

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL  
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2024-013188-CA-01

SECTION: CA08

JUDGE: Robert T. Watson

**Emmy Morse Ziegler**

Plaintiff(s)

vs.

**Burlington Coat Factory Warehouse Corporation**

Defendant(s)

**ORDER OF DISMISSAL BASED ON GRANTING DEFENDANT'S MOTION TO  
DISMISS**

**THIS CAUSE** having come before the Court on March 13, 2025, during Special Set hearing for Defendant's Motion to Dismiss Plaintiff's Amended Complaint, filed February 10, 2025, and the Court, having reviewed the case file, considered argument of counsel, and being otherwise fully informed on the matter:

**IT IS ORDERED AND ADJUDGED** that said Motion is **GRANTED**.


1. The Court finds Florida Statute 768.0427(3) is applicable to this case. It provides: "In a personal injury or wrongful death action, as a condition precedent to asserting any claim for medical expenses for treatment rendered under a letter of protection, the claimant must disclose" a series of items, lettered (a) through (e).
2. The Court finds the statute's plain meaning controls on this issue, and applies the plain meaning of the words used in the statute. Where a party files a personal injury action, it is "asserting" a claim for damages. *See, e.g., Assert, Black's Law Dictionary* (11th ed. 2019) ("1. To state positively. 2. To invoke or enforce a legal right."). As the statute provides, there is a condition precedent to asserting any claim for medical expenses for treatment rendered under a letter of protection.
3. Plaintiff does not dispute that she has received medical treatment under Letters of Protection, nor that she did not provide prior to filing this case the items set forth in the statute.
4. Therefore dismissal is appropriate.
5. The Court finds the Omnibus Order dated August 27, 2024 [D.E. 29], in the case of *Lucia Silvia Vega v. Burlington Stores, Inc.*, CASE NO. 24-60755-CIV-COHN/VALLE, United States District Court for the Southern District Court, in which Judge Cohn interpreted the statute as set forth above and dismissed a case, persuasive on this particular matter and as

further discussed on the record.

6. The Court does not reach the other issues raised on the Motion to Dismiss.

7. The Court hereby dismisses this action.

**DONE and ORDERED** in Chambers at Miami-Dade County, Florida on this 18th day of March, 2025.

 2024-013188-CA-01 03-18-2025 3:12 PM

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Hon. Robert T. Watson

**CIRCUIT COURT JUDGE**

Electronically Signed

Final Order as to All Parties SRS #: 12 (Other)

THE COURT DISMISSES THIS CASE AGAINST ANY PARTY NOT LISTED IN THIS FINAL ORDER OR PREVIOUS ORDER(S). THIS CASE IS CLOSED AS TO ALL PARTIES.

**Electronically Served:**

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