ORIGINAL

No. 23-6923

FILED
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SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Curtis Gorham — PETITIONER
(Your Name)

vs.

DR. GARY LAVINE, ESQ. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FLORIDA SUPREME COURT, 1ST DCA, 14TH DISTRICT BAY COUNTY
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

CURTIS GORHAM
(Your Name)

3513 ROSEWOOD CIR
(Address)

LYNN HAVEN, FL
(City, State, Zip Code)

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IN THE SUPREME COURT,
OF THE UNITED STATES

Pro Se Petitioner,
Curtis M. Gorham
VS
Respondent,
Dr. Gary H. Lavine, et al.

Date: 2/29/2024

Petitioner's Writ of Certiorari

QUESTION(S) PRESENTED.

Can a medical expert not review matters? Can the hospital not give me informal discovery or cooperate in an investigation and the defense then claim I didn't have experts review the matters, they didn't investigate is what happened as 766 outlines they are required to. Is the expert I retained evidence of malpractice enough as reasonable investigation under 766.104(1)? Do indigents have to seek experts? Am I being denied access to the court? Has the lower court made errors? Is a conspiracy by medical providers still medical malpractice and can a expert be of any use or only the facts? Did I present enough facts to make a prima facei case? Does the on going harm conspiracy by other providers waive the experts and statutes of limitations? Does covid-19 impact this at all as waiver?

The questions are numerous. Does the hospital risk manager have to cooperate? Did the Florida Department of Health investigation accomplish anything? Should I be apppointed counsel or some evidence hearing based on the allegations before dismissal? Does it all fall under the Florida "Absurd" law or the 120.52 waiver and delegated powers laws? Did the staff do eugenics?

List of Parties.

Petitioner, Curtis M. Gorham.
Respondents, Defendants, Dr. Gary H. Lavine, Dr. Emily D. Billingsley, Kendrea Virgil, RN., Lloyd G. Logue, Donna Baird, Joseph R. Impicciche (CEO), Junco Emergency Physicians, Bay County Health System LLC, The State of Florida, PayPal, Inc., USAA FSB, and other unknown people such as the orderly and radiology assistant, (Medical Expert) Dr. Daniel Cousin. Others.

RELATED CASES.

22000496CA - GORHAM, CURTIS M vs. JENKINS, MICHAEL ALAN
5/20/2022

22003694SC - GORHAM, CURTIS M vs. CIGNA HEALTH AND LIFE INSURANCE COMPANY
3/23/2023

TABLE OF AUTHORITIES CITED.

Rules 10-14 (Petitioning for certiorari)

[[1]] Fla. S. Section., 766.104, ["reasonable Investigation"]

[[2]] U.S. Constitution., The Fifth Amendment's., Due Process Clause "[requires the United States government to practice equal protection."]

[[3]] U.S. Constitution., The Fourteenth Amendment's., Equal Protection Clause ["requires states to practice equal protection.']

[[4]] Fla. S. Section., 120.52(8), (c) & (d) & (e) & (f),

[[5]] Fla. R. Civ. P., 95.11(4)(c), [Statute of Limitations]

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[[6]] Fla. R. Civ. P., 95.11(3), (e) & (g) & (h) & (l) & (j) & (k) & (m) & (n) & (o), [Statute of Limitations]

[[7]] Fla. R. Civ. P., 1.070(j) & (i)

[[8]] Fla. S. Section., 766.102, provides, ["in light of all relevant surrounding circumstances"]

[[9]] Fla. R. A. P., 9.330 [REHEARING; CLARIFICATION; CERTIFICATION; WRITTEN OPINION]

[[10]] Fla. R. Civ. P., 766.102(2)(b)

[[11]] Schloendorff v. Society of New York Hospital

[[12]] Fla. R. Civ. P., 1.100(a)

[[13]] Sharp v. Erie R.R. Co., 184 N.Y. 100., see 105

[[14]] a plaintiff may allege facts establishing waiver or estoppel to overcome a statute of limitations defense. Tuggle v. Maddox, 60 So. 2d 158 (Fla. 1952). Other avoidances include tolling of the statute (plead what conduct or event tolled the statute if you know it), fraud which induced contractual provisions pled as defenses, and so on. Use your best efforts to dream up such avoidances, as opposed to denials.

[[15]] Chapter 415.

[[16]] Florida Constitution SECTION 25.(c)(1) & (3)

[[17]] Section 381.026(4)(e) [experimental research]

JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

[ ] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[ ] For cases from **state courts**:

The date on which the highest state court decided my case was 11/29/23. A copy of that decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix B.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

Not included is these exhibits which was intedend to be.....
EXHIBIT A ..... 3 (Hospital Medical Records)
EXHIBIT B ..... 3 ??? common knowledge / memorandum of law????
EXHIBIT C ..... 3 (Chapter 415 Statutes)
EXHIBIT D.....381.026 (Florida Patient's Bill of Rights)
EXHIBIT E..... 768.381 COVID-19
EXHIBIT F.....Fla. R. A. P. 9.330 - REHEARING; CLARIFICATION; CERTIFICATION; WRITTEN OPINION
EXHIBIT G..... Tara Said hearing testimoney (filing starts pg 6)
EXHIBIT H.....Radiology Standards
EXHIBIT I.....common knowledge caselaw.....24
EXHIBIT J..... statute 120

STATUTES AND RULES.

766.111 Engaging in unnecessary diagnostic testing; penalties.—
766.102 Medical negligence; standards of recovery; expert witness.—
766.201 Legislative findings and intent.—
766.104 Medical negligence cases; reasonable investigation required before filing.—
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415.102 Definitions of terms used in ss. 415.101-415.113.—As used in ss. 415.101-415.113, the term:
415.1034 Mandatory reporting of abuse, neglect, or exploitation of vulnerable adults; mandatory reports of death.—
415.1111 Civil actions.
766.206 Presuit investigation of medical negligence claims and defenses by court.—
381.026 Florida Patient's Bill of Rights and Responsibilities.—
766.202 Definitions; ss. 766.201-766.212.—As used in ss. 766.201-766.212, the term:
Cason v. Baskin, 20 So. 2d 243, 250–51 (Fla. 1944)

JURISDICTION.

Rules 10-14 (Petitioning for certiorari).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.

> Florida Constitution SECTION 25.(c)
> The U.S. Constitution Fifth Amendment's Due Process Clause "requires the United States government to practice equal protection."
> The Fourteenth Amendment's Equal Protection Clause "requires states to

practice equal protection."

STATEMENT OF THE CASE.

Writ of Certiorari from 1st District Court of Appeals combined decision. I filed the lawsuit exactly 4 years since the hospital incident along with other party defendants from incidents occuring along the way. Dr. Cousin medical expert I retained and now defendant the legal argument I make applies to everything and defines the expert lawsuit also, he didn't review anything I said, which is accurate, he only outlined my back injury, which is obviously known, and so the defense counsel is suing my own expert against me, while avoiding the facts that I am alleging to be the case, and so it is deception, fraud by omission, under 766.104(1) I have done a reasonable investigation and so retained a expert and so allege the facts as they are, the result is the defense counsel and court are uinsg the expert against me by not listening to me, to the facts, to the law I have invoked, and to accept that a "reasonable investigation" hasd taken place and the defendants have provided nothing but fraud records and denial of further guaranttes of proof that any counsel for plaintiff would have long ago won a lawsuit with and so it is only but for the defendants and defense counsel and fraud expert that dr. cousin is and the defense counsel refuals to investgaite that any of this even possible. That is all one argument legally the other none of that matters the staff are insane people doing insane things and so lkets not give them any benefit of the doubt that maybe their acts and omissiona re defensable because they are not, the fact they refuse to provide discovery and cooperate is all the further eveidence needed really, but the er doctors orders make him negligent prima facei ordering uncessary diagnsotic testing of my pelvis with an MRI order, that is a violation under the statutes for uncessary diagnostic testing. Only gets more insnae from there. They covered it up, did it intentionally, was eugenics, pick you cause of action. Seems to all be common knolwedge, don't do what they did as a group of providers. The4 court doesn't concur for some reason despite justice, facts, good faith, whatever legal mumbo jumbo words that have no actual truth to power meaning here all along. Such as lack of informed consent under 766.102(2)(b) applies so no experts are needed, for me, but the defense still has to do their investiagtionh, never even questioned my witness, so that is a friviolous defense, with no court hearing on that, allowing the negligent defense counsel to get away with it despite 766 legislative intent even outlining it is mandatory to do a reasonable investigation. Question is when did the hospital give the counsel the missing series of images fromt eh Cvt scan or the hard drive for analysis or the er doctors 2 orders? To say there is no claim is wrong, as I just outlined the first order was a violation, the second CT scan order I don't have, but they did the pelvic exam despite saying not going to.

766.111 Engaging in unnecessary diagnostic testing; penalties.—
(1) No health care provider ... shall order, procure, provide, or administer unnecessary diagnostic tests, which are not reasonably calculated to assist the health care provider in arriving at a diagnosis and treatment of a patient's condition.

766.102 Medical negligence; standards of recovery; expert witness.—
(2)(b) The provisions of this subsection shall apply only when the medical intervention was

undertaken with the informed consent of the patient in compliance with the provisions of s. 766.103.

766.201 Legislative findings and intent.—
(1) The Legislature makes the following findings:
(d) ... **while preserving the right of either party to have its case heard by a jury**.
(2) It is the intent of the Legislature to provide a plan for prompt resolution of medical negligence claims. Such plan shall consist of two separate components, presuit investigation and arbitration. Presuit investigation shall be mandatory and shall apply to all medical negligence claims **and defenses**...
(a) Presuit investigation shall include:
1. **Verifiable requirements that reasonable investigation** precede both malpractice claims **and defenses** in order to **eliminate frivolous** claims and **defenses**.

Frivolous emphasis needs to be added here it is only to put up a barrier to frivolous lawsuits, not all lawsuits no matter what or how or when or why regardless without any consideration, the 766.104(1) is the consideration and me being indigent and covid-19 happening, and all the coinspiracy harms, no matter what I say the defense isn't goint o agree opposuite game was being played by their clients, it makes them all guilty to admit it but there it is my expert highlighted the fact I had a middle back injury no pelvic injury, was the wrong exam. Why though? They intended to do soemthing before, during or after all apply.

I began filings with "all rights reserved" knowing I can't meet the limitations of filing and time constraints, I even in the lawsuit sued the rules and statutes initially with my lawsuit filed, and so in the end DCA has struck 1 of my appeals for being filed later in 45 days instead of 30 while I was also in the lower court and DCA filing other things at the same time dealing with hearings also and so the court is allowed to waive the page and word count limits and has refused to do so and refused my lawsuit rights invoked all along without reasons why. As in the law says tell the court what happened specifically and include facts and and do it under oath, then I get dismissed for doing it. I simply can't make argument in the limitations there is too much law and incidents. I could just say there was a malpractice see this caselaw but that would be insufficient. It is what is important not what others want to be important being the defense counsel and court rules. So far the defense counsel has proven itself unwilling to address the facts alleged and I have ran into so many causes of action in the filing of my lawsuit I can't even find the elements for them. There is essentially a tacit agreement by the courts to dismiss my case which is a approval of all the harms that have happened to me by medical providers and law enforcement, as in keep up the good work of conspiracy, we'll dismiss the litigation. Leaving me physically harmed by others many times over. I tried to illustrate that this was a initial filing there are others to file lawsuits against but now it would be another all claims denied and dismissed scenario if I do continue. SO nothing has been accomplished. Tacit Agreement: If you refer to someone's tacit agreement or approval, you mean they are agreeing to something or approving it without actually saying so, often because they are unwilling to admit to doing so. Collins Dictionary. Given there is no actual factual argument by defense and the court mishandled this litigation there is nothing to prove as a selected portion of the record that the

court made an error and is in agreement with a conspiracy aside from alleging fundamental error or miscarriage of justice since there is no admissions by the court, except of course for the DCA decision which is all kinds of obviously wrong. So here is an example this persons filings are numerous and lengthy and it is all based on 1 incident of losing a thumb.

[page 7 of 42 in the pdf and page 1 on the document filed., PETITIONER'S AMENDED INITIAL BRIEF ON THE MERITS]
[4TH DCA CASE NO. 4D03-3873, Florida Supreme Court Case No. SC 05-331]
"As a result of Doctor Jhagroo's malpractice LENA HOROWITZ'S right thumb was amputated at PLANTATION GENERAL HOSPITAL and a malpractice claim instituted in Circuit Court, in and for Broward County, Florida against Doctor Jhagroo."

[page 7 of 18 in the pdf and page 2 on the document filed., PETITIONER'S REPLY BRIEF ON THE MERITS]
[4TH DCA CASE NO. 4D03-3873, Florida Supreme Court Case No. SC 05-331]
"This position is particularly compelling given the stipulated factual circumstances presented to the trial court. It should be kept in mind that it was stipulated that Doctor Jhagroo "did not maintain medical malpractice insurance or otherwise comply with the requirements of Florida Statute 458.320." (See Paragraph h of the Stipulated Facts at R-44-48.) Therefore, Plantation General continued in a relationship with Doctor Jhagroo and continued to profit from his admission of patients (including Mrs. Horowitz) in spite of the fact that he was not in compliance with state law. This is unjust!"

So how do I determine in presuit with covid and a denial of my claims if any informal discovery of such causes of action exist as if the providers had insurance or not? I would have a stack of hospital documents fresh from the covid hospital on my desk!?

Maddox v. State., Summary., Holding statute prohibiting introduction of traffic citations "in any trial" limited to any trial dealing directly with the traffic offense., Opinion., No. SC03-2110., January 12, 2006. Rehearing Denied March 2, 2006...

...a construction of this statutory provision that would lead to "unreasonable or ridiculous" results. Auld, 450 So.2d at 219. An example of the absurd results that could follow if we were to approve the First District's decision in Dixon was outlined by Chief Judge Altenbernd in his dissenting opinion in State v. Veilleux, 859 So.2d 1224 (Fla. 2d DCA 2003). He reasoned:
To hold otherwise would expand the scope of this statute unreasonably and lead to absurd results we must **construe the statute in such a way to avoid an absurd result**.

In the following discussion, I will (A) analyze the plain meaning of the statute, (B) summarize **the absurdity doctrine**, and (C) explain why the plain meaning of the statute cannot be considered absurd.

B. The Absurdity Doctrine
As the majority notes, and I agree, we will deviate from a statute's plain language when

necessary to avoid an absurd result. As we explained many years ago, "no literal interpretation should be given that lends to an unreasonable or ridiculous conclusion." State v. Sullivan, 95 Fla. 191, 116 So. 255, 261 (1928); see also State v. Burris, 875 So.2d 408, 414 (Fla. 2004) (stating, more recently, that "[a] statute's plain and ordinary meaning controls only if it does not lead to an unreasonable result"). However, to prevent the appearance that we are merely substituting our own judgment for the Legislature's, we must invoke the exception only when absolutely necessary — that is, when otherwise **the result truly would be absurd or patently unreasonable**.

This canon of statutory construction has been one of the "fixed points" in American law, John F. Manning, The Absurdity Doctrine, 116 Harv. L.Rev. 2387, 2389 (2003), and has guided this Court's jurisprudence from the very beginning. See White v. Camp, 1 Fla. 94, 109 (1846) (Baltzell, J., dissenting) (stating, in the first volume of the Florida Reports, that "the reason and intention of the law giver will control the strict letter of the law, when the latter **would lead to palpable injustice, contradiction and absurdity**") (quoting Plowden's digest of English cases from the sixteenth century).

Yet the absurdity exception to the plain meaning rule is intended to be narrow. The Supreme Court, for example, "rarely invokes such a test to override unambiguous legislation." Barnhart v. Sigmon Coal Co., 534 U.S. 438, 459, 122 S.Ct. 941, 151 L.Ed.2d 908 (2002). In fact, the Court has come "to connect its absurdity analysis to the more forgiving **standards of rationality review**," Manning, supra, at 2452, meaning that it will enforce a **statute's plain meaning as long as it can hypothesize a rational basis to support the textual policy**. Id. at 2452 n. 244 (citing examples).

The absurdity doctrine should be reserved for cases where applying the plain meaning would border on irrationality. Only then can we be sure that a textual interpretation would **yield "an absurd result totally incongruous with the will of the people.**" Plante v. Smathers, 372 So.2d 933, 937 (Fla. 1979). If expanded beyond rational basis review, the absurdity exception would threaten to undermine the separation of powers by **allowing judges to substitute their own views** of wise public policy for the compromises struck by legislators. As one scholar recently explained:

> The legislative process is untidy, and the particular wording of a statute may have been, for unknowable reasons, essential to its passage. Thus, rather than identifying genuine legislative intent, application of the absurdity doctrine to disturb a clear statutory text risks displacing whatever bargain legislators actually reached through the complex and path-dependent legislative process.

Manning, supra, at 2486. In other words, there is a fine line between a judicious policy and a judicially imposed one. Unless we can say with absolute confidence that no reasonable legislature would have intended for the statute to carry its plain meaning, we should "presume that [our] legislature says in a statute what it means and means in a statute what it says there." BedRoc Ltd., LLC v. United States, 541 U.S. 176, 183, 124 S.Ct. 1587, 158 L.Ed.2d 338 (2004) (plurality opinion) (quoting Connecticut Nat'l Bank v. Germain, 503 U.S. 249, 253-54, 112 S.Ct. 1146, 117 L.Ed.2d 391 (1992)). The exception to the plain meaning rule should not be used to

avoid an unintended result, only an absurd or patently unreasonable one.

C. Excluding Citations from Forgery Trials is not Truly Absurd

The majority claims it would be absurd to prohibit the admission of traffic citations as evidence of forgery. I am not so sure. While citations certainly have greater probative value in forgery trials than in ordinary traffic trials, they still pose a substantial risk of prejudice to the defendant. That the Legislature would decide that the costs of admitting citations outweigh the benefits, even in forgery trials, cannot be **considered "unreasonable or ridiculous."** Sullivan, 116 So. at 261. To explain this point, I first examine why the Legislature has excluded traffic citations in ordinary traffic trials. Then I demonstrate that the same rationales may justify their exclusion in forgery trials.

All traffic citations have potential value as evidence. They contain a contemporaneous record of what the officer observed, as well as a signature confirming the defendant's presence at the scene. Therefore, they could verify, refute, or supplement the testimony at trial. Also, they could be admitted as business records even without the officer's testimony, provided that a records custodian could verify their authenticity and that their admission would not violate the right to confrontation. See § 90.803(6), Fla. Stat. (2001); see also Veilleux, 859 So.2d at 1230 (Alternbernd, C.J., dissenting) (suggesting that, in the absence of other statutory restrictions, citations could be introduced as business records).

The Legislature, however, has prohibited citations from playing a substantive role by prohibiting their admission as evidence. Instead, they serve three procedural purposes. First, they document the traffic encounter. The statute requires citations to be issued in quintuplicate, § 316.650(1)(a), Fla. Stat. (2001), and meticulously explains where the copies must be sent and how long they must be kept. Id. § 316.650(3)-(8). Second, they give the accused notice to appear. Id. § 316.650(1)(a). The statute provides that the accused "must sign and accept a citation indicating a promise to appear." Id. § 318.14(2). Finally, they can serve as charging documents before the traffic court. See Fla. R. Traf. Ct. 6.165(a); Hurley v. State, 322 So.2d 506 (Fla. 1975).

While the Legislature has not stated its reasons for relegating citations to a purely procedural role, I can think of three. First, excluding citations from evidence ensures that the officer who witnessed the alleged traffic offense will **actually appear in court and offer firsthand testimony**, rather than defer to what is written on the ticket. As a result, the defendant can confront the officer and expose any weaknesses in the testimony. The theory behind this policy is that factfinders can assess the credibility of firsthand, confrontational testimony more accurately than they can assess the credibility of an officer's written report. See Sheryl L. Musgrove David W. Gross, Use of a Traffic Citation in a Subsequent Related Civil Proceeding, 33 Idaho L.Rev. 135, 144-45 (1996) (warning that "the jury may give undue credence to the decision of the investigating officer to issue the citation").

Another reason for excluding citations from evidence is to ensure that officers will testify only about the facts they witnessed, **rather than their legal relevance**. As the Idaho Supreme Court

explained in holding that citations may not be admitted as evidence in traffic-related civil trials, "[a] citation constitutes a police officer's conclusion that a driver has violated a statute or an ordinance. While a police officer may testify about the observations which led the officer to issue the citation, it is improper for the officer to testify that the driver violated the law." Martin, 896 P.2d at 978; see also Getchell, 65 P.3d at 57-58 (**noting that the exclusion of traffic citations in negligence cases is generally "based in part on the rationale that such testimony amounts to an opinion on an ultimate issue that is for the trier of fact to decide** . . . and in part on the **undue weight** concerns"). In Florida, too, citations express legal judgments. They contain various boxes that officers must check when they believe that a listed offense has been committed. See, e.g., § 316.650(1)(a), Fla. Stat. (2001) (requiring a special box for "aggressive careless driving as defined in s. 316.1923").

A third reason for excluding citations is to protect defendants in traffic trials, and subsequent civil suits, from the prejudice caused by unflattering, legally irrelevant information recorded on the citation. For example, the uniform citation used in this case included a space for "[o]ther violations or comments pertaining to the offense." What the officer deems factually pertinent, however, can differ from what a court will deem legally relevant. A blanket rule against the admission of citations frees officers to record any information they find helpful, without exposing defendants to **undue prejudice**.

The majority apparently accepts these rationales as applied to traffic-related cases, but concludes they do not justify the exclusion of citations as evidence of forgery. I agree that in forgery trials the balance changes. Because the citation is the document on which the alleged forgery occurred, it assumes **greater probative value**. If admitted into evidence, it would become the centerpiece of the State's case. Conversely, excluding citations from evidence "will make convictions for forgery of a traffic citation **more difficult**." Dixon, 812 So.2d at 596. Indeed, one district court has speculated they will be "**all but impossible" to obtain**, Martinez, 870 So.2d at 20, although perhaps "the State can bring in evidence from the officer who issued the citation and witnessed the false signature, as well as other evidence of the defendant's identity and intent." Veilleux, 859 So.2d at 1227.

Despite their probative value in forgery trials, citations still pose **a substantial risk of prejudice**. Invariably, the citation will proclaim the officer's judgment that the defendant committed an offense other than forgery. Sometimes the alleged offense will be relatively minor, but at other times it may be quite serious (for example, drunk driving or aggressive careless driving). If the citation is admitted as evidence of forgery, in deciding whether the forgery was proved the factfinder may be influenced by the unproven traffic charge. The factfinder also may be influenced by any other negative observations in the citation, even if they **have no legal bearing** on the forgery charge. Finally, to the extent the State relies on the written citation rather than firsthand testimony, the context of the alleged forgery may not be fully explored.

None of this discussion is to suggest that traffic citations should be excluded from forgery trials. The only issue is **whether it would be absurd to exclude them**. I conclude it would not be. Whether the probative value of admitting citations in forgery trials outweighs the risk of

prejudice to defendants is, in my view, a policy decision for the Legislature. Earlier this year, the Legislature amended section 316.650(9) to allow the admission of traffic citations to prove forgery. This policy is sensible and should make it easier to prosecute citation forgery cases. Another sensible policy, which the majority suggests, would be to admit the citation into evidence but "merely redact the portions . . . that do not relate to the forgery charge and that could potentially prejudice a defendant." Majority op. at 448. This policy would also be more convenient for prosecutors than the one in the statute at issue. But the Legislature is not required to make prosecutions as easy as possible. Sometimes what is easiest for prosecutors may be too hard on defendants. The Legislature must strike the balance it deems appropriate, within constitutional limits.

Here, the Legislature reasonably could have decided to accept fewer forgery convictions to prevent undue prejudice to defendants, knowing that most drivers who forge citations can also be charged with **other crimes of misrepresentation that do not require the admission of unduly prejudicial documents**. In this case, for example, the defendant faced additional charges of giving a false name or identification to a law enforcement officer and driving with a suspended or revoked license. Maddox, 862 So.2d at 783. Similarly, in the conflict case, the defendant faced a charge of driving without a valid license. Dixon, 812 So.2d at 595-96. Other charges might include **misuse of a license**, § 322.32, Fla. Stat. (2001), **giving false oral reports** under the traffic laws, id. § 316.067, **or obstructing** an officer, id. § 843.02.

Because the Legislature could have a rational basis for deciding that the costs of admitting traffic tickets in forgery trials outweigh the benefits, applying the plain meaning of section 316.650(9) cannot be considered absurd. In the absence of absurdity, we have a responsibility to the Legislature, which carefully selected the words, and to defendants, whose liberty possibly hinges upon them, to enforce the statute as written.

The majority claims it would be absurd to apply the statute's plain meaning in two other contexts: (1) where the citation is alibi evidence in a murder trial; and (2) where it is evidence of the last driver stopped by a murdered police officer. Majority op. at 447. As I explained earlier, however, **the absurdity exception to the plain meaning rule is intended to be narrow**. We should **depart from the statutory text only to the extent necessary to avoid absurd results**. Thus, even assuming it would be absurd to apply the statute's plain meaning in certain murder trials — an issue on which I would reserve judgment until those unusual circumstances actually arise — that would not be a justification for departing from the statute in forgery trials, where the plain meaning does not produce absurd results. The majority suggests that the statute's plain meaning might be unconstitutional as applied to the first situation above. However, **constitutionality is a separate issue from absurdity**.

D. Conclusion

I conclude from the plain meaning of section 316.650(9), Florida Statutes (2001), that traffic citations may not be admitted as evidence in any trial. This necessarily includes criminal trials for forgery of a traffic citation. I also conclude that such a result is not absurd and therefore the statute's plain language cannot be avoided.

For these reasons, I respectfully dissent. PARIENTE, C.J., and QUINCE, J., concur.
>>>

"This interpretation violates core principles of statutory construction and the express legislative intent of section 960.02, Florida Statutes, and leads to absurd results." said someone in Raik v. Dep't of Legal Affairs., No. 1D21-2337., 07-13-2022. There is 21 uses of the word "absurd" in that.

I include that 766 medical malpractice act of florida is intent on outlining regulations for attorneys and preventing frivolous claims and defenses is all and reducing costs. The court can't deny access to the courts. It is as constitutional violation. The legislature has said so themselves in the "intent" section of 766 not to deny access to a jury trial for either party.

766.201 Legislative findings and intent.—
(1) The Legislature makes the following findings:
(d) ... **while preserving the right of either party to have its case heard by a jury**.
(2) It is the intent of the Legislature to provide a plan for prompt resolution of medical negligence claims. Such plan shall consist of two separate components, presuit investigation and arbitration. Presuit investigation shall be mandatory and shall apply to all medical negligence claims **and defenses**...
(a) Presuit investigation shall include:
1. **Verifiable requirements that reasonable investigation** precede both malpractice claims **and defenses** in order to **eliminate frivolous claims and defenses**.

Let me explain this somewhat. 766.201(1)(d)... while preserving the right of either party to have its case heard by a jury. Ok so the nurse needs to be reviewed for keeping false records (that's an opinion) for failing to determine my injury (that's an opinion) for failing to advise the er doctor (that's an opinion) for injecting me with an IV (that's an opinion) for injecting me with unwanted fluids (that's an opinion) for being party to the er doctor discharging me without a diagnosis (conspiracy and cover up) (that's an opinion) for failing to give me a back brace (that's an opinion) and so we take of these and then add that she also appears to have been doing it all along as a eugenics or physicological experiment and so conspiracy (that's an opinion). If we add those up it is a 6 defendants all equally alleged to have done wrongs and participated and so lets say 5 opinions on each by an expert times 6 parties is 30 opinions that all need to be in agreement by 6 experts. So we have the legislative intent is, "while preserving the right of either party to have its case heard by a jury" and "eliminate frivolous defenses." Under 766.201(2)(a)(1) did the defense do a **reasonable investigation?** I don't have 30 opinions from 6 experts. I have a denial of all claims based on statutes of limitations and me not having all of those experts. But under 766.104(1) I have a expert and he is my reasonable investigation, as well I would suppose that a conspiracy like this would waive experts, and deal with the facts, scientific as they are, provable, and to deny that would be a absurd result. And all based on a denial of facts and defense equal duty to investigate. Do I need a hospital risk manager expert? She didn't provide me any proof of her investigation so there is nothing to review but my narrative. My medical expert refused to address my narratives and so what can I do?

766.104 Medical negligence cases; reasonable investigation required before filing.—
(1) ... the attorney filing the action has **made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence** in the care or treatment of the claimant... For purposes of this section, good faith **may** be shown to exist if the claimant or his or her counsel has received a written opinion, which shall not be subject to discovery by an opposing party, of an expert as defined in s. 766.102 that there appears to be evidence of medical negligence.

My medical expert in radiology said I have a back injury the night I was in the er. That is reasonable enough to allege everything for me. Making 120.52(8) "Invalid exercise of delegated legislative authority" and 120.52(22) "Waiver" apply to the experts question beyond what I have done and also the statutes of limitations being applied. I did file within 4 years and so repose. Also there was fraud and concealmenet and fraudulent misreprentation fof act under 95.11.(4)(c). I was injured by many parties since the incident and so conspiracy waiver and or fraud applies. Defense counsel isn't dealing with it. Also,

95.11 Limitations other than for the recovery of real property.
(3) WITHIN FOUR YEARS.—
(o) Any action not specifically provided for in these statutes. (conspiracy?)

95.11 Limitations other than for the recovery of real property.
(4) WITHIN TWO YEARS.—
(c) An action for medical malpractice shall be commenced within... within 2 years from the time the incident is discovered, or should have been discovered with the exercise of due diligence; ... **4 years** from the date of the incident or occurrence out of which the cause of action accrued.. In those actions covered by this paragraph in which it can be shown that **fraud, concealment, or intentional misrepresentation of fact prevented the discovery of the injury the period of limitations is extended forward 2 years** from the time that the injury is discovered or should have been discovered with the exercise of due diligence, but in no event to exceed **7 years** from the date the incident giving rise to the injury occurred...

120.52 Definitions.—As used in this act:
(8) "**Invalid exercise of delegated legislative authority**" means action that goes beyond the powers, functions, and duties delegated by the Legislature. A proposed or existing rule is an invalid exercise of delegated legislative authority if any one of the following applies:
(a) The agency has materially failed to follow the applicable rulemaking procedures or requirements set forth in this chapter;
(b) The agency has exceeded its grant of rulemaking authority, citation to which is required by s. 120.54(3)(a)1.;
(c) The rule enlarges, modifies, or contravenes the specific provisions of law implemented, citation to which is required by s. 120.54(3)(a)1.;
(d) The rule is vague, fails to establish adequate standards for agency decisions, or vests unbridled discretion in the agency;

(e) The **rule is arbitrary or capricious**. A rule is arbitrary if it is **not supported by logic or the necessary facts**; a rule is **capricious if it is adopted without thought or reason or is irrational**; or

(f) The rule **imposes regulatory costs on the regulated person**, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives...

(9) "Law implemented" means the language of the enabling statute being carried out or interpreted by an agency through rulemaking.

(13) "Party" means:

(a) Specifically named persons whose substantial interests are being determined in the proceeding.

(b) Any other person who, as a matter of constitutional right, provision of statute, or provision of agency regulation, is entitled to participate in whole or in part in the proceeding, or whose substantial interests will be affected by proposed agency action, and who makes an appearance as a party.

(c) Any other person, including an agency staff member, allowed by the agency to intervene or participate in the proceeding as a party. An agency may by rule authorize limited forms of participation in agency proceedings for persons who are not eligible to become parties.

(d) **Any county representative, agency, department, or unit funded and authorized by state statute** or county ordinance to represent the interests of the consumers of a county, when the proceeding involves the substantial interests of a significant number of residents of the county and the board of county commissioners has, by resolution, authorized the representative, agency, department, or unit to represent the class of interested persons. The authorizing resolution shall apply to a specific proceeding and to appeals and ancillary proceedings thereto, and it shall not be required to state the names of the persons whose interests are to be represented...

(14) "Person" means any person described in s. 1.01, **any unit of government in or outside the state, and any agency described in subsection (1)**.

(16) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term also includes the amendment or repeal of a rule. The term does not include:

(21) "**Variance**" means a decision by an agency to grant a modification to all or part of the literal requirements of an agency rule to a person who is subject to the rule. Any variance shall conform to the standards for variances outlined in this chapter and in the uniform rules adopted pursuant to s. 120.54(5).

(22) "**Waiver" means a decision by an agency not to apply all or part of a rule to a person who is subject to the rule**. Any waiver shall conform to the standards for waivers outlined in this chapter and in the uniform rules adopted pursuant to s. 120.54(5).

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What about PayPal and USAA? They don't refunds. PayPal is a basic business they offer a product for sale, you pay them for their product through paying the fees to transfer money.

They offer no refunds though. So their users must be secure, and vetted, and the PayPal business able to ensure no fraud by users occurs right? Wrong, they say they will allow a for themevles to do anything to a user account including closing it and refunding whatever they want, but it is a only a potential grievance procedure, and so they are not actually providing for a safe product if they refuse to investigate fraud by its users, they are a party to it. Simply hanging a sign in a pool hall that says no gambling doesn't exempt the business from prosecution to turning a blind eye to rampant gambling in their establishment. Another way to say PayPal does fraud with their contract terms and is party to the fraud as a business. USAA just refused a refund that should have been a charge back under their card terms as is traditional when a customer doesn't receive what was paid for.
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The short answers to the appeal herein is I have a "disability" and so it would be a ADA violation (Americans with Disabilities) to deny access to the court. I have social security benefits as my only source of income at $800 per month and so I can't afford litigation, or experts. I also have type 1 diabetes and so I am the primary person who is vulnerable to covid-19 and told to not get exposed. There is also the equal protection of the constitution and denial of access to the courts. There is a fraud and concealment and conspiracy taking place since day 1. After that we have to get into the facts alleged which take this into the experts and statutes of limitations arguments of the defense counsel (tolling as well) and then all of the court process arguments and or error and misconduct along the way up to the DCA decision that is crazy decision and combined all appeals into 1 then didn't let me file an extended reconsideration request or extended briefs.

The U.S. Constitution Fifth Amendment's Due Process Clause "requires the United States government to practice equal protection." The Fourteenth Amendment's Equal Protection Clause "requires states to practice equal protection." These matters fall in as personal injury which wasn't determined based on some caselaw, and not medical malpractice. Also these are causes of action boiled down to "clerical" in nature. The doctors order. The radiologist not reading the order and also deleted records with 2 CT scan images of unknown numbers. The failure of the hospital to give me the order or inform what the radiologist did when deleting series of images. Why they think they can image my genitals and legs for a back injury. It creates a class I suppose and is a equal protection claim as I am indigent and they are immune.

Fla. R. Crim. P. 3.111., Rule 3.111 - PROVIDING COUNSEL TO INDIGENTS
(4) "Indigent" shall mean a person who is unable to pay for the services of an attorney, including costs of investigation,..

0.1.) The court is supposed to appoint medical experts because I am indigent as finders of fact as well. Other courts in florida and federal courts appoint counsel for indigents in civil matters.

Statute 120.52 includes how a vague or otherwise inapplicable statute can be "waived" seems for things like needing over 30 medical experts opinions due to conspiracy over and over again would seem to require application of that statute. I said it before we are beyond the scope of 766.

Florida Constitution SECTION 25. Patients' right to know about adverse medical incidents. Plaintiff states Dr. Cousin doesn't care. Judge Smiley doesn't care. The hospital covers it up. The staff covers it up. SECTION 26. Prohibition of medical license after repeated medical malpractice.

SECTION 25.(c) For purposes of this section, the following terms have the following meanings:
(3) The phrase "adverse medical incident" means medical negligence, **intentional misconduct**, and any other act, neglect, or default of a health care facility or health care provider that caused or could have caused injury to or death of a patient, including, but not limited to, those incidents that are required by state or federal law to be reported to any governmental agency or body, and incidents that are reported to or reviewed by any health care facility peer review, **risk management**, quality assurance, credentials, or similar committee, or any representative of any such committees.

DCA striked my memorandum of law that I filed with DCA then in their decision said I didn't comply and make any sense in my filings failing to make legal argument, all DCA had to do was read my memorandum of law as much as they were interested in the facts and filing. They didn't want it filed in the filings nor as a supplemental filings they wanted it somehow filed with citation to reference to the record. I have no idea how to do that and even asked. DCA agreed with the merits of the expert dismissal which means they agree that the rules of civil procedure don't apply which says to file a lawsuit outlining enough to let the defendants know why they are being sued is all it says, doesn't say need to add all elements. Also, lower court judge supposed to rule in my favor and allow for amendment and no case is to be dismissed without opportunity to amend. As well the DCA has apparently agreed with the merit that the experts defense counsel case law is proper which outlines facts as being important, yet they filed no facts only I did that, so that would be a case law I file. DCA said 1 appeal was late which is because I had so many other legal filings and hearings happening I had to combine all those other matters and take them up on appeal like 45 days later and so it was supposed to be 30 to appeal, how would I know that, I was busy doing lower court hearings and filings, and appeals,

such as docketing statements and initial briefs, and so they also failed to understand the filing as a multi-part appeal since a variety of issues were taken up in that appeal. DCA and lower court made no evidenciary hearing as to conspiracy claims or under 95.11 fraud and concealment but then dismissed the case for statutes of limitations merit so that is literally the same rule under 95.11? I did also have an expert.

My legal appeal (petition to the government) is multiples of arguments that all need to be considered as a group instead of individually alone because winning 1 appeal doesn't satisfy the other matters of this litigation.

The sad reality is that you can likely grab any one of my filings and make a determination of if I have a case or not. There are a lot of filings building the evidence up but there is no actual evidentiary hearing so far or discovery nor presuit discovery. That being said this litigiation was intended to move along and maybe amend in another 30 parties as defendants given the continual harms and conspiracy taking place. All of which have had a negative impact on me and this litigation lead up process. So once again I outline the enitre matters herein this litigation so far with brief mention of other parties as necessary. The bottom line is nobody cares at all and do bad things instead and if the court can't handle this litigation than there is little hope for any justice for society and citizens as I couldn'pt begin to afford any experts or even get a any consulting from a attorney nor any limited work from civil counsel just to get discovery underway, so imagine then telling attorneys you have 30 lawsuits that need to be taken up on contigency fee. It is a immunity by conspiracy. I am the prejudiced victim. The other sad reality would be if my er hospital records were given to an expert that they would ask is this a joke. As you don't say a person with a pelvis injury has a back injury and vis versa, and if there is a pelvic injury noted then there is none shown on a CT scan obviously the question is why not there should be if it was noted in the records and a CT scan of the alleged harm to the pelvis happened. Kind of like saying the patient needs a brain surgery but then they do nothing once opened the skull and say oh well I thought he did, kind of is this a joke. The actual reality is much worse as if there are say over a 1000 images of my genitals that were taken (eugenics) that have deleted with the 2 missing series of images the CT scan jumps from series 1 image 1 to series 2 then series 3 and skips forward to series 6 and then series 7. So the radiologist not only made 1 mistake but 2, and or over exposed me intentionally to ionizing radiation. So if on review all the actual things were put together it paints a stark truth of there never was a pelvic injury, the staff didn't actually investigate it properly, they ignored the actual middle back injury and kept records that make no sense to anybody reading it for any purpose, is it a back injury or a pelvic injury and why is there is evidence of a back injury but not development on it and instead a lot of development on a pelvic injury that doesn't exist and wasn't checked for? It is the kind of thing that makes a person cringe at the thought of it, like a how a medical student can run down a thousand different medical terms, but here, all the staff has to say is the words "pelvic" and the rest is all fully automated medical procedure have a scan, instead of a actual physical examination and notes on that and actual harms and pains and symptoms and cause and effects and associated possible alternatives, such that the staff did none of that, that wasn't fraud, or not fully explained, like saying has trouble walking, sure I may have said I had trouble walking if asked, as I had a terrible middle back injury, but when they say the words has pelvic

injury it takes on a very different meaning. And so as stated once it is all put together it is understood for what happened, what they caused. How can a person with a pelvic injury walk around a hospital, sit on a CT scanner table, lay down on my belt, then have my pants removed up my legs with my legs over a triangle pillow, then have a orderly yank on me and drop me back on the CT scan table and all along no staff is asking does this person have a pelvic injury if that was what they were looking for because nothing that happened or what they did makes any sense. Is it a joke? Medically speaking and anatomically speaking it isn't possible to have a T12 compression fracture with upper lumbar soft tissue stranding edema (bruising under the skin) while also having a "slip and fall on butt" medical record with no actual pelvic injury present, as it is literally physically impossible, how did the soft tissue injury get there if I fell on my butt? How did the T12 compression fracture get there if I fell on my butt? How can I fall so hard on my butt that I injure my T12 in my middle back but nothing is wrong with the sacrum bone in the pelvis from that fall? As I said it is a joke. It is also a cover up, and conspiracy and medical battery, and uncessary diagnostic testing, and fraud, and unjust enrichment, and failure to treat, and all done with lack of informed consent, and medical experimentation and other causes of action. Primarily it is just insane what happened. I had hoped my medical expert in radiology would be useful but instead it turns out he is insane also. It is further insane that the 1ST DCA said he did a review and based on that formed an opinion. That is opposite game by a court now not just the hospital staff and medical expert it is being done by the court as well. The defense counsel has said that the medical expert had found no merit to the claims and that is fraud, the words, had found no, is the operative word not merit, because he didn't actually review, so he can not be said to have formed an opinion based on anything. I went halfway to my vacation destination let me tell all about the place I never was, in fact I am an expert with opinions on the place I have never been is equivilent. It is all fraud and conspiracy. The defense counsel is doing the same ignoring of the facts. A jury would actually find it to be insane to question a defense expert in a trial. So the alara principle of radiation exposure is a hospital policy but you also always CT scan a mans pelvis just because? Those 2 things can't co-exist. Like saying when we do a total body CT scan it is with the lowest amount of radiation possible for every patient that walks through the door with a toe injury, level of insane. Radiation causes cancer notably and other problems and so no over exposure is appropriate, the radiology report says they use the lowest amount achievable, and so that is a policy than, and the staff violated it, making it a uncessary doiagnsotic test, and also medical battery without consent, how can you have a policy to use the lowest amount and also not get consent or be thought o have gotten consent while doing over exposure? Same as saying we have a safety sign hung at the door safe for all patients to enter here, as we scan their entire body on the way in, level of insane. Or you have a cut on your finger, so we amputate. You have a black eye so we remove the eye. You have a T12 compression fracture so we do 500 x-ray images of your pelvis. Also 2 entire deleted series of images. In addition I told the nurse not to inject me with any fluids when she put a IV in my arm to draw blood, another level of insane, and then she did inject me anyways saying that she had to. No she didn't I just told her not to. In fact we just discussed drawing blood and use of a small needle, instead she said she had something different that was similar and that was an IV, which is not even a needle it is a plastic long IV fluids tube for injection of fluids. Why use it for drawing a blood sample? A regular needle is used for that? As stated it is all a joke for any person that would review it. Where does it say "you have to

inject patients who do not want to be injected and said they don't and you shouldn't use a IV for doing that anyways!?" So I had a back injury complaint of a bad injury and so my forearms were pretty important for my mobility and so a skilled medical provider wouldn't want to jeopardise that by poking through a vein or using a IV that cause bruising, and then filling me with fluids for no reason. Do I want a claimed to be water solution that has been mass produced in a factor sitting on a shelf in a hospital for months in a plastic tube spoiling and taking the nano plastics with it to be in my body for no reason? No. Regardless of a standard of care I don't want the IV or fluids in me. Her determination to draw my blood by asking so much is evidence she had plans to inject me given the chance. What did she inject me with? Something that made my arm yellow is all I know and now have other cause and effect claims made. Regardless it is a medical battery of the common knowledge variety. Same argument of insanity as we scan every patient that walks through the door. Doesn't matter if it s a standardized process it is insane to do and wrong.

1.) Aburd.
2.) Statutes of Limitations (covid & conspiracy & cover up & Tolling).
3.) Medical Experts.
4.) Service and Pleadings.
5.) Evidence. Dismissals and Denials.
6.) Misconduct.
7.) Constitutional Matters. (access to court, equal protection)
8.) Fake investigations.
9.) Conclusion: judge and jury are trier of fact.

Intro: It is one thing to say that 1 injury has 2 years to be filed, but then under 95.11 rules of statutes of limitations is says if fraud and concealment and in due dilligence so those apply, because there is not 1 incident, there are multiple incidents within 1 incident, and that then would be thought ohave later caused another incident of malpractice given the intial mistakes at incident 1, but instead it is that the incident 1 literally caused incident 2 in a conspiracy sense and not a mistake sense, even though mistak still applies; and so it is one thing to say 2 years for an incident, but there are multiples of multiples of incidents.

What do I want is it only money or injunctive relief? I want money. I want my CT scan images taken away from the hospital and defendants as it was not consented to and contains my genitals in the images. I specifically said not to do any pelvic scanning in fact and they lied and did it anyways amongst the 3 specific staff I spoke with about it who were the same that were responsisble for doing it. I want to not be a victim of a conspiracy. I want to be aware of what actually happened in the CT scan with the missing series of images and if the nurse posioned me. I have a personal interest other than than in these matters.

01.) Aburd.
The medical expert I did retain cost me $2600 which was half off. He only gave me a "consultation report" and no "affidavit & opinion" as requested in my initial email which I said I was over exposed and not diagnosed can he do a review for me. The basics of it are that he is a

fraud and stole me money and data. So assuming all that I file with the court would taken as "the truth." What we have is a evidence issue since my professional witness has created a half baked report with errors and omissions. Leaving me to tell what the truth is since he can not be relied on. This can be taken by the court as a "reasonable investigation" since 766.104(1) says it is possible to only conduct "reasonable investigation" which "may" include a expert review. Also, "appears to be evidence of medical negligence" is all that an expert has to say, and Dr. Daniel Cousin my expert has elaborated on that being the truth as he even wanted me to retain his friend an er doctor expert. However, we were unable to continue our client relationship because of the fraud and theft. So I have satisfied 766.104(1) by retaining a state registered medical expert for a review. He said my back was injured the night of the incident specifically at the T12 vertebrea which I had diagnosed later. If my back was injured at T12 than I was 'misdiagnosed' or they 'failed to diagnose' to use 2 legal meanings to what is an obvious medical battyery and potential eugenics incident and if my back was injured than my pelvis was not as the nurses and doctors records include inappropriately and without cause.

Leaving the only legal questions to be why didn't my expert address the over exposure and 2 missing series of images on a initial omission basis, and why hasn't the defense counsel deposed him, and why is he being dismissed if the DCA has said he is required, than all the facts and allegations I have introduced are material evidence and so a expert is required but a expert that refuses to review is also fine? Hostile witness. Functioning more as a defense witness really. He said in a conversation that "nobody wants to hear about over exposure." That is why I retained him and was required for the discovery and relief I was seeking. Making the trial a joke if it continued, as in no mention of a problem with the CT scan but also then resulting in a situation of me asking in a trial "I kind of want to have my genital images taken without my consent returned to me judge if that wouldn't be too much trouble, you wouldn't mind granting me that relief for no reason, just something extra I was hoping to maybe get returned to me, not that anything was wrong with the CT scan" type of trial. That was what Dr. Cousin wanted but he and his associate would not help me even get to trial let alone discovery and in fact did opposite game and crazy defense tactics, enabling himself to say multiple things at once like I didn't say there is no over exposure, I just said nobody wants to hear it, hence Dr. Cousin in follow up emails along with is his defense counsel has emphasized that Dr. Cousin quickly put a report together. So then again another one he can say it is not negligent work product I just quickly put it together. Of note the defense counsel has said that "I wasn't happy with it." It is almost as if calling her client a fraud doesn't mean anything as she has presented no facts in the alternative. Also all that Dr. Cousin says is I am a expert and to get an attorney. Of note his email to his associate was that I am a new pro se client. So he shouldn't be saying to get an attorney. In fact after giving me a half baked report he then said now pay me more and also get an attorney many times and final he said he wouldn't speak to me until he was paid more and only if I had an attorney. How is that not fraud and theft? 1ST DCA saying in their 11/29/2023 decision that he did a review is crazy.

"In the same complaint, Appellant sued the expert witness he retained to furnish the statutorily required opinion that malpractice had occurred. **The expert determined** that there was no deviation from the medical standard of care **and therefore** that **he could not** give the requested

opinion. **Given that opinion**, Appellant also sued PayPal for refusing to refund Appellant's payment to the expert."

Literally everything written there is wrong. The expert "**determined" "no deviation" "and therefore" "he could not" "the requested opinion" "Given that opinion**". He didn't discuss the over exposure? He said the misdiagnose evidence he sees isn't enough to be a misdiagnosis so a misdiagnosis isn't a misdiagnosis with evidence to show it was a misdiagnosis, and he refused to address my narrative that the staff lied and knew I didn't want or need any pelvic scanning, as well the radiologist spent 10 to 17 minutes before the scan looking for a paper copy of the doctors order for me and confirmed no pelvic scanning would occur. Dr. Cousin isn't commenting on that at all. Nor is he commenting on the 2 missing series of images from the CT scan. So his opinion tells 2 tales both fit together that he then takes apart and says they don't. Finally, I told him that the records were fraudulent and a "conspiracy" took place and cover up and so that would require a required expert to comment on and look for the evidence of that act and omission and it is here, it is the evidence in the misdiagnosis in fact if I said I want no pelvic exam I have a lower back injury than the radiologist should be looking exactly at that soft tissue stranding edema. That is exactly where I told them my back hurt at. Nothing proves otherwise except their fraud acts and omissions which don't prove anything for them, it proves everything for me. Point is I retained a expert.

The "conspiracy" of the hospital here is 5 people, then add the expert and the Florida Department of Health and their 2 investigations and their denials of my other complaints. So that is 7. Now we add a false arrest in December of 2018 two about months later. That is via sheriff and a police. So now 9 minimum. I contacted both about the hospital incident in November of 2018. Then I was in the Gulf Coast Regional Medical Center hospital in December under the false arrest Baker Act for a legal holding reason of a "medical examination" allegedly, more really it was to do emergency medical treatment. Point is the conspiracy continuing, and to that extent of facts we have that the original hospital Bay Medical Center in October 2018 was a conspiracy by 5 people to not diagnose my T12 injury in my middle spine. So now about 2 months later in December at Gulf Coast I am there for a examination and tell staff I have a back injury undiagnosed and they not only do not make any note of it they do not x-ray or MRI my spine. So it is as if it didn't exist. Which is a conspiracy addition since the original hospital also didn't diagnose it. However, Gulf Coast transferred me to Fort Walton Beach Regional Medical Center hospital and two weeks later I had a x-ray and it did diagnose the T12 injury. So how do I have a medical expert that says I had a T12 injury in October of 2018, then a Baker Act medical examination in December at Gulf Coast hospital that makes zero mention of a back injury but then after the transfer 2 weeks later still under the Baker Act I am finally diagnosed? Seems that Gulf Coast hospital have intentionally refused to do medical examination, omission, fraud, concealment, under 95.11, and so the conspiracy continues even beyond this incident and example in 2018, into Dr. Barrio in 2019 and Dr. Jenkins in 2020 and being fired by 3 primary care doctors and other providers causing me similar "posioning" harms ever since. The number of potential defendants leaps into the number 32 just to begin with. Point is that there is no doubt Gulf Coast was involved in the carry on conspiracy. Why would they not want to mention that I had a back injury? Likely because I told them that I had a back injury that was not

diagnosed at Bay Medical. Ironically, the nurse or doctor wrote in the Gulf Coast records that I didn't want exposure to radiation. That was in reference to a conversation about them doing a chest x-ray. I said I didn't want it. Fort Walton Beach hospital than took 2 chest x-rays when I arrived and apparently a head CT scan which Gulf Coast hospital staff requested. What better way to cover up the Bay Medical conspiracy than to deny I had a back injury and treat me like I had a head injury which Bay Medical said I had and also didn't have but also did do neurological testing for. It makes no sense the records. But the Gulf Coast staff doing conspiracy and cover up it there. If they do a head CT scan than I must have had a head injury back in October at Bay Medical right? Well, the head CT scan likely took place at Fort Walton Beach and so that is now 3 hospitals involved in the conspiracy. Good luck finding an attorney on contingency for that lawsuit. Also involves another facility in Panama City the Mental Health Baker Act receiving facility of Northwest Florida of something like that. Judge Smiley my lower court judge was asked to recuse himself since he is a Baker Act judge and so has conflict and or is biased. He has not recused himself and instead dismissed all of my lawsuits.

Point is the complicating factor of how do I prove the continual conspiracy as a harm or damage against the Bay Medical staff if there is other follow up harms by other medical staff? How do I say what they did is a damage if such would be considered medical and so an expert would have to say it is for a lawsuit where it is a damage that such providers being reviewed are not a party to it? Real insentive for a concpisray and cover up as it all becomes financially and paperwork managability impossible. Hence no attorney would touch this. Suprisingly the 1ST DCA has said I need an attorney and they will bar me forever unless I have an attorney. Be better if they considered the facts and fact patterns I alleged. What they suggest is absurd. They compressed all my appeals, then said I didn't file them right and then said to file a reconsideration on all appeals in a limtied page and word count filing. How do I make a consice legal argument on all matters appealed if it takes me 90 pages to do it but I am only given 12 or whatever it is? They tell me to do something deny my motions and force me into a legal paperwork format circumstance that nobody would possibly be able to properly file. Again absurd. Denial of facts and my rights. Given the type and extent of conspiracy and my vulnerability to covid-19 it is not a good legal argument to say the statutes of limitations has expired and or that I didn't have an expert as DCA did. Seems the defendants would without any problem infect me with covid based on the conspiracy fact pattern which is prejudical to my cases in the later stages as no attorney or expert is taking this litigation. They wouldn't want to stand in court with me, near me, or come here leaving a lock down quaratine for a hotel room and trial with all of these medical providers. So either 766 is absurd and 95.11 fraud and concealmenet and conspiracy work for me or I was supposed to impossibe things? Such as example not can I get an attorney or expert can I get one who will risk his life, his family, his friends, co-workers, and all his life so far on my lawsuit? On his dime contingency fee as well. No. Can I afford the expert(s) in the same way? No. Do I have a choice about filing this lawsuit yes, and I did a reasonable investigation and tolling can't apply if conspiracy is on going and I have nothing but harms instead of treatment, and cover up going on all along. Bottom line is if you have the theoretical right to do something but not the practical abilioty should you do it and the answer is no not really, and so we have the nurse injecting with an IV, theoretically yes, practically no, and the CT scan of my pelvis yes it is a thing that can happen, should it have no. Etc.. I am just being

exploiited and as a vulnerbale adult under chapter 415.102 it is illegal.

415.102 Definitions of terms used in ss. 415.101-415.113.—As used in ss. 415.101-415.113, the term:

(1) "Abuse" means any willful act or threatened act by a relative, caregiver, or household member which causes or is likely to cause significant impairment to a vulnerable adult's physical, mental, or emotional health. Abuse includes acts and omissions.

(24) "Psychological injury" means an injury to the intellectual functioning or emotional state of a vulnerable adult as evidenced by an observable or measurable reduction in the vulnerable adult's ability to function within that person's customary range of performance and that person's behavior.

(27) "Victim" means any vulnerable adult named in a report of abuse, neglect, or exploitation.

(16) "Neglect" means the failure or omission on the part of the caregiver or vulnerable adult to provide the care, supervision, and services necessary to maintain the physical and mental health of the vulnerable adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, which a prudent person would consider essential for the well-being of a vulnerable adult. The term "neglect" also means the failure of a caregiver or vulnerable adult to make a reasonable effort to protect a vulnerable adult from abuse, neglect, or exploitation by others. **"Neglect" is repeated conduct or a single incident of carelessness which produces or could reasonably be expected to result in serious physical or psychological injury** or a substantial risk of death.

415.1034 Mandatory reporting of abuse, neglect, or exploitation of vulnerable adults; mandatory reports of death.—

(1) MANDATORY REPORTING.—

(a) Any person, including, but not limited to, any:

1. **Physician**, osteopathic physician, medical examiner, chiropractic physician, **nurse, paramedic, emergency medical technician, or hospital personnel engaged in the admission, examination, care, or treatment of vulnerable adults**;

2. **Health professional or mental health professional** other than one listed in subparagraph 1.;

5. **State, county, or municipal criminal justice employee or law enforcement officer**;

9. Dealer, investment adviser, or associated person under chapter 517,

who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or **exploited must immediately report such knowledge or suspicion** to the central abuse hotline.

415.1111 Civil actions.—A vulnerable adult who has been abused, neglected, or exploited as specified in this chapter **has a cause of action against any perpetrator** and may recover actual and punitive damages for such abuse, neglect, or exploitation. ... The action may be brought in any court of competent jurisdiction to enforce such action and to **recover actual and punitive damages for any deprivation of or infringement on the rights of a vulnerable adult**.... **The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a vulnerable adult**...

766.104 Medical negligence cases; reasonable investigation required before filing.—
(1) ... the attorney filing the action has made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care or treatment of the claimant... For purposes of this section, good faith **may** be shown to exist if the claimant or his or her counsel has received a written opinion, which shall not be subject to discovery by an opposing party, of an expert as defined in s. 766.102 that there **appears to be evidence of medical negligence**. ... made in good faith and that no justiciable issue was presented against a health care provider that fully cooperated in providing informal discovery... [the defense counsel's investigation apply here as part of cooperating with informal discovery?]

1.) If I had an acre of land that produced 5 crates of fruit per season why is the government saying I need to pay tax of 10 crates of fruit? All I do is farm nobody can do more than I am. The market price is set. The only answer here is the government doesn't want my farm to exist. Which is absurd under the law things that result in courts arriving at absurd results are illegal. Likewise, I have social security disability benefits for many years now and then about 30 medical providers since 2018 have caused me harms since an initial incident, which would also include law enforcement involved in their own capacities. So the point is that if I earn $800 a month a federal benefits and the medical expert I did retain cost me $2600 which was half off discount price than it is easy to see that the law saying I needed to retain more experts is absurd. Should I sell my computer and car and then go to the library on a bus to use the computer to find experts? My assets are not worth enough.

So what we have is a "reposession" of my property in a way, of both my rights, and of I am having to plead all the facts in this litigation and give my medical records over to the defense counsel which is telling the defendants who did unconsented medical experimentation what the result of their harms is. That is a benefit to the defendants and to the state. There is a conflict in this law under the chapter 766 medical malpractice act of Florida. The 766 presuit process requires sending all doctors seen and copies of medical records.

11. The Florida Supreme Court recognized invasion of privacy (without specific recognition of false light) as a common law cause of action in 1944 in Cason v. Baskin, 20 So. 2d 243, 250–51 (Fla. 1944) ("[T]he great fundamental object and principle of the common law was the protection of the individual in the enjoyment of all his inherent and essential rights and to afford him a legal remedy for their invasion . . . [but] '[t]he right of privacy does not prohibit the publication of matter which is of legitimate public or general interest. At some point the public interest in obtaining information becomes dominant over the individual's desire for privacy.'") (citation omitted). Cason involved the invasion of privacy torts of misappropriation and the publication of private information. Id. at 244–45. For an excellent discussion of the origin and development of false light in both the United States and Florida, see generally Avidan, supra note 9, at 231–44.
>>>>>>>>>>

2.) Tolling.

First, I do not know what a "affirmative" medical intervention is? It seems to be a second aspect of medical malpractice that there is another type. Maybe hospital people who don't work with patients I don't know what it means, but maybe also it means a intentional cover up and conspiracy kind of personal injury medical malpractice lawsuit can occur as in nobody would ever think that what was done was done with the standard of care in mind for the patient by the medical provider. This would seem to fall under the "common knowledge" grounds, which I have invoked in the lawsuit I filed. The court has made no consideration of any of it except the defense ocusnel on statutes of limiations and experts and some other random claims of affirmative defense.

I heard through the legal grape vine that when Statutes of Limitations are brought up to claim "tolling." I was going to do that anyway. Given that I contacted the hospital in November of 2018 and spoke to the defendant risk manager Donna Baird, and she said that I was in fact looking at images of my legs and genitals than why is the defense counsel now claiming a 2 year statutes of limitations? The hospital didn't comply with their own terms which state that they are responsible for medical malpractice. Second, I requested the er physicians orders when I did a records request and was denied. They also claim on the bottom of the "radiology report" that the radiologist uses "a lowest amount of radiation achievable," which is the alara principle. I also would have wanted the "data" from the CT scanner since there are 2 entire deleted series of images in my CT scan exam records. I sent the hospital an email asking to preserve information from spoiling, and spoke to the risk manager and she said I could send her the preservation letter but she said that no information would be given to me only to an attorney. When we put all of those things together the hospital covered it up but now the defense counsel is not only claiming statutes of limitations but also failure to retain medical experts. How can an expert that which doesn't exist if my narrative means nothing and the staff has done fraud all along to cover it make it look like what they did didn't occur. You could reasonably understand from the records I do have that they were in violation with their acts and omissions just based on what is there it all makes no sense, to have a nurse say I was injured in the pelvis but have no pelvis injury on the CT scan. While the records also say I had a back injury and evidence exists to support it in the exam but they didn't want that apparently and lied to me to get the scan done on me and potentially lied all along and didn't even change records later to comport to what they did. That again is "data" of when records were input that I do not have only the hospital does. Also, how do I have a large fluid filled syringe from the nurse preserved if she threw it out after she used it on me without consent. Law enforcement won't respond to medical incidents like this or investigate them I learned but it is unclear as I also later learned that "they could" assuming they 'wanted to.' The point here is this is only 1 aspect of a tolling argument just to begin with the arguments to make which herein is so far that under the rules of florida civil procedure rule 95.11 states that "fraud" and "concealment" are both waiver for the statutes of limitations, as well it states "discovery of injury" which is tolling, and the words "with due dilligence" which gets into the next tolling arguments to make of the conspiracy by other medical providers and even law enforcement on 3 separate incidents to consider.

Legally, it would seem the defense counsel is making a fraud upon the court pleading and or a sham pleading by simply ignoring the ultimate facts and claims being made. I would seem to think that "medical malpractice conspiracy" isn't a thing given all I have read, and so under 95.11(3)(o) it provides for relief as "Any action not specifically provided for in these statutes." That is 4 years. Granted my filing was after the demand letter and or notices of intent were sent. How much legal work can a pro se victim like myself do though, if none of it matters, as in statutes say have a care and treatment occur, which doctor diagnosis a injury, which then a attorney reviews, then takes it to a expert, and so instead of that I was harmed at the doctor's offices I went to and so the conspiracy and inability to do much and so we have "with due dilligence" waives the statutes.

95.11 Limitations other than for the recovery of real property.-
(3) WITHIN FOUR YEARS.—
(o) Any action not specifically provided for in these statutes.
(4) WITHIN TWO YEARS.—
(c) An action for medical malpractice shall be commenced within 2 years from the time the incident giving rise to the action occurred or within 2 years from the time the incident is discovered, or should have been discovered with the exercise of due diligence; however, in no event shall the action be commenced later than **4 years** from the date of the incident or occurrence out of which the cause of action accrued,... In those actions covered by this paragraph in which it can be shown that fraud, concealment, or intentional misrepresentation of fact prevented the discovery of the injury the period of limitations is extended forward 2 years from the time that the injury is discovered or should have been discovered with the exercise of due diligence, but in no event to exceed 7 years from the date the incident giving rise to the injury occurred,...

My question is when was it ever "discovered" if the hospital retains the discovery and the local doctors harmed me more instead of diagnose me. Hard claim to say the risk manager denied you, did not file an adverse incident report and never contacted you again, like sending a letter with the complaint I gave to her, which legally should have resulted in her sending me papers telling me who to complain to in the government. She didn't provide that. So now defense is claiming I should have done something? Such as? Go see doctors to get care but then I get harmed and so that isn't what the defense counsel wants known is it?

Next we have covid-19 global pandemic as it is impossible due to be risky to seek counsel for lawsuits given they would have to come to court during a pandemic on their own dime and also bring an expert with them, good luck with that, and also finding counsel for not 1 case, but many incidents and all of them combined into a conspiracy. It is literally impossible. Hence I retained Dr. Cousin to be able to seek the hard drive data from the CT scanner so I would know for medical continutation of care at least what happened. However, now defendant in this litigation, Dr. Daniel Cousin a expert in radiology refused to participate or provide a full review for my purposes.

In conclusion, I believe it be a offshoot of a matter of law argument given the circumstances.

Yes I didn't send a 10 day heads up to the counsel, yes it took me 2 extra years, yes I was arrested for a felony in that time and representing myself. Yes I do have a disability and this all makes it more difficult on top of everything else. Making this lawsuit a beginning to seek relief. Defense counsel is saying I have no right to do it. Only because of all of the crime their clients did and the refusal of defense counsel to even investigate, the law says they have to or be sanctioned, and so their pleadings are not based on a proper investigation. It is bizarre the court is invovled in this at this level. The lower court shouldn't have let it go like this.

Finally, to illustrate the conflict with local providers more I went to see a urologist named Dr. Mike Jenkins and he did a pelvic exam on me with his hands which resulted in me being infected with a life long disease virus (it is called all of these) named herpes, suddenly appearing on my genitals. I had a lab do a blood test which was positive for recent and new infection. I also had another doctor visually diagnose it and do a swab test, she did a second and that caused more of an outbreak in the area above the area where Dr. Jenkins got me, and so seems I was infected once again by another doctor. Point is, the lawsuit was dismissed against Dr. Jenkins for lack of an expert. So if keeping count of experts that is everyone involved in this litigation lawsuit plus Dr. Jenkins and then also Dr. Sekhon who was not named in the Dr. Jenkins lawsuit or this one, yet. So what I know is that Dr. Jenkins said "radiation doesn't do that." His records also reflect a carelessness about my injury and problems. I in fact was worse when I left with more testicular pain than when I went in. He seems to have also harmed me more in the testicles. Given that all took place over time I was not doing work on the hospital lawsuit and so my ultimate "tolling" point here is that Dr. Jenkins "didn't diagnose anything." As I understand tolling it is tolled when a doctor makes a diagnosis. So the question legally is when did I toll the statutes for "discovery of injury" if no doctor has ever diagnosed me? Would seem the hospitals data would be the thing to have reviewed but they won't give it to me, and given 2 years ago was peak covid filing a 90 day extension like I did and was like an attorney able to seek medical experts in that 90 days, than how unrealistic is it to have a presumption of a indigent pro se litigant finding an expert in that time much less at anytime actually. There would obviously have had to have been stipulations to allow me to find data analysis experts for forensic analysis of the data. And or the Florida Department of Health had been doing 2 investigations which didn't end until after 2 years had passed. When you put all of this and more together it is only through turning a blind eye to everything happening in the law and specific industry requirements like giving patients their medical records for example as federal code calls radiology exams and orders for exams to be part of a patients record for 5 years, and so I have a right to request and review my medical records and request to amend them which I did do sent a request to the hospital but no response again.

My point is I do not know all what happened and only a willing risk manager, or other person would, including the defendants to speak up for their fellow staff had done instead of participate with it, and so I am left having to research each part of everything instead of having any assistance on literally anything even medical appointments have become traps to injury me is all. I then call an attorney about all of this and add another incident and they ask has a doctor said someone harmed you did they treat you diagnose you send you to be diagnosed, and I say no, in fact I was further harmed and the attorney or intake person says they won't take the case.

So they ask me to go to doctors but offer no assistance, then when I am harmed they offer no representation and in fact it is even less likely or possible. I had 1 counsel say no worry doctors wouldn't harm you. My literal complaint with the hospital originally is that I was harmed intentionally and then attorneys say go out and get treatment for your injuries?

The other aspect is the "unique" problem of ionizing radiation over exposure, which appears to be a "eugenics" incident. Radiation to the genitals can cause temporary or permanent sterility. Along with other harms. So if you put the fact that a MRI order was written then a CT scan order and ask if they staff intended to do eugenics why would anybody say "informed consent" under 766.102(2)(b) took place requiring experts when that statutes say without consent no experts are needed. The medical records say I had a back injury. So it is only the staff who included the line of pelvis injury and or "lumbo-sacral" pain when I had none. I did later get a diagnosis of a middle back injury that was there all along the CT scan shows evidence of it just below the highest images is soft tissue stranding edema which is a comment by my medical expert in radiology along with the later x-ray I had to have done that did diagnose my T12 compression fracture, so those 2 combined make it entirely unrealistic to do a pelvic CT scan when they likely would have said have an MRI if it is going to be done with a pelvic exam because of the harmful radiation. The pelvis is in fact called the "sacred site" by radiologists. Point is radiation harm and nurse poising is a unique harm no doctors know what to do with it. Turns out the opposite game continued and Dr. Jenkins didn't do anything to help made my testicles worse, gave me a disease, and made no medical records of any use nor provide an referral to other doctors to speak of, instead saying it must be due to some other cause go see another doctor. In that way he accomplished 2 things 1 is to make radiation not my harm based on his opinion of things and 2 is to cause an "intervening harm" which if I sue the hospital or Dr. Jenkins both claim that there is intervening causes and so my claim for damages is reduced by that. Not only that but it is further medical records documentation of the harms caused by the unconsented medical experimentation that took place. Ultimately I have been around to a variety of doctors and none of what they say adds up to a tolling for a diagnosis of a poising or a radiation harm that is only proven by my own evidence and narrative and supported by the visits to doctors documenting it but not treating it or diagnosing it, except for a sperm test which resulted in a "recommend artificial insemination" diagnosis based on sperm count.

Tolling wise, I was also Baker Acted by a false arrest in December of 2018 which took up some time about a month and all of that was a medical malpractice and false arrest and malicious prosecution. Another incident for attorneys to refuse to take the case for many years. There is another "intervening harm" which is the harmful drugs they forced me to take. All this along with primary care doctors firing me 3 different doctors and I was also poisoned by a neurologist and then a variety of nurses. It is all the kind of thing if I sat down with an attorney and explained it all they would likely say no just based on who is the responsible party?

As well, this lawsuit is seeking to get the return of the genitals images taken by the hospital staff without consent. That may be in the form of injunctive relief I don't know. But I had to give the exam to my expert and then the defendants have it and the defense counsel experts have it. It is all over the place and I want them all returned to me. Did I not file in the 2 year period no I

started the presuit with a demand letter before everyone on the planet died of covid, which kill millions of people, and that demand letter notice of intent was followed up by a filing of a 90 day extension of time but when I went to the court house in March of 2021 I was gashed in the stomache by the sheriff deputy doing a metal detection wanding of me. It did not seem like a mistake and seemed intentional. I had just had my temperature checked at the door as well as a barrier to entry to the court house because of covid-19. So I decided along with the defense counsel to deny all claims and make no investigation they didn't even question the witness I have who was there all along in the hospital emergency room if that explains how they never investigated. They don't have the missing series of images, they don't have the er doctors 2 orders, and so their entire defense is experts and statutes of limitations. However, under the statutes of repose and 766.104(1) a "reasonable investigation" was conducted by me sufficient enough. As well, the 766 statutes outline that an attorney by definition does an investigation and so all of 766 is only applicable to an attorney based on the definition thus we are operating under a color of law, and I did a reasonable investigation and again under 766 the defense counsel denials do not rest on a reasonable basis, see 766 for a hearing that can be had to determine that as was done with the Dr. Jenkins case which resulted in dismissal in fact for an expert within 45 days. I found a expert in urology but he said to much going on now with me in this litigation so try him again if I get it into court actually. Which is a kind of response expected now given all the medical records needed to be reviewed by so many different experts all needing to agree on all of it being a continual conspiracy. The point of 766 is to weed out frivolous claims. I have suffered harms to an extent the defendants covered it up and so not frivolous. And the legislative intent is to not deny access to the court as doing so would be a constituional violation.

766.206 Presuit investigation of medical negligence claims and defenses by court.—
(1) After the completion of presuit investigation by the parties pursuant to s. 766.203 and any discovery pursuant to s. 766.106, any party may file a motion in the circuit court requesting the court to determine whether the opposing party's claim or **denial rests on a reasonable basis**.
(2) If the court finds that the notice of intent to initiate litigation mailed by the claimant does not comply with the **reasonable investigation** requirements of ss. 766.201-766.212, including a review of the claim and a verified written medical expert opinion by an expert witness as defined in s. 766.202,... the court shall dismiss the claim, and the person who mailed such notice of intent, whether the claimant or the claimant's attorney, is personally liable for all attorney's fees and costs incurred during the investigation and **evaluation of the claim**, including the reasonable attorney's fees and costs of the defendant or the defendant's insurer.
(3) If the court finds that the **response mailed by a defendant rejecting the claim is not in compliance with the reasonable investigation requirements** of ss. 766.201-766.212, **including a review of the claim and a verified written medical expert opinion by an expert witness** as defined in s. 766.202, **the court shall strike the defendant's pleading**. The person who mailed such response, whether the defendant, the defendant's insurer, or the defendant's attorney, shall be personally liable for all attorney's fees and costs incurred during the **investigation and evaluation of the claim**, including the reasonable attorney's fees and costs of the claimant.
(4) If the court finds that an attorney for the claimant mailed notice of intent to initiate litigation without **reasonable investigation**, or filed a medical negligence claim without first

mailing such notice of intent which complies with the **reasonable investigation** requirements, or if the court finds that an attorney for a defendant mailed a **response rejecting the claim without reasonable investigation**, the court shall submit its finding in the matter to The Florida Bar for disciplinary review of the attorney...
(5)(a) If the court finds that the corroborating written medical expert opinion attached to any notice of claim or intent or to any response rejecting a claim lacked **reasonable investigation** or that the medical expert submitting the opinion did not meet the expert witness qualifications as set forth in s. 766.102(5), the court shall report the medical expert issuing such corroborating opinion to the Division of Medical Quality Assurance or its designee. If such medical expert is not a resident of the state, the division shall forward such report to the disciplining authority of that medical expert.

766.202 Definitions; ss. 766.201-766.212.—As used in ss. 766.201-766.212, the term:
(1) "Claimant" means any person who has a cause of action for damages based on personal injury or wrongful death arising from medical negligence.
(5) "**Investigation" means** that **an attorney** has reviewed the case against each and every potential defendant and has consulted with a medical expert and has obtained a written opinion from said expert.

Hainvg it both ways in 766 a investigation and a reaosnable investigation used interchangably as well atorney and claiminat, but we need to accept the definiton and intentions for what they are? I have far to many harms and too many experts required to be denied relief or a jury trial. It is a"Absurd." Florida law prohibits absurd results, as well 120.52 applies for waiver and delegated judicial reasoning. As in the statute is vague, capricious, applied without reasoning, expanded, etc.. as well the FGGlorida Patient's Bill of Rightsd would apply to all of this if it was or is applicable, seems some aspect of it is not applicable? It is not clear that it creates any causes of action or not. What is the point?

766.104 Medical negligence cases; reasonable investigation required before filing.—
(1) No action shall be filed for personal injury or wrongful death arising out of medical negligence, whether in tort or in contract, unless the attorney filing the action has made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care or treatment of the claimant. The complaint or initial pleading shall contain a certificate of counsel that such reasonable investigation gave rise to a good faith belief that grounds exist for an action against each named defendant. For purposes of this section, good faith may be shown to exist if the claimant or his or her counsel has received a written opinion, which shall not be subject to discovery by an opposing party, of an expert as defined in s. 766.102 that there appears to be evidence of medical negligence. If the court determines that such certificate of counsel was not made in good faith and that no justiciable issue was presented against a health care provider that fully cooperated in providing informal discovery, the court shall award attorney's fees and taxable costs against claimant's counsel, and shall submit the matter to The Florida Bar for disciplinary review of the attorney.

766.201 Legislative findings and intent.—

(1) The Legislature makes the following findings:

(a) Medical malpractice liability insurance premiums have increased dramatically in recent years, resulting in increased medical care costs for most patients and functional unavailability of malpractice insurance for some physicians.

(b) The primary cause of increased medical malpractice liability insurance premiums has been the substantial increase in loss payments to claimants caused by tremendous increases in the amounts of paid claims.

(c) The average cost of a medical negligence claim has escalated in the past decade to the point where it has become imperative to control such cost in the interests of the public need for quality medical services.

(d) The high cost of medical negligence claims in the state can be substantially alleviated by requiring early determination of the merit of claims, by providing for early arbitration of claims, thereby reducing delay and attorney's fees, and by imposing reasonable limitations on damages, while preserving the right of either party to have its case heard by a jury.

(e) The recovery of 100 percent of economic losses constitutes overcompensation because such recovery fails to recognize that such awards are not subject to taxes on economic damages.

(2) It is the intent of the Legislature to provide a plan for prompt resolution of medical negligence claims. Such plan shall consist of two separate components, presuit investigation and arbitration. Presuit investigation shall be mandatory and shall apply to all medical negligence claims and defenses. Arbitration shall be voluntary and shall be available except as specified.

(a) Presuit investigation shall include:

1. Verifiable requirements that reasonable investigation precede both malpractice claims and defenses in order to eliminate frivolous claims and defenses.

2. Medical corroboration procedures.

(b) Arbitration shall provide:

1. Substantial incentives for both claimants and defendants to submit their cases to binding arbitration, thus reducing attorney's fees, litigation costs, and delay.

2. A conditional limitation on noneconomic damages where the defendant concedes willingness to pay economic damages and reasonable attorney's fees.

3. Limitations on the noneconomic damages components of large awards to provide increased predictability of outcome of the claims resolution process for insurer anticipated losses planning, and to facilitate early resolution of medical negligence claims.

381.026 Florida Patient's Bill of Rights and Responsibilities.—

(1) SHORT TITLE.—This section may be cited as the "Florida Patient's Bill of Rights and Responsibilities."

(2) DEFINITIONS.—As used in this section and s. 381.0261, the term:

(a) "Department" means the Department of Health.

(b) "Health care facility" means a facility licensed under chapter 395.

(c) "Health care provider" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a podiatric physician licensed under chapter 461, or an advanced practice registered nurse registered under s. 464.0123.

(d) "Primary care provider" means a health care provider licensed under chapter 458, chapter 459, or chapter 464 who provides medical services to patients which are commonly provided without referral from another health care provider, including family and general practice, general pediatrics, and general internal medicine.
(e) "Responsible provider" means a health care provider who is primarily responsible for patient care in a health care facility or provider's office.
(3) PURPOSE.—It is the purpose of this section to promote the interests and well-being of the patients of health care providers and health care facilities and to promote better communication between the patient and the health care provider. It is the intent of the Legislature that health care providers understand their responsibility to give their patients a general understanding of the procedures to be performed on them and to provide information pertaining to their health care so that they may make decisions in an informed manner after considering the information relating to their condition, the available treatment alternatives, and substantial risks and hazards inherent in the treatments. It is the intent of the Legislature that patients have a general understanding of their responsibilities toward health care providers and health care facilities. It is the intent of the Legislature that the provision of such information to a patient eliminate potential misunderstandings between patients and health care providers. It is a public policy of the state that the interests of patients be recognized in a patient's bill of rights and responsibilities and that a health care facility or health care provider may not require a patient to waive his or her rights as a condition of treatment. This section shall not be used for any purpose in any civil or administrative action and neither expands nor limits any rights or remedies provided under any other law.

(4) RIGHTS OF PATIENTS.—Each health care facility or provider shall observe the following standards:

(a) Individual dignity.—
1. The individual dignity of a patient must be respected at all times and upon all occasions.
2. Every patient who is provided health care services retains certain rights to privacy, which must be respected without regard to the patient's economic status or source of payment for his or her care. The patient's rights to privacy must be respected to the extent consistent with providing adequate medical care to the patient and with the efficient administration of the health care facility or provider's office. However, this subparagraph does not preclude necessary and discreet discussion of a patient's case or examination by appropriate medical personnel.
3. A patient has the right to a prompt and reasonable response to a question or request. ...

(d) Access to health care.—
1. A patient has the right to impartial access to medical treatment or accommodations, regardless of race, national origin, religion, handicap, or source of payment.
2. A patient has the right to treatment for any emergency medical condition that will deteriorate from failure to provide such treatment.
3. A **patient has the right to access any mode of treatment that is, in his or her own judgment and the judgment of his or her health care practitioner, in the best interests of the patient**, including complementary or alternative health care treatments, in accordance with the

provisions of s. 456.41.

(e) **Experimental research**.—In addition to the provisions of s. 766.103, a patient has **the right to know if medical treatment is for purposes of experimental research and to consent** prior to participation in such experimental research. For any patient, regardless of ability to pay or source of payment for his or her care, participation must be a voluntary matter; and a patient has the right to refuse to participate. The patient's consent or refusal must be documented in the patient's care record.

(6) SUMMARY OF RIGHTS AND RESPONSIBILITIES.—Any health care provider who treats a patient in an office or any health care facility licensed under chapter 395 that provides emergency services and care or outpatient services and care to a patient, or admits and treats a patient, shall adopt and make available to the patient, in writing, a statement of the rights and responsibilities of patients, including the following:

SUMMARY OF THE FLORIDA PATIENT'S BILL OF RIGHTS AND RESPONSIBILITIES

A patient has the right to be treated with courtesy and respect, with appreciation of his or her individual dignity, and with protection of his or her need for privacy. (They took images of my genitals and over exposed me through lying to me.)

A patient has the right to a prompt and reasonable response to questions and requests. (They lied)

A patient has the right to know who is providing medical services and who is responsible for his or her care. (I don't know who the radiology assistant it, or the Orderly, and so 2 defendants unnamed. I did ask during this litigation the defense counsel for the radiology assistant name and was denied an actual answer.)

A patient has the right to know what patient support services are available, including whether an interpreter is available if he or she does not speak English. (Who treat posion and over exposure to radiation? Donna Baird?)

A patient has the right to bring any person of his or her choosing to the patient-accessible areas of the health care facility... (My witness is a right I had the defense doesn't care about.)

A patient has the right to be given by the health care provider information concerning diagnosis, planned course of treatment, alternatives, risks, and prognosis.

A patient has the right to refuse any treatment, except as otherwise provided by law.

A patient has the right to receive a copy of a reasonably clear and understandable, itemized bill and, upon request, to have the charges explained. (They unjustly enriched did pelvic uncessary diagnostic testing that is a medical battery and charged me for it without consent to do medical

research experimentation?)

A patient has the right to impartial access to medical treatment or accommodations, regardless of race, national origin, religion, handicap, or source of payment. (eugenics?)

A patient has the right to treatment for any emergency medical condition that will deteriorate from failure to provide treatment.

A patient has the right to know if medical treatment is for purposes of **experimental research and to give his or her consent or refusal** to participate in such experimental research.

A patient has the right to express grievances regarding any violation of his or her **rights**, as stated in Florida law, through the grievance procedure of the health care provider or health care facility which served him or her and to the appropriate state licensing agency. (tolling can't begin until that ends, it may result in data from the hospital CT scanner? Therefore it is a "right" as it says to do that so how can I be in violation of the statutes of limitations if I am exercising a right waiting for a response from the 2 investigations by the Florida Department of Health?)

A patient is responsible for providing to the health care provider, to the best of his or her knowledge, accurate and complete information about present complaints, past illnesses, hospitalizations, medications, and other matters relating to his or her health.

A patient is responsible for reporting to the health care provider whether he or she comprehends a contemplated course of action and what is expected of him or her.

A patient is responsible for following health care facility rules and regulations affecting patient care and conduct. (contacting the hospital and risk manager?)
.....

Needless to say this incident with the hospital staff has been complex and evolving. Here is some educated attorney on the florida bar with an article on the topic.

Accrual of a Medical Malpractice Case

Exactly when an action accrues has been a highly contested issue among the Florida Supreme Court and courts of appeal. The seminal case is Nardone v. Reynolds, 333 So. 2d 25 (Fla. 1976), in which the Florida Supreme Court held among other things that the statute of limitations in medical malpractice cases commences when either the plaintiff has notice of the negligent act giving rise to a cause of action or when the plaintiff has notice of the physical injury caused by the negligent act. Subsequent cases reaffirmed the Nardone principle with harsh results as a consequence in some cases.43 The requirements of a prospective

claimant's "knowledge of injury" announced by the Nardone rule certainly gave defendants a superior advantage where plaintiffs brought an action after the statute of limitations period but within the repose period. Defendants could pick the earlier of the two alternatives to begin the running of the limitation period and bar causes of action that may have been meritorious while placing a super-knowledge burden on prospective plaintiffs. This hindsight knowledge of injury approach took a change of direction to a more logical and workable rule, when the Florida Supreme Court announced in Tanner v. Hartog, 618 So. 2d 177 (Fla. 1993), that knowledge of injury must also be accompanied by knowledge of a reasonable possibility that the injury was caused by medical malpractice. In other words, the nature of the injury alone may in some cases communicate that it was caused by medical malpractice, but in cases where the injury may have likely been caused by natural causes, [(Dr. Jenkins said I may have problems from Diabetes, as have other doctors)] the limitations period does not begin to run until there is reason to believe it was caused by medical malpractice.

The plaintiffs in Tanner, parents of a stillborn child, sued the delivering health care providers from a birth that took place on April 1, 1988. Their complaint alleged the doctors had examined the mother on March 31, 1988, and sent her to the hospital for testing the morning prior to birth of the stillborn infant. They alleged negligence on the part of the defendants and that the negligence was not known by the plaintiffs until December 29, 1989. The notice of intent to initiate litigation was filed February 12, 1990, and suit was filed August 1, 1990. The defendants moved for dismissal of the action as time barred and the trial court granted that motion which was affirmed by the appellate court, after finding that the period of limitations expired as of April 1, 1990, two years from the actual stillbirth.44

The court discussed the Nardone line of cases relied on by the defendants and the lower appellate court's attempts to grapple with and ameliorate the often harsh results a literal application of that rule had in latter cases, suggesting that all the elements of a negligence cause of action should be present before running of the limitations period. Of particular concern were cases where natural causes may be a likely cause making the Nardone rule counterintuitive to notions of fairness. Even the Second District, which rendered Nardone, later took issue with the results that case had on other medical malpractice cases. The Tanner court admitted that the new rule may make determining when the limitations period begins to run more difficult, but reasoned that the new rule was justified given the four-year statute of repose absent fraudulent concealment announced in Kush

v. Lloyd, 616 So. 2d 415 (Fla. 1992), placing a definitive cap on medical malpractice actions and the less burdensome knowledge of injury requirement for potential claimants.

Exactly when a claimant knew or was on notice of an invasion of legal rights in the medical malpractice scenario can present a fact question that precludes a granting of summary judgment against the claimant.45 A health care provider's diagnosis or alleged misdiagnosis is a frequently litigated issue. This contested issue can substantially affect a claimant's knowledge of a reasonable possibility of medical negligence. For purposes of determining if a claimant had discovered medical negligence so as to begin the running of the limitations period, a misdiagnosis constitutes evidence that the claimant did not have the requisite knowledge that an injury was caused by medical negligence until that claimant received a correct diagnosis.46

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3.) Experts & Counsel.

I was unable to find counsel for all of these years, or all of the experts, but I did retain "A Expert", singular, so I have 1 in radiology and he was paid, given records to review and refused to address the matters completely, making him a defendant herein as a party to this litigation now and he did this fraud and theft while also setting himself up for a legal defense in the long run of he did do a review and he also didn't, and that he gave an opinion and also that he didn't. Among other tricks he is playing like the opposite game.

The "Absurd" law applies here since it was 2020 to 2021 the height of the covid-19 pandemic and so finding counsel willing to spend their own money on a contingency fee and also retain experts willing to travel to court was a impossibility as there was quaratnines and lock downs and social distancing, and so I am prejudiced, and there is also a technological catch-up that was required to be able to do things digially with things like zoom hearings instead of in person in a court house. I am a new pro se litigant having virtually zero legal experience other than a small claims matter filed over a decade ago.

It was unknown to me if filing online with the attorney "e-portal" would occur as what I read was pro se can't use it. So that made me the one to sue 30 parties, risking my life everytime I go to the post office or court house to file something and also having to send copies to all parties of all things which is prohibitively expensive. As well, seeking counsel like this for 30 parties is a non starter, hard enough to find counsel for 1 med mal incident let alone multiples (conspiracy) on different dates.

The other expert argument is that many do not advertise themselves and if they do it is as a defense expert only or that they don't work for pro se litigants clients only counsel. So whatever experts are available is reduced by both of those factors and covid, then add how

expensive it is and that I need 30 opinions so that makes it absurd. As well there are websites with a pay wall and terms and privacy policies that have to be agreed with and so you have to pay them then submit all the medical records and wait for a reply. I actually contacted 1 website asking if they have a specific type of expert and they wouldn't even tell me.

Reasons for Granting the Petition.

DCA and the lower tribunal are making precedent out of what shouldn't be precedent and is just denial of facts by all involved. The U.S. Constitution Fifth Amendment's Due Process Clause "requires the United States government to practice equal protection." The Fourteenth Amendment's Equal Protection Clause "requires states to practice equal protection." These matters fall in as personal injury which wasn't determined based on some caselaw, and not medical malpractice. Also these are causes of action boiled down to "clerical" in nature. The doctors order. The radiologist not reading the order and also deleted records with 2 CT scan images of unknown numbers. The failure of the hospital to give me the order or inform what the radiologist did when deleting series of images. Why they think they can image my genitals and legs for a back injury.

Conclusion.

I need the court to understand the circumstance. I went to doctors was harmed and that often repeats with each new appointment since 2018.

Proof of Service.

CERTIFICATION OF FONT

This filing contains the font of Calibri font in 12 point and Arial in 14 point.

CERTIFICATION OF SERVICE

I certify that on 2/29/2024 a copy of this filing has been provided to the United States Supreme Court, via mail and that the defendants, names and address are included below.

/s/ Curtis Gorham

CURTIS GORHAM 2/29/24

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[USPS Letter] Attorney for Dr. Gary Lavine and Junco Emergency
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