

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA**

**MARILANDIE JEAN PIERRE &
MARILANDIE JEAN PIERRE as
Biological Mother of AAYDEN FRANCOIS,
Plaintiffs,**

vs.

**CASE NO.: 23-CA-013626
DIVISION: C**

**LEE GASTON and
CASS PLUMBING INC.,
Defendants.**

**ORDER ON PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S
5th AFFIRMATIVE DEFENSE.**

THIS CAUSE, having come before this honorable court for consideration of the Plaintiff's Motion to Strike the Defendant's 5th Affirmative Defense, the court having reviewed the motion, having heard the arguments of counsel and being fully advised on this matter, it is hereby;

ORDERED and ADJUDGED that said motion is hereby **GRANTED** as follows:

1. The legislative changes of sections 28-30 of chapter 2023-15, Law of Florida (commonly known as HB 837) fail the second prong of the two-part test as put forth by the Florida Supreme Court in *Menendez v. Progressive Express Ins. Co. Inc.*, 35 So.3d 873,877 (Fla. 2010);
2. Accordingly, provisions of HB 837, insofar as they impact past and/or future medical expenses, are not retroactive in application to this case as the causes of action accrued prior to

the enactment of HB 837.

Accordingly, Plaintiff's Motion to Strike Defendant's 5th Affirmative Defense, as to the application of HB 837 to the presentation of evidence of past and future medical expenses, is

GRANTED.

DONE AND ORDERED this _____ day of _____, 2024 in Chambers in Tampa, Hillsborough County, Florida.

Electronically Conformed 11/12/2024
Melissa Polo

Honorable Melissa Polo