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

CASE NO.: 16-2023-CA-010388-AXXX
DIVISION: CV-E

HALEY ELIZABETH HOURIHAN,

Plaintiff,

v.

AMY SARAH MONA and
BEVERLY RAY MONA,

Defendants.
_____/

ORDER DENYING DEFENDANTS' MOTION IN LIMINE REGARDING PAST MEDICAL BILLS AND DEFENDANTS' MOTION TO STRIKE PLAINTIFF'S LIFE CARE PLAN

I. Relevant Procedural History

THIS CAUSE came on to be heard at an in-person hearing held on July 2, 2025, on *Defendants' Motion in Limine Regarding Past Medical Bills* (Doc. 124) and *Defendant's Motion to Strike Plaintiff's Life Care Plan* (Doc. 126), (collectively "the Motions") both filed on February 5, 2025. *Plaintiff's Response to Defendants' Motion in Limine Regarding Past Medical Bills* and *Defendants' Motion to Strike Plaintiff's Life Care Plan* ("the Response") (Doc. 131) was filed on February 11, 2025, and *Plaintiff's Notice of Supplemental Authorities* ("Supplemental Authorities") (Doc. 151) was filed on June 23, 2025. Following the hearing the Court took the matter under advisement and requested counsel for the parties to prepare proposed orders with deadlines for filing any written exceptions or objections to such proposed orders. The Court has considered and thought about the Motion, Response, Supplemental Authorities, facts stipulated to by counsel for the parties, and arguments of counsel. The parties' respective proposed orders

submitted to the Court were filed as exhibits to notice pleadings (Doc. 160 and 165) on July 11 and 17, 2025, respectively. Plaintiff filed *Plaintiff's Objections to Defendants' Proposed Order on Defendants' Motion in Limine Regarding Plaintiff's Past Medical Bills and Defendants' Motion to Strike Plaintiff's Life Care Plan* ("Plaintiff's Objections") (Doc. 169) on July 18, 2025, and Defendants' counsel filed no exceptions or objections to the Plaintiff's proposed order. The Court having reviewed the Motion, Response, Supplemental Authorities, facts stipulated to by counsel for the parties, and considered the arguments of counsel, respective proposed orders submitted by counsel for the parties, and Plaintiff's Objections, and being otherwise fully advised in the premises, for the reasons set forth below **DENIES** the Motions.

II. Relevant Stipulated Facts and Overview of Legal Issues

This matter arises from a motor vehicle collision that occurred on March 17, 2023. At the hearing, the parties orally stipulated that Plaintiff seeks to admit evidence of unpaid past medical expenses that were not submitted to her health care insurance provider for payment. Furthermore, the Plaintiff seeks to admit a life care plan evidencing future medical expenses which are not reduced by health care insurance adjustments. The parties do not dispute that section 768.0427, Fla. Stat. (2025), applies to this case since the Complaint was filed on September 12, 2023—after Florida House Bill 837 was passed into law. However, the parties disagree regarding the proper interpretation and application of section 768.0427.

Defendants propose that the language of section 768.0427—in particular, the use of the word "shall"—creates mandatory methods for Plaintiff to admit past and future medical expenses and, thereby, limits the evidence Plaintiff may introduce at trial. (*See* Defendants' Proposed Order at Doc. 160.) Specifically, Defendants claim that the only permissible method for Plaintiff to admit

past unpaid medical expenses is by way of subsection 768.0427(2)(b)2, and that Plaintiff's future medical expenses must be admitted in accordance with subsection 768.0427(2)(c)1. *See id.*

Plaintiff opposes Defendants' interpretation of section 768.0427 by appeal to the statutory language immediately after the "shall" relied upon by Defendants. (*See* Doc.131.) Plaintiff asserts the statutory text "shall include, but is not limited to, evidence as provided in this paragraph" in both subsections §768.0427(2)(b) and §768.0427(2)(c) creates non-exhaustive lists of admissible evidence. *Id.* Moreover, Plaintiff shows that both subsections 768.0427(2)(b) and 768.0427(2)(c) end with catch-all provisions that allow a party to admit "any evidence" of reasonable past and future medical expenses. *Id.*

The motions present two issues concerning section 768.0427(2). **First**, whether the statute limits evidence at trial of unpaid past and future medical expenses. **Second**, whether the statute creates a burden of production. Notably, Defendants have not yet sought to introduce any collateral-source evidence under the statute.[1]

THIS SECTION LEFT INTENTIONALLY BLANK

[1] All relevant deadlines for the Defendant to disclose any exhibits and witnesses proffered for the purpose of introducing collateral-source evidence at trial have expired. See *Order Setting Actual Jury Trial Period, Scheduling Pretrial Conference and Requiring Matters to be Completed Prior to Pretrial Conference* (Doc. 142) entered March 28, 2025.

The parties have also not raised any constitutional issues or arguments, and the Court has not considered any constitutional concerns in denying the Motions.[2] Further, the motions do not present any issues concerning post-trial setoffs under section 768.76, Fla. Stat. (2025)[3], which would not be ripe at this pre-trial stage in any event.

III. Legal Standards

"The 'plain meaning of the statute is always the starting point in statutory interpretation.'" *Alachua County v. Watson*, 333 So. 3d 162, 169 (Fla. 2022) (citation omitted). "In interpreting a statute, [a court's] task is to give effect to the words that the legislature has employed in the statutory text." *Lab. Corp. of Am. v. Davis*, 339 So. 3d 318, 323 (Fla. 2022). "Judges must exhaust all the textual and structural clues that bear on the meaning of a disputed text." *Conage v. United States*, 346 So. 3d 594, 598 (Fla. 2022) (cleaned up).

---

[2] The Court explicitly disclaims making any constitutional decision that may be framed by the issues presented in the motions under consideration. The Florida Supreme Court has "the exclusive authority to adopt rules of judicial practice and procedure for actions filed in this State, while the Legislature is charged with the responsibility of enacting substantive law." *Se. Floating Docks, Inc. v. Auto-Owners Ins.*, 82 So. 3d 73, 78 (Fla. 2012). When a law enacted by the legislature conflicts with a rule of procedure adopted by the Florida Supreme Court, the law is unconstitutional. *Massey v. David*, 979 So. 2d 931, 937 (Fla. 2008) ("[W]here this Court has promulgated rules that relate to practice and procedure, and a statute provides a contrary practice or procedure, the statute is unconstitutional to the extent of the conflict."). The same is true for laws that conflict with caselaw on a matter of procedure. *DeLisle v. Crane Co.*, 258 So. 3d 1219, 1229 (Fla. 2018). *Compare Joerg v. State Farm Mut. Auto. Ins.*, 176 So. 3d 1247, 1249 (Fla. 2015) ("As an evidentiary rule, payments from collateral source benefits are not admissible because such evidence may confuse the jury with respect to both liability and damages."); and *Dial v. Calusa Palms Master Ass'n*, 337 So. 3d 1229, 1231 (Fla. 2022) (noting that *Joerg* "preclude[es] the admission of evidence of a plaintiff's eligibility for future Medicare benefits"); with § 768.0427(2)(c)2., Fla. Stat. (allowing the admission of a plaintiff's eligibility for future Medicare benefits). In short, if this Court were to accept that section 768.0427 is procedural, then section 768.0427 would be unconstitutional because it conflicts with the Florida Supreme Court's rulemaking authority. *See DeLisle*, 258 So. 3d at 1229. Courts should avoid statutory constructions that render a law unconstitutional. *See State v. Giorgetti*, 868 So. 2d 512, 518 (Fla. 2004). For purposes of deciding the instant motions, the Court has avoided such unconstitutional statutory constructions.

[3] To the extent a conflict could be read in the simultaneous application of section 768.76, Fla. Stat. (2025) and section 768.0427, this Court notes—without deciding whether any conflict exists—that the latter should prevail as the more specific statute and the last expression of legislative intent. *See McKendry v. State*, 641 So. 2d 45, 46-47 (Fla. 1994). To the extent they do not conflict, this Court is bound by both statutes.

IV. Analysis

Overview

This Court finds Plaintiff's interpretation correct and in accordance with the plain meaning of subsection 768.0427(2)(b) and subsection 768.0427(2)(c). The reasonable interpretation of these subsections is that they identify evidence that is admissible, as well as the conditions under which the listed evidence is admissible, without imposing a burden on any party to introduce the listed evidence. *See State Farm Mut. Auto. Ins. v. Shands Jacksonville Med. Ctr., Inc.*, 210 So. 3d 1224, 1228 (Fla. 2017) ("Where the wording of the Law is clear and amenable to a logical and reasonable interpretation, a court is without power to diverge from the intent of the Legislature as expressed in the plain language of the Law." (citation omitted)). Other circuit courts have reached the same conclusion.[4]

As explained below, although section 768.0427(2) limits evidence of *paid* medical expenses, it does not limit evidence of *unpaid* past or future medical expenses. After all, as the Florida Supreme Court has recognized, "it is absolutely speculative to attempt to calculate damage awards based on benefits that a plaintiff has not yet received and may never receive, should either the plaintiff's eligibility or the benefits themselves become insufficient or cease to continue." *Dial*, 337 So. 3d at 1231 (citation omitted).

If the legislature had intended for section 768.0427(2) to limit evidence of unpaid and future medical expenses to the enumerated categories, then it would have said so. Indeed, the legislature did limit the admissible evidence of paid medical expenses in subsection (2)(a), which states "[e]vidence offered to prove the amount of damages for past medical treatment or services

---

[4] *See, e.g., Beyenka v. Pyle*, No. 2023-CA-009204 (Fla. 4th Cir. Ct. Apr. 21, 2025); *Dunham v. Shuford*, No. 2023-CA-011925 (Fla. 4th Cir. Ct. May 28, 2025); *Morales v. Reeb*, No. 23-CA-016933 (Fla. 13th Cir. Ct. May 7, 2025); *Perez v. Winn*, No. 2024-CA-493 (Fla. 8th Cir. Ct. June 11, 2025).

that have been satisfied is limited to evidence of the amount actually paid, regardless of the source of payment." Interpreting subsections (2)(b) and (2)(c) as limiting the evidence admissible to prove unpaid and future medical expenses would add a word the legislature chose to exclude while ignoring phrases like "is admissible," "include, but is not limited to," and "[a]ny evidence" that the Legislature did include.

If the Legislature had intended for subsections (2)(b) and (2)(c) to impose a burden of production, "it could have made such intention clear." *See Crews v. State*, 183 So. 3d 329, 335 (Fla. 2015). It could have said that the enumerated categories of evidence are "required." It could have said that plaintiffs "must prove" the amount of medical expenses as provided in subsections (2)(b) and (2)(c), *E.g.* §768.0755 ("If a person slips and falls on a transitory foreign substance in a business establishment, the injured person **must prove** that the business establishment had actual or constructive knowledge of the dangerous condition and should have taken action to remedy it.") (emphasis added). The Legislature could have said that the admission of the enumerated evidence is a "condition precedent" to recover medical expenses, as it did in section 768.0427(3) for cases involving letters of protection. *See* §768.0427(3), Fla. Stat. (2025). Finally, it could have written subsections (2)(b) and (2)(c) as exclusionary rules of evidence like subsection (2)(a) and excluded the "include, but is not limited to" language and the catchall clauses from those subsections. This would have limited the admissible evidence of unpaid and future medical expenses to the evidence specifically enumerated in subsections (2)(b) and (2)(c), functionally imposing a burden of production to introduce the enumerated evidence even if the statute did not explicitly do so.

A. Section 768.0427(2) does <u>not</u> limit evidence of unpaid past and future medical expenses.

Defendants seek to limit the evidence that Plaintiff may introduce to prove her reasonable medical expenses. Specifically, Defendants argue that "Plaintiff should not be able to mention or introduce into evidence past medical expenses over the amount he [sic] would be responsible for

had his [sic] medical providers submitted his [sic] bills to Aetna." Doc. 124 at 5. This Court respectfully disagrees. As explained below, although section 768.0427(2) limits evidence of *paid* medical expenses, it does not limit evidence of *unpaid* past or future medical expenses.

The only limitation in the statutory text is in subsection (2)(a) concerning "satisfied" (i.e., paid) medical expenses. Specifically, subsection (2)(a) states: "Evidence offered to prove the amount of damages for past medical treatment or services that have been satisfied ***is limited*** to evidence of the amount actually paid, regardless of the source of payment." § 768.0427(2)(a), Fla. Stat. (emphasis added).

Subsection (2)(b) governs unpaid medical expenses. Unlike subsection (2)(a), subsection (2)(b) does not limit the evidence that may be admitted. Instead, subsection (2)(b) states: "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." § 768.0427(2)(b) (emphasis added).

Subsection (2)(c) governs future medical expenses. Like subsection (2)(b), subsection (2)(c) does not limit the evidence that may be admitted. Instead, subsection (2)(c) states: "Evidence offered to prove the amount of damages for any future medical treatment or services the claimant will receive shall ***include, but is not limited to,*** evidence as provided in this paragraph." § 768.0427(2)(c) (emphasis added).

"[W]hen the legislature includes particular language in one section of a statute but not in another section of the same statute, the omitted language is presumed to have been excluded intentionally." *USAA Cas. Ins. v. Emergency Physicians, Inc.*, 393 So. 3d 257, 261 (Fla. 5th DCA 2024) (citation omitted). Here, the legislature used different language—"is limited to" for paid medical expenses in subsection (2)(a) and "shall include, but is not limited to" for unpaid past and

future medical expenses in subsections (2)(b) and (2)(c). This indicates that the statute does *not* limit evidence of unpaid past and future medical expenses.

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 774, 783 (Fla. 2017) ("Commonly, the term 'include' suggests that a list is non-exhaustive . . . ."). "When words of common usage are included in a statute, we construe them 'in the plain and ordinary sense' because we presume that the Legislature knows and intends the plain and obvious meaning of the words it used." *White*, 226 So. 3d at 781. Although the mere use of the word "include" is sufficient to convey a non-exhaustive list, adding the phrase "but is not limited to" further emphasizes the point. *E.g., id.*, at 783 ("The qualifying phrase 'includes, but is not limited to' made clear that the Legislature intended to allow the protection of more interests than simply those set forth in the non-exhaustive list."); *State v. Haunter*, 395 So. 3d 607, 613 (Fla. 5th DCA 2024) ("The list is not exhaustive, as the statute expressly states . . . 'include, but are not limited to' . . . ."); *United States v. Philip Morris USA, Inc.*, 566 F.3d 1095, 1115 (D.C. Cir. 2009) ("[A]dding 'but not limited to' helps to emphasize the non-exhaustive nature of [the list].").

Finally, even if subsections (2)(b) and (2)(c) did not use the phrase "shall include, but is not limited to," the statute still would not limit evidence for unpaid past and future medical expenses. This is because the last category under subsection (2)(b) is a catch-all that renders admissible "*[a]ny evidence* of reasonable amounts billed to the claimant for medically necessary treatment or medically necessary services provided to the claimant." § 768.0427(2)(b)5., Fla. Stat. (emphasis added). Likewise, the last category under subsection (2)(c) is a catch-all that renders

admissible "*[a]ny evidence* of reasonable future amounts to be billed to the claimant for medically necessary treatment or medically necessary services." § 768.0427(2)(c)3. (emphasis added).

Therefore, even if subsections (2)(b) and (2)(c) were limitations on evidence (which they are not), subsections (2)(b)5. and (2)(c)3. would still allow a party to introduce "[a]ny evidence" of reasonable charges for past and future medical treatment. "The word 'any' is defined as 'one, no matter what one: every' or 'all.'" *McNeil v. State*, 215 So. 3d 55, 59 (Fla. 2017) (quoting *Webster's Third New International Dictionary* 97 (1993)).

B. Section 768.0427(2) does <u>not</u> create a burden of production.

Defendants assert that the life care plan prepared by Plaintiff's expert Dr. Christopher Leber is "non-compliant with Florida Statute § 768.0427" because it "does not state that it accounts for Plaintiff having a health insurance provider, the Medicare rates, nor does it account for what a treating physician may reasonably expect to recover or get paid for the services he is predicting Plaintiff will require in the future." (Doc. 126 at ¶ 7.) This Court disagrees. As explained below, subsection (2) merely concerns the admissibility of evidence. It establishes the rules for, and the burdens of, *admitting* evidence on medical expenses (i.e., a burden of admissibility).[5] It does not establish burdens of *production, persuasion, or proof* for medical expenses. Those burdens remained unchanged from the law that preexisted the enactment of section 768.0427.

The title and prefatory clause to subsection (2) states: "*ADMISSIBLE EVIDENCE* OF MEDICAL TREATMENT OR SERVICE EXPENSES. —Evidence offered to prove the amount of damages for past or future medical treatment or services in a personal injury or wrongful death action *is admissible* as provided in this subsection." § 768.0427(2), Fla. Stat. (emphasis added).

[5] Although this Court finds that section 768.0427 establishes a burden of admissibility applicable to plaintiffs and defendants, it is not predetermining the admissibility of any evidence Defendant might proffer pursuant to this statute in the instant matter.

The phrase used in subsection (2)—"is admissible"—and its opposite phrases—"is inadmissible" and "is not admissible"—bring lots of old soil with them. These phrases are used throughout the statutory and common-law rules of evidence. *See, e.g.*, Ch. 90, Fla. Stat. Evidentiary rules of **inclusion** state that evidence "is admissible." *See, e.g.*, § 90.402, Fla. Stat. ("All relevant evidence *is admissible*, except as provided by law." (emphasis added)). On the other hand, evidentiary rules of **exclusion** state that evidence "is inadmissible." *See, e.g.*, § 90.409, Fla. Stat. ("Evidence of furnishing, or offering or promising to pay, medical or hospital expenses or other damages occasioned by an injury or accident *is inadmissible* to prove liability for the injury or accident." (emphasis added)).

To this Court's knowledge, the word "admissible" has not been used in the law to establish a ***burden of proof***. Instead, the "old soil" of prior precedent establishes that "admissible" and "inadmissible" mark the boundaries of evidence that a factfinder is *permitted to consider* in deciding whether a party has or has not satisfied its burden of proof. *See Admissible, Black's Law Dictionary* (12th ed. 2024) ("Capable of being legally admitted; allowable; permissible <admissible evidence>"). Both before and after the enactment of section 768.0427(2), the burden of establishing a piece of evidence's admissibility lies with the party seeking to admit the evidence. *See, e.g., T.D.W. v. State*, 137 So. 3d 574, 577 (Fla. 4th DCA 2014) ("As the proponent of the evidence, the State had the burden of establishing its admissibility."); *Butler v. State*, 970 So. 2d 919, 921 (Fla. 1st DCA 2007) (imposing the burden on "the proponent of the evidence" to admit evidence under the business-record exception to the hearsay rule).

Again, subsection (2) of the statute states: "Evidence offered to prove the amount of damages for past or future medical treatment or services in a personal injury or wrongful death action ***is admissible*** as provided in this subsection." § 768.0427(2), Fla. Stat. (emphasis added). It

does not use the word "required" or otherwise state that a plaintiff must introduce the listed evidence. "If the Legislature had intended such a meaning, it could easily have made such intention clear." *Crews v. State*, 183 So. 3d 329, 335 (Fla. 2015).

For example, Florida's transitory-substance statute expressly states that "[i]f a person slips and falls on a transitory foreign substance in a business establishment, the injured person ***must prove*** that the business establishment had actual or constructive knowledge of the dangerous condition and should have taken action to remedy it." § 768.0755, Fla. Stat. (2025) (emphasis added). There are no such words in subsection (2) of section 768.0427. For instance, the legislature did not write: "A party ***must prove*** the amount of damages for past or future medical treatment or services in a personal injury or wrongful death action as provided in this subsection."

The word "shall" in the phrase "shall include, but is not limited to" 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. *See 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). There are many Florida Statutes that use the word "shall" to merely authorize the admission of evidence. *E.g.*, § 403.9423(1), Fla. Stat. (2025) ("Certification pursuant to ss. 403.9401-403.9425 shall be admissible as evidence of public need and necessity in proceedings under chapter 73 or chapter 74."); *see also id.* §§ 672.724, 772.15, 893.105(1). No court has held that these statutes require a party to introduce the listed evidence.

The United States Supreme Court has noted that "certain of the Federal Rules use the word 'shall' to *authorize*, but *not to require*, judicial action." *De Martinez v. Lamagno*, 515 U.S. 417, 432 n.9 (1995) (emphasis added). Likewise, the Florida Supreme Court has recognized that "the

term 'shall' can be construed as 'must' or '*may*.'" *Allstate Ins. Co v. Orthopedic Specialists*, 212 So. 3d 973, 978 (Fla. 2017). Indeed, "courts in virtually every English-speaking jurisdiction have held—by necessity—that *shall* means *may* in some contexts, and vice versa." Bryan A. Garner, *Garner's Dictionary of Legal Usage* 952 (3d ed. 2011).

The Florida Supreme Court has explained that the interpretation of the word "shall" "depends upon the context in which it is found and upon the intent of the legislature as expressed in the statute." *S.R. v. State*, 346 So. 2d 1018, 1019 (Fla. 1977). Here, there are **two contextual reasons** why the word "shall" should be construed in its permissive, not mandatory sense.

First, the legislature did not write subsections (2)(b) and (2)(c) on a blank slate. To the contrary, "the common law can, and sometimes must, inform the proper understanding of a statutory text." *C.N. v. I.G.C.*, 316 So. 3d 287, 290 (Fla. 2021). Indeed, the Florida Supreme Court has recognized "the importance of reading statutes with an awareness of and sensitivity to background common law rules," and it has explained that "[c]ommon law rules might also inform the correct interpretation and application of statutory provisions themselves." *Ripple v. CBS Corp.*, 385 So. 3d 1021, 1028 (Fla. 2024).

Here, a relevant common law rule is the evidentiary collateral-source rule, which provides that "payments from collateral source benefits are not admissible because such evidence may confuse the jury with respect to both liability and damages." *Joerg*,176 So. 3d at 1249. For example, courts have applied the collateral-source rule to exclude evidence of insurance benefits. *E.g., Gormley v. GTE Prods. Corp.*, 587 So. 2d 455 (Fla. 1991), *superseded by statute on other grounds, Joerg*, 176 So. 3d at 1249. Courts have also applied the collateral-source rule to exclude "evidence of social legislation benefits such as those received from Medicare, Medicaid, or Social Security." *Joerg*, 176 So. 3d at 1250 (collecting cases).

The legislature acted against this backdrop when it enacted subsections (2)(b) and (2)(c) of section 768.0427. Whereas the collateral-source rule would have excluded evidence of insurance, subsections (2)(b) and (2)(c) now authorize in certain circumstances the admission of evidence of what insurance is obligated to pay or would pay for medical bills. § 768.0427(2)(b)1.–2., (2)(c)1., Fla. Stat. Likewise, whereas the collateral-source rule would have excluded evidence of Medicare benefits, subsection (2)(b) and (2)(c) now authorize in certain circumstances the admission of "evidence of 120 percent of the Medicare reimbursement rate." § 768.0427(2)(b)3, (2)(c)2.

In short, subsections (2)(b) and (2)(c) were enacted to repeal the evidentiary collateral-source rule in certain circumstances and render *admissible* certain evidence that would have otherwise been excluded by the rule. This understanding further demonstrates that subsections (2)(b) and (2)(c) do not set forth lists of evidence that a plaintiff is *required* to introduce or else suffer a directed verdict.

Notably, however, subsections (2)(b) and (2)(c) repeal the evidentiary collateral-source rule only to the extent provided in section 768.0427. For example, "evidence of 120 percent of the Medicare reimbursement rate in effect on the date of the claimant's incurred medical treatment or services" is admissible only "[i]f the claimant does not have health care coverage or has health care coverage through Medicare or Medicaid." § 768.0427(2)(b)3. The term "health care coverage" is broadly defined. § 768.0427(1)(b). Unless a party can satisfy the conditions specified in subsections (2)(b)1.–4 and (c)1.–2., the collateral-source rule would continue to exclude such evidence. *E.g.*, *Farrington v. Richardson*, 16 So. 2d 158, 161 (Fla. 1944) ("The statute limits the common-law rule only to the extent set forth in the statute.").

Another relevant background principle of law is "the general canon of evidence that any 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); *see also* § 90.402, Fla. Stat. ("All relevant evidence is admissible, except as provided by law."). If the legislature intended to overrule that background principle, it needed to do so clearly. *Cf.*, Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* § 52 (2012) ("A statute will be construed to alter the common law only when that disposition is clear."). "The presumption is that no change in the common law is intended unless the statute is explicit and clear in that regard. 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) (citations omitted); *accord Emerson v. Lambert*, 374 So. 3d 756, 768 n.15 (Fla. 2023).

Here, section 768.0427(2) does not explicitly change this background principle and render other forms of evidence inadmissible. As explained above, the only limitation in subsection (2) is for evidence of *paid* medical expenses. Accordingly, the statute does not limit proof for unpaid past or future medical expenses, nor does it require a plaintiff to introduce particular evidence for such expenses.

Second, the last category of admissible evidence under subsections (2)(b) and (2)(c) is a catchall that allows a party to admit "*[a]ny evidence*" of reasonable amounts billed. § 768.0427(2)(b)5., (2)(c)3., Fla. Stat. (emphasis added). It would not make sense to interpret subsections (2)(b) and (2)(c) as setting forth required lists of evidence when one of the items on the lists is open-ended. Instead, the fact that the lists included open-ended catchalls indicates that subsections (2)(b) and (2)(c) merely *authorize* the admission of evidence.

After all, there are many ways of proving reasonable amounts billed. A party could hire experts to opine on the issue. A party could also admit bills from different providers of comparable

treatment. To read subsection (2) as a required list would mean that a plaintiff would need to introduce every possible form of evidence, 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).

V. Conclusion

For the foregoing reasons, *Defendants' Motion in Limine Regarding Plaintiff's Past Medical Bills* (Doc. 124) and D*efendants' Motion to Strike Plaintiff's Life Care Plan* (Doc. 126) are **DENIED**.

DONE AND ORDERED, in Chambers, at Jacksonville, Duval County, Florida on this 1st day of August 2025.

BRUCE R. ANDERSON, JR.
Circuit Judge

cc: Bryan S. Gowdy— bgowdy@appellate-firm.com
David C. Thompson— dthompson@farahandfarah.com
David M. Gagnon— dmg@taylordaylaw.com
John N. Kessenich— jnk@taylordaylaw.com
Theresa R. Sanders— tsanders@taylordaylaw.com
bipleadings@taylordaylaw.com

Case No.: 16-2023-CA-010388-AXXX