IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
FOR THE STATE OF FLORIDA

CHIAKA STEWART, individually,
Plaintiff,

vs.

FLORIDA HEALTH SCIENCES CENTER, INC., d/b/a TAMPA GENERAL HOSPITAL; HEATHER A. ANDERSON, APRN; and INPHYNET CONTRACTING SERVICES, LLC,
Defendants.
_____/

CASE NO: 22-CA-004625

DIVISION: B

ORDER ON DEFENDANTS' POST-TRIAL MOTIONS

THIS CAUSE came before this Court for hearing on December 1, 2025, on Defendants' post-trial (1) Motion to Alter or Amend the Judgment, or Alternatively, Judgment Notwithstanding the Verdict (Doc. 571), and (2) Renewed Motion for Directed Verdict, Alternative Motion for New Trial on Liability and Damages, or in the Alternative Motion for Remittitur (Doc. 572), and the Court having reviewed the motions and written responses, and heard oral arguments of counsel, makes the following findings of fact and conclusions of law.

Defendants' Motion to Alter or Amend the Judgment or Alternatively, Judgment Notwithstanding the Verdict ("Motion to Alter or Amend")

The Court begins with Defendants' Motions insofar as they seek to apply the Medicaid cap of section 766.118(6), Florida Statutes, to reduce the jury's $51 million award of noneconomic damages in this case to the statutory cap of $300,000. This case concerns medical treatment provided by a nurse, Defendant Anderson, to Plaintiff, a Medicaid patient, in the emergency department at Defendant Tampa General Hospital ("TGH"). Notably, federal and state laws establish *mandatory* treatment obligations on

the part of *emergency* departments. In Florida, the Legislature enacted Section 395.1041, which is sometimes referred to as Florida's "anti-patient dumping" law, in 2004. The Florida Legislature found that hospitals had been "patient dumping" and, therefore, declared an intent to ensure that all persons in need of emergency care receive such services. *Id.* at § 395.1041(1). Section 395.1041(3)(a) therefore requires all hospitals with an emergency department to provide emergency services and care to any person who has an emergency medical condition, regardless of a patient's insurance status (like Medicaid), economic status, or ability to pay for medical services. § 395.1041(3)(f), Fla. Stat. Emergency departments are prohibited from refusing, delaying, or conditioning emergency care based on a patient's economic circumstances. *Id.*

Similarly, the United States Congress enacted the federal Emergency Medical Treatment and Labor Act ("EMTALA"), that "requires that a Medicare-funded hospital, as TGH is, provide whatever medical treatment is necessary to stabilize a health emergency . . . ." *Moyle v. United States*, 603 U.S. 324, 326-27 (2024) (Kagan, J. concurring) (quoting § 1395dd(e)(1)(A)). Congress enacted EMTALA "to prevent 'patient dumping,' which is the 'practice of some hospitals turning away or transferring indigent patients without evaluation or treatment.'" *Smith as next friend of MS v. Crisp Reg'l Hosp., Inc*., 985 F.3d 1306, 1307–08 (11th Cir. 2021). As does Florida law, EMTALA "obligates the hospital to provide uniform care to all patients" regardless of their insurance status. *See, Fausten v. JFK Med. Ctr.-N. Campus*, No. 18-80378-CIV, 2018 WL 8334845, at *3 (S.D. Fla. Apr. 30, 2018).

This mandate is not disputed. Indeed, Nurse Anderson testified at trial that she had to treat anyone presenting to TGH's emergency department, regardless of their economic or insurance status. As such, Defendants could not have declined to provide medical care simply because Plaintiff was a Medicaid recipient.

Despite this legislative mandate, Florida Statute section 766.118(6), caps noneconomic damages awardable specifically to Medicaid patients to $200,000 per provider and $300,000 per incident when, as here, that treatment has been determined by a jury to be negligent. Defendants ask the Court to impose the cap as required by statute. Plaintiff opposes Defendants' motion, raising several challenges to the cap's constitutionality, including that it violates the Equal Protection Clause both facially and as-applied to this case. In addition, Plaintiff contends the statute poses an unlawful restraint on a plaintiff's access to courts.

Constitutional Challenges to Section 766.118(6), Fla. Stat.

In her response to Defendants' post-trial motion to reduce the noneconomic damages award to conform to the $300,000 statutory cap for Medicaid patients set forth in section 766.118(6), Plaintiff raises three challenges to the statute's constitutionality (Doc. 631). They are raised as a facial violation of the right to equal protection, an as-applied challenge, and an access-to-court challenge. The Court notes that previous Florida Supreme Court cases found that the caps to damages awardable to survivors of victims of wrongful death resulting from medical malpractice and which victims were Medicaid recipients within statute 766.118 (2) and (3) were unconstitutional violations to the right to equal protection under the Florida Constitution. *See, generally*, *Estate of McCall v. United States*, 134 So.3d 894 (Fla. 2014), and *North Broward Hosp. Dist. v.*

Kalitan, 219 So. 3d 494 (Fla. 2017).[1] This Court is mindful that it recently rejected a facial equal protection challenge to section 766.118(6) in another case, *Sabugo v. Fla. Health Sciences Ctr., Inc*., Case No. 2018-CA-000231, 3-4 (Fla. 13th Cir. Ct., June 25, 2025) ("Sabugo Order"). Specifically, this Court in *Sabugo* found that Florida had a legitimate state interest in "safeguarding public health and the assurance of access to quality medical care," and that the Medicaid cap rationally served that interest by "incentiviz[ing] more physicians to treat the underserved Medicaid recipient population despite lower reimbursement rates." *Sabugo* Order at 3-4 (emphasis added). This Court later denied the *Sabugo* plaintiff's motion for reconsideration *without prejudice*. That case remains pending.

Notwithstanding the interlocutory status of the *Sabugo* Order, Plaintiff herein only nominally asks this Court to revisit its stance on a facial constitutional challenge to section 766.118(6). Therefore, this Court will observe "[t]he cardinal principle of judicial restraint—if it is not necessary to decide more, it is necessary not to decide more—counsels us to go no further." *PDK Labs., Inc. v. United States Drug Enf't Admin*., 362 F.3d 786, 799 (D.C. Cir. 2004) (Roberts, J., concurring). Accordingly, the Court will limit discussion to the as-applied and access-to-courts challenges to the statute's constitutionality.

Regarding the as-applied challenge, the negligence here occurred in an ER setting where treatment is statutorily mandated, and, therefore, not susceptible to being

[1] For an exceptional analysis of these cases and the constitutional issues, see Mangan, Allison (2021) "The Future of Statutory Caps on Noneconomic Damages in Florida Medical Malpractice Actions: Constitutional or Not?," University of Florida Journal of Law & Public Policy: Vol. 31: Iss. 3, Article 5. Available at: https://scholarship.law.ufl.edu/jlpp/vol31/iss3/5

"incentivized." In other words, section 766.118(6)'s Medicaid cap cannot increase the probability that healthcare providers in the emergency department will treat Medicaid patients because, in an emergency department, they have no choice in the matter—they legally must treat Medicaid patients. As such, section 766.118(6) cannot rationally serve any legitimate state interest in this setting. Plaintiff likewise persuasively argues that the cap's purported goal of incentivizing physicians to treat Medicaid patients is irrelevant to nurses in particular, as there is no allegation or evidence that there is or ever was a need to incentivize *nurses* to treat Medicaid patients.

The Court is persuaded by these case-specific arguments and concludes that section 766.118(6) is unconstitutional as applied to this case, where the negligence was committed in the emergency department by a nurse. There is no rational basis for a cap on damages to incentivize medical care where the law already requires it, or where there is no alleged shortage of nurses to treat Medicaid patients. That leaves the Medicaid cap without any rational relationship to a legitimate state interest as applied to the ER setting or to nursing negligence. Thus, on the case-specific challenge here, the cap fails rational basis review and violates the Equal Protection Clause.

In light of the Court's determination that the statute is unconstitutional as applied here, Plaintiff concedes that it is unnecessary for the Court to address Plaintiff's access-to-court argument, and the Court will not do so.

Renewed Motion for Directed Verdict, Alternative Motion for New Trial on Liability and Damages, or in the Alternative Motion for Remittitur

In determining a motion for directed verdict, this Court must view the evidence and all reasonable inferences therefrom in the light most favorable to the non-moving party. *Martinolich v. Golden Leaf Mgmt., Inc*., 786 So. 2d 613, 614–15 (Fla. 3d DCA

2001). Here, the evidence was sufficient to establish that Nurse Anderson breached a nursing duty owed to Plaintiff, including the evidence of her failure to order a CT scan. The evidence was also sufficient to establish that Nurse Anderson was an apparent agent of Tampa General Hospital. This evidence included, but was not limited to, evidence that TGH furnished Nurse Anderson to Plaintiff, Nurse Anderson wore a TGH badge, and Plaintiff did not have a choice as to which nurse(s) would treat her. *See, Jones v. Tallahassee Mem'l Reg'l Healthcare, Inc*., 923 So. 2d 1245, 1248 (Fla. 1st DCA 2006).[2] The consent form that Defendants rely on does not dispositively negate apparent agency, especially where Plaintiff did not sign it, it does not refer to nurses or nurse practitioners, and it does not make clear which providers are not employees or agents of TGH. *See, Luebbert v. Adventist Health Sys./Sunbelt, Inc*., 311 So. 3d 334, 337-38 (Fla. 5th DCA 2021).

Plaintiff established legal causation through the expert testimony of neurosurgeon, Dr. Alexander Coon, a highly trained neurosurgeon that treats patients just like Plaintiff and testified as to the efficacy of administering heparin. Accordingly, Defendants' motion for directed verdict is DENIED.

Regarding Defendants' motion for a new trial, "a motion for new trial should not be granted 'unless no reasonable jury could have reached the verdict rendered.'" *Wilson v. The Krystal Co.*, 844 So. 2d 827, 829 (Fla. 5th DCA 2003) (citation omitted). Defendants' argument that Plaintiff does not need 24-hour skilled care because she can

[2]In *Jones,* 923 So. 2d at 1248, the court acknowledges a conflict among circuits as to whether a patient's ability to choose a particular treating professional determines the appearance or lack of regarding an agency relationship, citing *Izquierdo v. Hialeah Hospital, Inc.,* 709 So.2d 187 (Fla. 3d DCA 1998), wherein the Third District Court of Appeal noted the law on apparent authority and determined in that case that there was "no evidence that Hialeah Hospital partook in any activities to create the appearance of an agency relationship," notwithstanding that the allegedly negligent physicians had been provided by the hospital and not chosen by the patient.

fix a bowl of cereal or use an auto-injector pen does not render the jury's verdict unsupported. The jury's verdict is largely supported by the evidence of Plaintiff's limitations. The Court is mindful, however, of Defendants' argument that the jury's award exceeded what Plaintiff's counsel requested regarding future pain and suffering in in closing argument. That issue is discussed in the context of Defendants' Motion for Remittitur.

Plaintiff's counsel made no improper questions or comments warranting a new trial. All of the challenged questions/comments were fairly based on the evidence, responsive to the defense's testimony and theories, and within the wide latitude afforded during closing argument. Accordingly, Defendants' Motion for New Trial is DENIED.

The Court now turns its attention to Defendants' Motion for Remittitur, which, if granted, would require amendment of the judgment. Defendants argue that the jury's award exceeded what Plaintiff's counsel requested in closing argument. Although this does not necessarily require remittitur, because the jury's $70,832,504.63 damages award is manifestly excessive, contrary to the manifest weight of the evidence, and balancing the facts and issues in this case, this Court finds that remittitur is appropriate.

> The jury awarded the following compensatory damages to Plaintiff following trial:
> Past Medical Expenses: $1,003,201.99
> Future Medical Expenses: $17,172,848.75
> Lost wages: $287,663.01
> Loss of earning capacity in the future: $1,368,790.88
> Past Pain and Suffering: $2,000,000 (four years)
> Future Pain and Suffering: $49,000,000 (life expectancy 38.5 years)

Under section 768.74(4), Florida Statutes, when determining whether an award is excessive or inadequate, the trial court is required to consider the following criteria:

(a) Whether the amount awarded is indicative of prejudice, passion, or corruption on the part of the trier of fact;

(b) Whether it appears that the trier of fact ignored the evidence in reaching a verdict or misconceived the merits of the case relating to the amounts of damages recoverable;

(c) Whether the trier of fact took improper elements of damages into account or arrived at the amount of damages by speculation and conjecture;

(d) Whether the amount awarded bears a reasonable relation to the amount of damages proved and the injury suffered; and

(e) Whether the amount awarded is supported by the evidence and is such that it could be adduced in a logical manner by reasonable persons.

A jury verdict may be disturbed if it is "so inordinately large as obviously to exceed the maximum limit of a reasonable range within which the jury may properly operate." *Ailles v. Boemi*, 41 So. 3d 1022, 1027-28 (Fla. 2d DCA 2010) (quoting *Bould v. Touchette*, 349 So. 2d 1181, 1184-85 (Fla. 1977)). A verdict will be deemed excessive where the amount is so great as to indicate that the jury must have found it "while under the influence of passion, prejudice or gross mistake." *Glabman v. De La Cruz*, 954 So. 2d 60, 62 (Fla. 3d DCA 2007) (reversing compensatory verdict in medical malpractice action as excessive).

In this case, the Court does not disturb the jury's award of compensatory damages; Defendants have presented insufficient evidence on which to base a reduction. However, despite its conclusion that the statutory cap on noneconomic damages imposed by section 766.118(6), Florida Statutes, is unconstitutional as applied in this case, the Court nonetheless finds that the jury's award of $51 million in noneconomic damages is not only against the weight of the evidence, which exceeds the figure Plaintiff sought by a factor of 2.5, but reflects that the jury's passions were inflamed during the course of the trial.[3] Whether the jury's passions were or were not

[3] Testimony that may have been perceived by the jury as disparaging toward the indigent plaintiff could account for the excessive award.

inflamed, the figure is not consistent with any evidence. Accordingly, this Court exercises its discretion to grant remittitur of the future pain and suffering award. *See Aills*, 41 So. 3d at 1029 (trial court's remittitur of pain and suffering award is reviewed for abuse of discretion).

Plaintiff's counsel based the calculations for noneconomic damages using a rate of $500,000 per year, and the jury adhered to that formula in awarding $2,000,000 to Plaintiff for *past* pain and suffering over the previous four years. Applying the same annual amount of $500,000 in Plaintiff's counsel's calculation of future economic losses over the course of Plaintiff's 38.5-year life expectancy results in total future noneconomic damages of $19,250,000. This is the figure Plaintiff sought from the jury. As such, the jury's award of $49 million in future noneconomic damages exceeds Plaintiff's counsel's suggested figure by a factor of 2.5.[4] Additionally, the $51 million noneconomic damages award is manifestly excessive in light of Florida jury verdicts involving comparable injuries, age demographics, and circumstances.

In *Woods v. Baptist Hosp., Inc*., 20 FJVR 9 (Fla. Cir. Ct. 2019),[5] the 33-year-old plaintiff suffered an anoxic brain injury following medical negligence during emergency treatment, "requiring that she receive lifelong round-the-clock care." The jury awarded $2.5 million in noneconomic damages ($500,000 for past pain and suffering and $2 million for future pain and suffering). The $51 million award here is over 20 times higher than the Woods verdict, despite comparable severity of injury and plaintiff age, where

[4] The Court understands that a jury is not bound by a particular figure or formula.
[5] The Court is aware that a circuit court decision is not binding. They are cited as persuasive and in consideration of one of the factors that should be considered by courts set forth in *Aills v. Boemi*, 41 So. 3d 1022, 1029 (Fla. 2d DCA 2010).

Plaintiff here was around 38 years old at the time of the treatment alleged to have caused her injury.

The verdict in *Gervato v. Univ. of Fla. Bd. of Trs*., 2010 WL 5596591 (Fla. Cir. Ct. Dec. 20, 2010) involved a 34-year-old nursing assistant who suffered a stroke following a medical procedure. Although the verdict does not explicitly separate economic and noneconomic damages, the award total was $23,442,602—comprised of $17,642,602.26 awarded to Ms. Gervato, $1.8 million awarded to her husband, and $1 million awarded to each of their four children. *See also Ramirez v. Wigley*, 2025 WL 934701 (Fla. Cir. Ct. Jan. 6, 2025) (awarding $1.65 million for pain and suffering for plaintiff who suffered permanent lower left extremity dysfunction, impairment and disfigurement following improper podiatric surgeries).

Although the Court is mindful that it cannot act as a seventh juror,[6] the foregoing supports this Court's conclusion that the noneconomic damage award is excessive and should be reduced to the $500,000 per year for Plaintiff's life's expectancy. *Aills*, 41 So. 3d at 1029 (comparison of verdicts is a recognized method of assessing whether a jury verdict is excessive or inadequate). Accordingly, Defendants' Motion for Remittitur is GRANTED in part.

Based on the foregoing it is **ORDERED AND ADJUDGED**:

Defendants' motions for new trial or directed verdict are **DENIED.**

Defendants' motion to alter or amend the judgment and for remittitur is **GRANTED in part**. The original judgment in the amount of $70,832,504.63 (Doc. 570) is **VACATED**.

[6] *Aills v. Boemi*, 41 So. 3d 1022, 1027-28 (court should not substitute its judgment for that of a jury; a verdict should not be disturbed unless it exceeds the maximum limit of a reasonable range within which a jury may operate) (citation omitted).

The Judgment is hereby amended as follows: the Amended Judgment is hereby entered for Plaintiff and against Defendants in the amount of $41,082,504.63 itemized as follows: Past Medical Expenses: $1,003,201.99; Future Medical Expenses: $17,172,848.75; Lost wages: $287,663.01; Loss of earning capacity in the future: $1,368,790.88; Past Pain and Suffering: $2,000,000; Future Pain and Suffering: $19,250,000 ($500,000/yr. x 38.5 yrs.), for which sums let execution issue.

The Court reserves jurisdiction to consider Plaintiff's motion for attorney's fees and costs (Doc. 577).

DONE AND ORDERED in Tampa, Hillsborough County, Florida, on the date imprinted with the Judge's signature.

Electronically Conformed 12/31/2025
Mark Wolfe

_____
Mark Wolfe, CIRCUIT JUDGE

Electronic copies provided to all parties of record through JAWS