

IN THE SUPERIOR COURT OF PAULDING COUNTY
STATE OF GEORGIA

NAKISHA JONES,

Plaintiff,

VS.

GREYSON ELKINS;

Defendant.

CASE NO.: 21 CV 429

PR

ORDER REGARDING MEDICAL NARRATIVE

The above matter is before the Court on *Defendant's Objection to Plaintiff's Notice of Intent to Introduce Medical Report/Narrative at Trial Pursuant to O.C.G.A. § 24-8-826*. Having considered said Objection, the Plaintiff's Response thereto, the law, and the record, the Court rules as follows:

Defendant takes a "shotgun approach," listing various grounds for objection, all of which lack merit. Most notably, and as explained in the Plaintiff's Response, an entire reading of the medical narrative shows that the medical terms used are in fact explained and easy to understand.

Defendant's "self-serving" argument, with citations to *Denton v. Etheridge*, 73 Ga. App. 221 (1945) and *Wyatt v. Murray*, 90 Ga. App. 138 (1954), is unsound. Even if the "self-serving" objection survived the adoption of the new Evidence Code¹, Dr. Elshihabi is not a party to this action, and O.C.G.A. § 24-8-826 does in fact create an exception to the hearsay rule for the evidence at issue.

¹ See Paul S. Milich, Georgia Rules of Evidence § 16:11.

Defendant objects that the narrative is a “mere copy,” citing to O.C.G.A. § 24-8-1002. But O.C.G.A. § 24-8-1003 expressly allows for the admission of duplicates (absent certain limited situations which the Court has no reason to believe exist here.) Further, O.C.G.A. § 24-8-826 certainly does not require that the proponent of the report serve the original on opposing counsel.

Defendant argues that Dr. Elshihabi opines that future treatment for pain is needed but “does not state with any certainty whatsoever what the probability is for the necessity of that recommended treatment.” Dr. Elshihabi states on page one of the narrative that his opinions are made to a reasonable degree of medical certainty. He states on page 4 that Ms. Jones’ neck pain is related to the January 14, 2021, impact and that she will require further medical treatment in the future. This is another groundless objection.

Defendant’s objection is DENIED.

The Plaintiff moves for attorney’s fees under O.C.G.A. § 9-15-14. For the reasons stated above the Plaintiff is entitled to an award of fees under both O.C.G.A. § 9-15-14(a) and (b). The Court reserves for an evidentiary hearing the issue of the amount of fees to be awarded.

SO ORDERED, this 10 day of May, 2022.



DEAN C. BUCCI
JUDGE, SUPERIOR COURT
PAULDING JUDICIAL CIRCUIT

CIVIL ACTION FILE NO.:
21-CV-000429-P2

CERTIFICATE OF SERVICE

COMES NOW, the undersigned does hereby certify that a true and correct copy of the attached **ORDER REGARDING MEDICAL NARRATIVE**, was duly served upon the parties of record herein by placing said copy in the U.S. mail in a properly addressed, postage paid, first class, envelope addressed, by electronic service per O.C.G.A. § 9-11-5(f) and Unif. Super. Ct. R. 36.16(E), or as noted below:

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This 10 day of May, 2022.

/s/ Robyn Boggioni

Robyn Boggioni, Judicial Assistant to
Judge Dean C. Bucci

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