

IN THE STATE COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

*Jiana P. [Signature]*  
CLERK OF STATE COURT

PATRICIA ANN CARR, )  
 )  
Plaintiff, )  
 )  
Civil Action Number: )  
20C-1545-4 )  
vs. )  
 )  
 )  
JENNY JUNG AH YIM, )  
 )  
Defendant. )

ORDER DENYING MOTION TO EXCLUDE TESTIMONY FROM HANADA COX

Plaintiff, Patricia Ann Carr (“Carr”), was injured in a motor vehicle collision on April 14, 2016. She was taken to Atlanta Medical Center after the accident and was diagnosed with a burst L2 vertebra. Carr’s vertebra was crushed and a portion of the bone was pushed back toward her spinal cord. Extensive surgery ensued and a lengthy hospital stay followed. In addition, after being released Carr had in-patient physical therapy.

Defendant, Jenny Jung Ah Yim (“Yim”), hired Hanada Cox to provide expert testimony about the “reasonableness” of two of Carr’s medical bills.

Carr filed a Motion to Exclude Testimony from Hanada Cox and the matter was set for a hearing. At the hearing, Plaintiff, by and through her counsel of record, stated that the only question for the Court to decide at this time is whether the reasonableness of medical bills is appropriate issue for an expert to address at trial.

After consideration of the Motion, the response thereto, oral arguments, all matters of record and the applicable and controlling law, this Court finds as follows.

O.C.G.A. §24-9-921 provides:

- (a) Upon the trial of any civil proceeding involving injury or disease, the patient or the member of his or her family or other person responsible for the care of the patient shall be a competent witness to identify bills for expenses incurred in the treatment of the patient upon

a showing by such a witness that the expenses were incurred in connection with the treatment of the injury, disease, or disability involved in the subject of litigation at trial and that the bills were received from:

- (1) A hospital;
  - (2) An ambulance service;
  - (3) A pharmacy, drugstore or supplier of therapeutic or orthopedic devices; or
  - (4) A licensed practicing physician, dentist, orthodontist, podiatrist, physical or occupational therapist, doctor of chiropractic, psychologist, advanced practice registered nurse, social worker, professional counsel or marriage and family therapist.
- (b) Such items of evidence need not be identified by the one who submits the bill, and it shall not be necessary for an expert witness to testify that the charges were reasonable and necessary. However, nothing in this Code section shall be construed to limit the right of a thorough and sifting cross-examination as to such items of evidence.

The purpose of this statute (and its predecessor Code Ann. §38-706) is to “provide a simplified method whereby medical bills could be offered in evidence without testimony from the billing physician.” Piggly-Wiggly Southern, Inc. v. Tucker, 139 Ga. App. 873 (1976).

In order to determine the admissibility of expert testimony, a court must consider whether (1) the expert is qualified to testify competently as to the subject matter she intends to address; (2) the method employed by the expert is sufficiently reliable and (3) the testimony assists the trier of fact to comprehend evidence through the application of the witness’s expertise. Quiet Tech DC-8, Inc. v Hurel-Dubois U.K. Ltd., 326 F. 3d 1333 (11<sup>th</sup> Cir. 2003). The only element before the Court in ruling on this motion is the question of whether Ms. Cox’s testimony will aid the jury.

The jurors in this case will be charged that “necessary expenses resulting from the injury are a legitimate item of damages.” As to medical expenses. . . the amount of the damage would be the reasonable value of such expense as was reasonably necessary.” Georgia Suggested Pattern Jury Instruction, Civil 66.040 (citing O.C.G.A. §51-12-7). While the Court in Showan v. Pardue, 922 F. 3d 1211 (11<sup>th</sup> Cir. 2019) was examining the expert testimony in the context of the collateral source rule and did not specifically address this question pursuant to O.C.G.A. §24-9-921, this Court finds its holding to be instructive. That court held that whether expenses were “reasonable and necessary” is a critical inquiry and billing experts were allowed to testify in order to “give the jury a picture of what most doctors in the area charge for a [similar surgery].” Id.

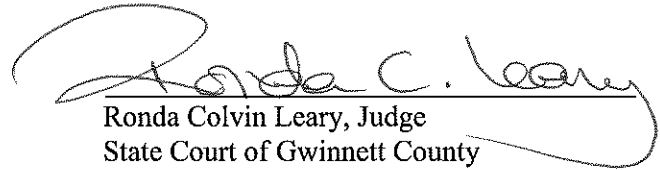
Similarly, the Court in Gaddy v. Terex Corporation, 2017 WL 3473873 at 5 (N.D. Ga. 2017), concluded that “Dr. Miller’s opinion will assist the trier in fact in determining the reasonableness of Plaintiff’s claimed future medical expenses.” Again, this case did not address O.C.G.A. §24-9-921 and involves future medical expenses as opposed to past medical expenses as are at issue in the case at bar. Yet, the Court does find it somewhat instructive.

Neither the cases cited by Plaintiff at the hearing and in her brief, nor O.C.G.A. §24-9-921, specifically preclude an expert from testifying as to the reasonableness of medical bills. The Court does find that such an expert could assist the jury in determining the reasonableness of the medical bills.

Therefore, the Plaintiff’s Motion to Exclude Testimony of Hanada Cox is DENIED. This Order only goes to the narrow question raised regarding whether the reasonableness of a medical

bill is proper for expert testimony. This Order does not preclude Plaintiff Carr from filing additional motions to exclude the testimony of Hanada Cox on other grounds.

SO ORDERED this 13<sup>th</sup> day of Jun, 2021.

  
Ronda Colvin Leary, Judge  
State Court of Gwinnett County

electronic copies to:

All counsel of record