and "*[a]ny* evidence of reasonable future amounts to be billed." § 768.0427(2)(b)5., (2)(c)3., Fla. Stat. "The word 'any' is defined as 'one, no matter what one: every' or 'all.'" *McNeil v. State*, 215 So. 3d 55, 59 (Fla. 2017) (citation omitted). If Defendant's interpretation were correct—that is, if paragraphs (2)(b) and (2)(c) created a burden of production—then a plaintiff would be required to introduce every possible form of evidence of reasonable amounts, which is an absurd result. "Where a statute is open to multiple interpretations,

Florida courts endeavor to avoid interpretations which would lead to absurd results." *Hardee County v. FINR II, Inc.*, 221 So. 3d 1162, 1165 (Fla. 2017); *see also* Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* § 37, 234–39 (2012) (discussing absurdity doctrine).

The only limitation in subsection (2) is for evidence of *satisfied* medical expenses. Accordingly, the statute does not limit evidence for unpaid past medical expenses or future medical expenses, nor does it require a plaintiff to introduce particular evidence for such expenses.

II. Section 768.0427(3) is inapplicable.

Defendant argues that this Court should strike Plaintiff's claims for damages for medical expenses incurred at Summerlin Imaging, Prestige Anesthesia, and Advanced Surgery Center because Plaintiff purportedly did not comply with the condition precedent in section 768.0427(3), Florida Statutes. Mot. at 5. Defendant withdrew this argument at hearing and the issue is deemed moot.

CONCLUSION

For the reasons stated in this order, Defendant's motion in limine regarding evidence of medical expenses, filed September 3, 2025 (Doc. 116), is DENIED.

DONE AND ORDERED in Chambers at Fort Myers, Lee County, Florida.

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Rachael S. Loukonen, Circuit Court Judge rE0Oylsi
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