SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0797-22

SOUTHERN OCEAN
MEDICAL CENTER,

Plaintiff-Respondent,

v.

THE ESTATE OF
JULIUS PARKER and
SUSAN PARKER,

Defendants-Appellants.

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Argued September 13, 2023 – Decided September 21, 2023

Before Judges Currier and Firko.

On appeal from the Superior Court of New Jersey, Law Division, Ocean County, Docket No. DC-004053-22.

Joseph M. Pinto argued the cause for appellants (Polino & Pinto, PC, attorneys; Joseph M. Pinto, on the briefs).

Michael J. Maloney argued the cause for respondent (Marvel & Maloney, attorneys; Michael J. Maloney, on the brief).

PER CURIAM

Defendants Estate of Julius Parker and Susan Parker, decedent's widow, appeal from the trial court's November 9, 2022 order granting summary judgment in favor of plaintiff Southern Ocean Medical Center. Following our review of the record and applicable legal principles, we conclude there are no genuine issues of material fact that precluded judgment as a matter of law under Rule 4:46-2(c), and we affirm.

I.

Viewed in the light most favorable to defendants, Templo Fuente De Vida Corporation v. National Union Fire Insurance Company of Pittsburgh, 224 N.J. 189, 199 (2016), the pertinent facts are as follows. This is a book account action. On November 30 and December 1, 2017, plaintiff rendered medical services to Julius.[1] On both occasions, he executed an Insurance Assignment and Patient Financial Responsibility Agreement in favor of plaintiff. Plaintiff submitted its bills to decedent's healthcare insurance carrier, who processed the claims. Decedent's out-of-pocket responsibility for the services after payment of the deductible was $1,645.37 and $519.75 respectively, for a total due of $2,165.12. On December 17, 2018, Julius died intestate. His wife Susan valued his estate

[1] Because defendants share a common surname, we refer to them by their first names. By doing so, we intend no disrespect.

at $124.96. Plaintiff demanded payment from defendants, but no payment was made.

Plaintiff filed a complaint in the Law Division, Special Civil Part, again demanding payment of the $2,165.12 balance due, plus interest and attorney's fees. A copy of the health insurance carrier's determination was annexed to the complaint. Default was entered and upon motion by defendants was vacated. An answer was filed generally denying the allegations in the complaint. Defendants did not propound any discovery requests upon plaintiff.

Plaintiff moved for summary judgment and to amend the caption to reflect Julius's passing and naming the estate as a defendant. In support of its motion, plaintiff submitted a certification of Angela Cocuzza, the manager of patient accounts for Hackensack Meridian Health System, plaintiff's governing entity. Cocuzza certified that services were rendered by plaintiff to Julius, and she verified the amount due after payments were made by his health insurance carrier and the deductible was applied.

Cocuzza also certified that Julius and Susan were husband and wife at the time plaintiff rendered services to Julius, and therefore, Susan was responsible for payment of the outstanding balance. The healthcare insurance carriers' determination and the Insurance Assignment and Financial Responsibility

Agreement, which contained guaranty of payments provisions, signed by Julius, were annexed to Cocuzza's certification. Cocuzza certified the sum of $2,165.12 was still outstanding.

In opposition, defendants only submitted a letter brief[2] contending Susan was not responsible for the medical expenses incurred by Julius until a determination was made that Julius's financial resources were insufficient to satisfy the debt, citing Jersey Shore Medical Center – Fitkin Hospital v. Estate of Sydney Baum and Carolyn H. Baum, 84 N.J. 137 (1980). Defendants challenged the reasonable value of services rendered to Julius and maintained that plaintiff bore the burden of proof on that issue. Defendants posited that

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[2] Rule 4:46-2(b) provides the requirements in opposing a summary judgment motion. The Rule provides:

> A party opposing the motion shall file a responding statement either admitting or disputing each of the facts in the movant's statement. Subject to R[ule] 4:46-5(a), all material facts in the movant's statement which are sufficiently supported will be deemed admitted for purposes of the motion only, unless specifically disputed by citation conforming to the requirements of paragraph (a) demonstrating the existence of a genuine issue as to fact. An opposing party may also include in the responding statement additional facts that the party contends are material and as to which there exists a genuine issue. Each such fact shall be stated in separately numbered paragraphs together with citations to the motion record.

before the reasonable value of services could be determined, plaintiff had to produce Julius's medical records and expert analysis to determine the reasonableness and value of the services rendered and to establish whether any alternative treatment was available.

Defendants also contended production of the book account alone by plaintiff does not establish the reasonable value of the services. In addition, defendants asserted the documents submitted by plaintiff in support of its claim were bills with "very vague references to the nature of the services rendered and a blanket charge." In defendants' view, Cocuzza, as a hospital administrator, was not competent to attest to the reasonableness of the costs and necessity of the services rendered to Julius.

Defendants cited Hackensack Hospital v. Tiajoloff, 85 N.J. Super. 417, 419-421 (App. Div. 1964), and Sallo v. Sabatino, 146 N.J. Super. 416, 418 (App. Div. 1976), for the general proposition that a hospital must lay a proper foundation that treatment was necessary, and the charges were reasonable.

In reply, plaintiff asserted that defendants did not submit an affidavit or certification in support of their argument, and Susan failed to challenge the reasonableness of the charges. Plaintiff also argued that defendants presented no factual basis to challenge the validity of the documents submitted in support

of the motion or to question the reasonableness of the charges. In addition, plaintiff maintained that defendants did not serve any discovery demands or request production of documents. Regarding the estate, plaintiff noted Susan's Spousal Affidavit, which she filed with the Ocean County Surrogate, listed the total assets of the estate at $124.96 and that estate administration costs could exhaust that amount. Plaintiff relied upon our decision in Hahnemann University Hospital v. Dudnick, 292 N.J. Super. 11, 17 (App. Div. 1996), to admit its computer-generated business records through Cocuzza as trustworthy and to establish plaintiff did not have the burden to show the hospital charges are usual, customary, and reasonable.

In reply, defendants contended plaintiff's reliance on Hahnemann was misguided because that case relied upon personal injury protection (PIP) fee schedule rates to determine reimbursement of PIP medical expenses and equipment and the usual, customary, and reasonable standard in that context, and not hospital bills that are not automobile-accident related. Defendants also contended Susan should have been provided discovery and the opportunity to investigate plaintiff's charges before plaintiff's motion for summary judgment was filed.

The trial court did not conduct oral argument on plaintiff's motion for summary judgment but issued an oral decision. In its decision, the trial court highlighted that Susan did not propound discovery regarding the specific nature of the treatment and related charges, and her attempt to assert that argument as a defense "d[id] not amount to a genuine issue of material fact." The trial court found plaintiff submitted an itemized list of the treatments rendered to decedent and related charges, and defendants failed to present any evidence that "genuinely conflict[ed]" with the evidence presented by plaintiff. In addition, the trial court determined that Cocuzza's position as a manager for patient accounts was enough to satisfy the standard set forth in Hahnemann.

Lastly, the trial court found the case law "clearly allows for a person to be responsible for necessary medical charges for treatments to their spouse." The trial court rejected defendants' argument that the charges imposed by plaintiff were unreasonable. A memorializing order was entered. This appeal followed.

On appeal, defendants contend the trial court erred in granting plaintiff's motion for summary judgment because plaintiff presented no evidence as to the necessity of the medical treatment rendered to decedent or the reasonableness of the costs of the medical expenses, which defendants claim is plaintiff's burden.

II.

We review a ruling on a summary judgment motion de novo. Branch v. Cream-O-Land Dairy, 244 N.J. 567, 582 (2021); see also Templo Fuente De Vida Corp., 224 N.J. at 199. Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law." R. 4:46-2(c); Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 528-29 (1995). We "must accept as true all the evidence which supports the position of the party defending against the motion and must accord [them] the benefit of all legitimate inferences which can be deduced therefrom . . . ." Id. at 535 (quoting Lanzet v. Greenberg, 126 N.J. 168, 174 (1991)).

"When . . . a trial court is 'confronted with an evidence determination precedent to ruling on a summary judgment motion,' it 'squarely must address the evidence decision first.'" Townsend v. Pierre, 221 N.J. 36, 53 (2015) (quoting Est. of Hanges v. Metro. Prop. & Cas. Ins. Co., 202 N.J. 369, 384-85 (2010)). The Court in Hanges reiterated that determinations of evidentiary admissibility are reviewed "under the abuse of discretion standard . . . [as] the

decision to admit or exclude evidence is one firmly entrusted to the trial court's discretion." 202 N.J. at 383-84 (internal citation omitted).

Generally, when reviewing the admission or exclusion of evidence, appellate courts afford "[c]onsiderable latitude" to a trial judge's determination, "examining the decision for abuse of discretion." State v. Kuropchak, 221 N.J. 368, 385 (2015) (alteration in original) (first quoting State v. Feaster, 156 N.J. 1, 82 (1998); then Hisenaj v. Kuehner, 194 N.J. 6, 12 (2008)); see also State v. Jenewicz, 193 N.J. 440, 456 (2008) (stating "the abuse-of-discretion standard" is applied "to a trial court's evidentiary rulings under [N.J.R.E.] 702"). "Under [this] standard, an appellate court should not substitute its own judgment for that of the trial court, unless 'the trial court's ruling "was so wide of the mark that a manifest denial of justice resulted."'" Kuropchak, 221 N.J. at 385-86 (quoting State v. Marrero, 148 N.J. 469, 484 (1997)). "[Our] review of the trial [judge's] decision proceeds in the same sequence, with the evidentiary issue resolved first, followed by the summary judgment determination of the trial [judge]." Townsend, 221 N.J. at 53.

The trial court framed the key issue in this case as whether plaintiff established the reasonableness of its charges. To address this question, the trial court properly began its analysis by addressing Cocuzza's certification

establishing her knowledge of plaintiff's record keeping system and the manner in which the charges were determined. The trial court considered Cocuzza's explanation as to the payments made by decedent's healthcare provider and the application of deductible amounts resulting in the balance owed to plaintiff.

Plaintiff's records constitute hearsay.[3] N.J.R.E. 805 provides that "hearsay within hearsay"—such as the content of a business record—"is not excluded by the rule against hearsay if each part of the combined statements conforms with an exception to the rule." Therefore, the health insurance carrier's determination and information contained therein were hearsay and must be independently admissible to be considered by the trial court in ruling on a summary judgment motion.

Under N.J.R.E. 803(c)(6), "Records of a Regularly Conducted Activity," a hearsay statement is admissible where the statement is

> contained in a writing or other record of acts, events, conditions, and, subject to [N.J.R.E.] 808, opinions or diagnoses, made at or near the time of observation by a person with actual knowledge or from information supplied by such a person, if the writing or other record was made in the regular course of business and it was

[3] N.J.R.E. 801(c) defines hearsay as "a statement that: (1) the declarant does not make while testifying at the current trial or hearing; and (2) a party offers in evidence to prove the truth of the matter asserted in the statement." Hearsay is generally admissible "except as provided by [the Rules of Evidence] or by other law." N.J.R.E. 802.

> the regular practice of that business to make such writing or other record.
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> This exception does not apply if the sources of information or the method, purpose or circumstances of preparation indicate that it is not trustworthy.

We have noted "[t]he purpose of the business records exception is . . . 'broaden[ing] the area of admissibility of relevant evidence where there is necessity and sufficient guarantee of trustworthiness.'" Liptak v. Rite Aid, Inc., 289 N.J. Super. 199, 219 (App. Div. 1996) (quoting State v. Hudes, 128 N.J. Super. 589, 599 (Law Div. 1974)). When assessing the business records exception in a civil litigation context, this court has characterized Rule. 803(c)(6) as permitting the admission of a business record as long as (1) the writing is made in the regular course of business, and (2) it was the regular practice of that business to make it. Hahnemann Univ. Hosp., 292 N.J. Super. at 17; see also Biunno, Weissbard & Zegas, Current N.J. Rules of Evidence, cmt. 1 on N.J.R.E. 803(c)(6) (2023-24).

Alternatively, a custodian of records or other qualified witness can testify that the proffered records meet the required N.J.R.E. 803(c)(6) criteria. See Konop v. Rosen, 425 N.J. Super. 391, 402-04 (App. Div. 2012); and Hahnemann Univ. Hosp., 292 N.J. Super. 17-18 (noting that a witness must be qualified

before laying the necessary foundation for computer records to be admitted into evidence at trial.) For example, we have determined

> [a] witness is competent to lay the foundation for systematically prepared computer records if the witness (1) can demonstrate that the computer record is what the proponent claims and (2) is sufficiently familiar with the record system used and (3) can establish that it was the regular practice of that business to make the record. If a party offers a computer printout into evidence after satisfying the foregoing requirements, the record is admissible "unless the sources of information or the method, purpose or circumstances of preparation indicate that it is not trustworthy."
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> [Id. at 18 (citation omitted) (quoting N.J.R.E. 803(c)(6)).]

See also Carmona v. Resorts Int'l Hotel, Inc., 189 N.J. 354, 380 (2007) ("All that is needed to lay the foundation for the admission of systematically prepared . . . records otherwise qualified as business records is if 'the witness (1) can demonstrate that the . . . record is what the proponent claims and (2) is sufficiently familiar with the record system used and (3) can establish that it was the regular practice of that business to make the record.'" (quoting Hahnemann, 292 N.J. Super. at 18)). Finally, an affidavit may be sufficient to lay a proper foundation for the records under certain circumstances. Biunno, Weissbard & Zegas, Current N.J. Rules of Evidence, 1991 Supreme Court Committee Comment on N.J.R.E. 803(c)(6)(2023-24). Thus, defendants' reliance on

Hackensack Hospital and Sallo, which were decided over forty years ago, is unpersuasive. We are guided by our Court's decision in Carmona and our decision in Hahnemann, which articulate the current state of the law.

Here, the trial court properly determined that Cocuzza, a manager for patient accounts, was qualified to certify as to the authenticity and admissibility of the computer-generated documents annexed to her certification. The trial court did not abuse its discretion under N.J.R.E. 803(c)(6). Cocuzza was required to maintain such documents in the regular course of business, and the documents themselves fall under the business records hearsay exception. There is no basis to conclude the computer-generated documents were untrustworthy. Defendants did not produce any evidence to challenge the reliability of the documents. Thus, the trial court properly considered the documents proffered by Cocuzza.

We also reject defendant's argument that plaintiff has the burden of proving the charges are usual, customary, and reasonable. In Hahnemann, we addressed medical fee schedule rules, including PIP medical expenses and equipment. Id. at 19. But, we did not limit our analysis of the usual, customary, and reasonable standard to PIP cases only and defendants' argument on that issue is misguided. Instead, we held in Hahnemann that "[c]learly, 'usual, reasonable,

and customary' is a phrase which has not been defined by statute or code; rather, it is to be defined by healthcare providers and health agencies." Id. Moreover, we noted in Hahnemann that "[o]ne would presume that an amount charged would be reasonable if it is within a range customarily charged for such services within the community and the amount charged by such physician to other patients of his [or her] receiving similar treatment." Id., citing Thermographic Diagnostics, Inc. v. Allstate Ins. Co., 219 N.J. Super. 208, 229 (Law Div. 1987).

Based upon our de novo review, we conclude the trial court did not misapply its discretion in considering Cocuzza's certification and the documents submitted therewith under Hahnemann and N.J.R.E. 803(c)(6). Having employed the same standard as the trial court, Brill, 142 N.J. at 539-40, we conclude there are no material factual disputes precluding the grant of summary judgment.

Finally, we note the doctrine of necessaries applies here as the trial court indicated. The doctrine of necessaries is a common law rule imposing liability on both spouses for the debt of one spouse, provided that the debt was incurred for "necessaries" for the family, and the debtor spouse is unable to pay the debt. Jersey Shore Med. Ctr., 84 N.J. at 141. A necessary is a good or service provided to one spouse that benefits both. Id. at 141. The duty to support under common

law imposed liability on the husband only for necessaries furnished to the wife because the expenses incurred by the wife presume a failure on the part of the husband to provide necessaries for her but not vice versa. Id. at 142. The impact of Jersey Shore Medical Center is that our Court held the doctrine would be applied to both spouses prospectively. Id. at 148-49. It provides:

> [B]oth spouses are liable for necessary expenses incurred by either spouse in the course of the marriage. . . . [T]he financial resources of both spouses should be available to pay a creditor who provides necessary goods and services to either spouse. . . . [A] judgment creditor must first seek satisfaction from the income and other property of the spouse who incurred the debt. If those financial resources are insufficient, the creditor may then seek satisfaction from the income and property of the other spouse.
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> [Id. at 141.]

Therefore, defendants' reliance on this case lacks merit.

Applying these criteria here, the trial court properly granted summary judgment against both the estate and Susan. Underlying the doctrine of necessaries is that one spouse has the implied authority to pledge the other spouse's credit for certain services. Sillery v. Fagan, 120 N.J. Super. 416, 423 (Cty. Ct. 1972). A purpose of the doctrine, therefore, is to provide assurances to the service provider. As the Court explained in Jersey Shore Medical Center, a creditor who provides "necessaries to one spouse can assume that the financial

resources of both spouses are available for payment." Id. at 151. We conclude, therefore, that the doctrine of necessaries is applicable, and plaintiff can seek recourse from Susan as the non-debtor surviving spouse if the estate is, as represented here, essentially insolvent.

Defendants' remaining arguments to the extent we have not addressed them are without sufficient merit to warrant additional discussion. R. 2:11-3(e)(1)(E).

Affirmed.