

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

JOSE VELASQUEZ,

Plaintiff,

v.

CASE NO.: 2023-CA-013268

IHOSVANY MORENO ALFONSO,  
And MORENO HAULING, INC.,  
A Florida for Profit Corporation,

Defendants.

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**ORDER ON PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S 1st and 6th  
AFFIRMATIVE DEFENSES**

**THIS CAUSE**, having come before this Court for consideration of the Plaintiff's Motion to Strike Defendant's 1st and 6th Affirmative Defenses on September 23, 2024, the Court having reviewed the motion, and heard the arguments of counsel and being fully advised in the premises, it is hereby:

**ORDERED and ADJUGED** 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, or as they impact comparative fault, 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 6th Affirmative Defense, as to the application of HB 837 to the presentation of evidence of past and future medical expenses, is **GRANTED**. Plaintiff's Motion to Strike Defendant's 1st Affirmative Defense regarding comparative fault is **GRANTED** to the extent that application of HB 837 will not be made. The Defendant will still be allowed to present evidence of comparative fault consistent with the law in existence prior to March 24, 2023.

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

Electronically Conformed 9/27/2024

Paul Huey

Hon. Paul Lee Huey