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Morris v. Goodyear Tire & Rubber Co.

Court of Appeal of Louisiana, Fourth Circuit

November 16, 2026, Decided

NO. 2026-CA-0374

Reporter
2026 La. App. LEXIS 2452 *; 2026 LX 720883; 2026-0374 (La.App.4 Cir. 11/16/26)

SERGIO MORRIS VERSUS THE GOODYEAR TIRE & RUBBER COMPANY, ET AL.

Notice: THIS DECISION IS NOT FINAL UNTIL EXPIRATION OF THE FOURTEEN DAY REHEARING PERIOD.

Prior History: **[*1]** APPEAL FROM CIVIL DISTRICT COURT, ORLEANS PARISH. NO. 2025-02421, DIVISION "F-14". Hon. Jennifer M. Medley.

Disposition: AFFIRMED AS AMENDED.

Core Terms

mesothelioma, brake, ***asbestos***, district court, general damages, diagnose, dust, future medical expenses, exposure, assigned error, pain, medical expenses, exposed to ***asbestos***, write-offs, estimate, substantial contributing factor, exposure to ***asbestos***, appellate court, fact finder, opine, preponderance of evidence, collateral source rule, ***asbestos*** exposure, ***asbestos*** fiber, manifest error, special damage, immunotherapy, claimant's, disease

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Judges: Court composed of Judge Daniel L. Dysart, Judge Tiffany Gautier Chase, Judge Nakisha Ervin-Knott.

Opinion by: Nakisha Ervin-Knott

Opinion

[Pg 1] Defendant-Appellant, The Goodyear Tire & Rubber Company ("Goodyear"), appeals the district court's January 15, 2026 judgment finding in favor of Plaintiff-Appellee, Sergio Morris ("Mr. Morris") and awarding Mr. Morris $12,531,881.95 in damages. For the following reasons, we lower the district court's general damages award and affirm the judgment as amended.

PROCEDURAL AND FACTUAL HISTORY

Mr. Morris was diagnosed with mesothelioma on January 29, 2025, at the age of eighty-five years old. Following **[*2]** his diagnosis, Mr. Morris filed a petition for damages against several defendants, including Goodyear, on March 12, 2025. As it pertained to Goodyear, Mr. Morris alleged that he was exposed to ***asbestos*** dust from the brake work performed at the Kelly Springfield[1] retail tire store in New Orleans where he worked as an employee between 1970 to 1974. The case proceeded to a four-day bench trial[2] on October 20, 2025. After taking the matter under advisement, the district court issued a final judgment against Goodyear and awarded Mr. Morris the following—(1) $1,031,881.95 in past medical expenses, [Pg 2] (2) $1,500,000.00 in future medical expenses, and (3) $10,000,000.00 in general damages. This appeal followed.

ASSIGNMENTS OF ERROR

Goodyear assigns three errors in this appeal, which are summarized as follows:

1. The district court abused its discretion by awarding $10,000,000.00 in general damages;

2. The district court committed manifest error in its award of special damages because it failed to apply *La. R.S. 9:2800.27* to Mr. Morris' past medical expenses and because the record does not support the award for future medical expenses.

3. The district court erred in finding Mr. Morris' presence around ***asbestos*** **[*3]** dust at the Kelly Springfield store was a substantial contributing factor towards his mesothelioma diagnosis.

For the sake of efficacy, we will address Goodyear's third assignment of error on causation prior to addressing the assigned errors on damages.

DISCUSSION

Assignment of Error No. 3: Whether the district court erred in finding Mr. Morris' presence around asbestos dust at the Kelly Springfield store was a substantial contributing factor towards his mesothelioma diagnosis

Goodyear's third assignment of error challenges the district court's factual findings on liability. We address this assigned error first as it is dispositive of the rest of the appeal if we find merit.

Appellate courts review the factual determinations made by a district court during a bench trial under the manifest error standard of review. *Adams v. Entergy New Orleans, Inc., 2025-0444, p. 4 (La. App. 4 Cir. 3/10/26), 438 So. 3d 451, 455* (quoting *Reaver v. Degas House, LLC, 2022-0464, p. 3 (La. App. 4 Cir. 3/13/23), 359 So. 3d 570, 573*). Under this standard, the appellate court is precluded from setting aside the district court's finding of fact unless the finding is clearly wrong [Pg 3] in light of the record as a whole. *Id.* (citation omitted). In cases where there is a conflict in testimony, "reasonable evaluations of credibility and reasonable inferences of fact should not be disturbed upon review, **[*4]** even though the appellate court may feel that its evaluations and inferences are as reasonable." *Talley v. Alradi, 2025-0854, p. 8 (La. App. 4 Cir. 6/26/26), 438 So. 3d 819, 827* (citation omitted). "Thus, where two permissible views of the evidence exist, the factfinder's choice between them cannot be manifestly erroneous or clearly wrong." *Stobart v. State Through Dep't of Transp. and Dev., 617 So. 2d 880, 883 (La. 1993)*.

Mr. Morris sued Goodyear under theories of general negligence as his employer and strict liability as the premises owner of the Kelly Springfield store. As this is an ***asbestos*** case, Mr. Morris had the burden of proving through a preponderance of the

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[1] Kelly Springfield was an independent subsidiary of Goodyear.

[2] At the time of trial, Goodyear and Taylor-Seidenbach, Inc. were the only remaining defendants in the case. We note that the district court's judgment dismisses Johnson & Johnson as a defendant, but Johnson & Johnson was not a defendant at trial.

evidence both that he was exposed to ***asbestos*** and that he was substantially injured by that exposure. *See Rando v. Anco Insulations, Inc., 2008-1163, p. 31 (La. 5/22/09), 16 So. 3d 1065, 1088*. In its appellate brief, Goodyear argues that the record lacks evidence of either ***asbestos*** being present at the Kelly Springfield store or that any ***asbestos*** exposure at the Kelly Springfield store contributed to Mr. Morris' mesothelioma diagnosis.

i. Whether Mr. Morris was exposed to asbestos at the Kelly Springfield store

Goodyear states in its appellant brief that the record does not contain "a single piece of evidence anywhere . . . demonstrating that *any* of the brakes on cars serviced at the Kelly Springfield store" contained ***asbestos*** (emphasis in original). Goodyear focuses **[*5]** on Kenneth Garza's ("Mr. Garza") expert testimony[3] [Pg 4] that "virtually all" brakes between 1970 to 1974 contained ***asbestos***. It argues that the term "virtually all" does not confirm that the specific brakes used at the Kelly Springfield store had ***asbestos***. Yet, Brent Staggs, M.D. ("Dr. Staggs"), Mr. Morris' pathology expert, testified that it was more probable than not that the brakes Mr. Morris was around had ***asbestos*** fibers. While Goodyear attacks the terminology used by Mr. Morris' experts, none of its experts opined that there were brakes made without ***asbestos*** during the period Mr. Morris worked at the Kelly Springfield store.

To further support his exposure claim, Mr. Morris introduced a 1972 memorandum detailing a meeting discussing "the ***asbestos*** problem incident to brake lining operations in retail stores." Per the memorandum, Goodyear representatives were present at the meeting. Furthermore, Seth Sedgwick, Goodyear's representative, testified that ***asbestos*** brakes were used at the Kelly Springfield store:

> **Q**: Does Kelly Springfield believe Sergio Morris was exposed to ***asbestos*** while employed by them between 1970 and 1974?
>
> **A**: Goodyear believes that Sergio Morris worked in a retail **[*6]** center in which brakes that contains [sic] ***asbestos*** were handled.

Finally, Scott Dotson, Ph.D. ("Dr. Dotson"), Goodyear's expert industrial hygienist and toxicologist, opined that it was more probable than not that Mr. Morris was exposed to ***asbestos*** at the Kelly Springfield store.

As noted earlier, Mr. Morris needed to prove through a preponderance of the evidence that he was exposed to ***asbestos*** at the Kelly Springfield store. "A preponderance of the evidence means evidence which is of greater weight than that which is offered in opposition." *Merida v. Orleans Levee Dist., 2024-0945, p. 19 (La. App. 1 Cir. 4/9/25), 410 So. 3d 423, 435*. In looking at the record as a whole, [Pg 5] we find that Mr. Morris more than met his burden in showing he was exposed to ***asbestos*** at the Kelly Springfield store. Therefore, Goodyear's assertion that the record lacks evidence of such lacks merit.

ii. Whether Mr. Morris' exposure to asbestos at the Kelly Springfield store was a substantial contributing factor to his mesothelioma diagnosis

Having determined that the record supports the finding that ***asbestos*** brakes were used at the Kelly Springfield store, we next consider whether his exposure to the ***asbestos*** brakes caused his mesothelioma diagnosis.

"It is scientifically proven, and legislatively recognized, **[*7]** that a causal relationship exists between ***asbestos*** exposure and the occurrence of mesothelioma[,]" and "every non-trivial exposure to ***asbestos*** contributes to and constitutes a cause of mesothelioma." *Landry v. Avondale Indus., Inc., 2012-0950, p. 6 (La. App. 4 Cir. 3/6/13), 111 So. 3d 508, 511* (citation omitted). Louisiana jurisprudence has long held that mesothelioma can develop after short periods of exposure. *See Rando, 2008-1163, p. 35, 16 So. 3d at 1091* (citing *Egan v. Kaiser Aluminum & Chem. Corp., 1994-1939, p. 12 (La. App. 4 Cir. 5/22/96), 677 So. 2d 1027, 1035*). Therefore, to determine causation, Louisiana courts apply the "substantial factor" test. *Pete v. Boland Marine and Mfg. Co., 2021-0626, p. 18 (La. App. 4 Cir. 1/5/23), 356 So. 3d 1147, 1160* (citation omitted). Under this test, a plaintiff must prove through a preponderance of the evidence that "(1) his exposure to the defendant's ***asbestos*** product

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[3] Mr. Garza testified as an expert in industrial hygiene.

was significant and (2) that his exposure caused or was a substantial factor in bringing about his mesothelioma" diagnosis. *Id.* (quoting *Oddo v. **Asbestos** Corp., 2004-0004, p. 11 (La. App. 4 Cir. 8/20/15), 173 So. 3d 1192, 1202*).

[Pg 6] Goodyear argues that Mr. Morris could not have received significant exposure to ***asbestos*** dust because he did not work as a mechanic. At trial, Mr. Morris testified that he worked in a managerial position at the Kelly Springfield store six days a week for a period of four years between 1970 to 1974. While he was not a mechanic, he often had to go into the service bays where brake jobs were performed to retrieve inventory, communicate with the mechanics, and sweep. **[*8]** Mr. Morris recounted that dust would be all over the bays after a brake job, and he would inhale the dust. He would sometimes be right next to the mechanics while they were performing brake work. Mr. Morris estimated that the mechanics at the shop performed between seven to ten brake jobs a day. Additionally, the mechanics, while covered in the dust, would sometimes leave the service bays and go into the store where Mr. Morris worked.

Mr. Garza testified that ***asbestos*** fibers cannot be seen by the naked eye unless the exposure is high. Specifically, he noted, "You can still have ***asbestos*** in the air and not see it unless it becomes so much that [sic] actually makes a cloud of dust[,]" and "If you can see ***asbestos*** exposures that means that you are so far above the regulatory limits that you are getting exposed to tremendous amounts of ***asbestos***." Mr. Garza estimated that ***asbestos*** dust contained about eight million ***asbestos*** fibers per cubic foot. He also confirmed that ***asbestos*** dust could remain in the air after the work was finished and a person could be substantially exposed to those fibers up to sixty feet away.

Dr. Staggs testified that the inhalation of ***asbestos*** fibers of all types causes **[*9]** mesothelioma. He explained that mesothelioma is a cumulative disease and that, as a doctor, he examined Mr. Morris' total exposure to determine whether Mr. Morris received enough exposure to cause his disease. He noted that Mr. Morris described [Pg 7] being around brake dust six days a week, multiple times a day, during the four years he worked at the Kelly Springfield store. He confirmed this was a substantial level of ***asbestos*** exposure and that he believed it to be more probable than not that Mr. Morris' exposure at the Kelly Springfield store was a substantial contributing factor to his mesothelioma diagnosis. Finally, Dr. Daniel Johnson ("Dr. Johnson"), Mr. Morris' treating oncologist, opined that Mr. Morris' exposure to ***asbestos*** dust for four years more probably than not was a substantial contributing factor to his mesothelioma diagnosis.

In its defense, Goodyear offered the testimonies of Dominick Alexander, Ph.D. ("Dr. Alexander"),[4] Michael Graham, M.D. ("Dr. Graham"),[5] and Dr. Dotson.[6] All three testified that Mr. Morris' exposure at the Kelly Springfield store did not place him at an increased risk for developing mesothelioma. Dr. Alexander testified that certain studies show **[*10]** mechanics who perform brake work do not have an increased risk of developing mesothelioma, and, therefore, Mr. Morris—who was not a mechanic and did not perform brake work—was not at an increased risk for developing the disease as a bystander at the store. However, Dr. Alexander admitted on cross-examination that he is not a medical doctor and could not render an opinion on medical causation. Despite opining that brake mechanics do not have an increased risk for developing mesothelioma, Dr. Graham acknowledged that there are cases of brake mechanics who did not have any other known exposures to ***asbestos*** developing mesothelioma. He also acknowledged that a 2020 report found that some ***asbestos*** brakes from the 1970s were contaminated with amphiboles, which are longer ***asbestos*** fibers that carry a greater risk of causing mesothelioma. [Pg 8] Similarly, Dr. Dotson acknowledged cases of brake mechanics developing mesothelioma. Dr. Dotson further admitted that many governmental and public health agencies maintain that there is no safe level of ***asbestos*** exposure, although he himself did not believe this.

Considering the record as a whole, we find a reasonable factual basis for the district court's **[*11]** determination that Mr. Morris' exposure to ***asbestos*** dust at the Kelly Springfield store was a substantial contributing factor in his development of mesothelioma. Although Goodyear presented conflicting expert testimony, the district court was entitled to evaluate the credibility of the witnesses and weigh their competing opinions. Given the evidence concerning the frequency and duration of Mr. Morris' exposure, together with the medical testimony supporting causation, we cannot conclude that the district court's finding was manifestly erroneous. Accordingly, Goodyear's assignment of error on this issue lacks merit.

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[4] Dr. Alexander testified as an expert in epidemiology.

[5] Dr. Graham testified as an expert in anatomic and forensic pathology.

[6] Dr. Dotson testified as an expert in industrial hygiene, toxicology, and human risk assessment.

Assignment of Error No. 1: Whether the district court abused its discretion in awarding $10,000,000.00 in general damages

We next turn to Goodyear's argument that the general damage award is too high. In this case, the district court awarded Mr. Morris a total of $10,000,000.00 in general damages—$2,000,000.00 each for past physical pain and suffering, future physical pain and suffering, past mental anguish, future mental anguish, and loss of enjoyment of life. We find merit in this assignment of error.

General damages are "those which may not be fixed with any degree of pecuniary **[*12]** exactitude but which, instead, involve mental or physical pain or suffering, inconvenience, the loss of gratification of intellectual or physical enjoyment, or other losses of life or life-style which cannot really be measured definitively in terms of money." *McGee v. A C and S, Inc., 2005-1036, pp. 3-4 (La. [Pg 9] 7/10/06), 933 So. 2d 770, 774* (citation omitted). They are "inherently speculative in nature and cannot be fixed with mathematical certainty." *Pete v. Boland Marine and Mfg. Co, 2023-00170, p. 6 (La. 10/20/23), 379 So. 3d 636, 641*. As a result, the factfinder has great discretion in awarding general damages. *Id. at p. 5, 379 So. 3d at 641*; *see also La. C.C. art. 2324.1* ("In the assessment of damages . . . much discretion must be left to the judge or jury.").

However, despite their speculative nature, the factfinder does not have an unfettered discretion in awarding such damages, and any award of general damages is subject to appellate review. *See Pete*, 2023-00170, p. 5, 379 So. 3d at 641 (citation omitted). A general damage award must not be "the result of passion or prejudice," and it must "bear a reasonable relationship to the elements of the proved damages." *Barber Bros. Contracting Co. v. Capital City Produce Co., 2023-00788, p. 4 (La. 12/19/24), 397 So. 3d 404, 408* (citation omitted). The factfinder abuses its discretion in awarding general damages when the award is "so high or so low in proportion to the injury or fault that it shocks the conscience." *Baack v. McIntosh, 2020-01054, p. 10 (La. 6/30/21), 333 So. 3d 1206, 1215* (citation omitted). On appeal, the appellate court conducts a two-step inquiry in **[*13]** reviewing a general damage award. *Barber, 2023-00788, p. 6, 397 So. 3d at 409*. That is, the appellate court must first determine whether the factfinder abused its great discretion by examining the particular facts of the case and prior awards in similar cases. *Id.* If an abuse of discretion is found, then the appellate court must use the prior awards in similar cases to determine the highest or lowest award that would have been reasonably within the factfinder's discretion. *See id.*

We begin our analysis by looking at the particular facts of Mr. Morris' case. In November of 2024, Mr. Morris began experiencing breathing difficulties that [Pg 10] required his hospitalization. During that time, he underwent two procedures that removed two liters of fluid from his lungs. In January 2025, at the age of eighty-five, he received his mesothelioma diagnosis.

The mesothelioma caused Mr. Morris' health to significantly decline. To treat the disease, he undergoes immunotherapy treatment every few weeks, and the treatments leave him exhausted for days. Mr. Morris developed colitis in reaction to the immunotherapy. The colitis has caused him to suffer from severe diarrhea, which required him to be hospitalized for a time and has since forced **[*14]** him to wear diapers. While Mr. Morris lived an independent life prior to his diagnosis, the disease has bound him to his home and a wheelchair. Mr. Morris and his family both testified that he is dependent on others and cannot be left alone. Mr. Morris described feeling depressed and anxious after receiving his diagnosis, and members of his family noted his depressed state in their testimonies at trial.

Next, we must compare Mr. Morris' award with the general damages award in similar mesothelioma cases. We find the following cases instructive[7] :

- The plaintiff in *Crafts v. Ports America Gulfport, Inc.* was eighty-two years old when he received his mesothelioma diagnosis. *2018-0814, p. 1 (La. App. 4 Cir. 5/8/19), 273 So. 3d 517, 520*. In affirming the jury's $1,600,000.00 general damages award, the Fourth Circuit noted that Mr. Craft underwent several procedures, continually received chemotherapy treatments, and suffered substantially. *Id. at p. 5, 273 So. 3d at 522*.

[7] We note that Mr. Morris urges us to consider the *Walker v. Anco Insulations, Inc.* case in our review of damages, wherein the Fourth Circuit affirmed a $35,750,000.00 general damages award to a mesothelioma plaintiff. *See 2022-0763 (La. App. 4 Cir. 5/3/23), 382 So. 3d 243*. While we have reviewed this case, we nonetheless find the facts of the case distinguishable from those presented here and note that the case is an outlier within the jurisprudence. *See also Pete*, 2023-00170, p. 19, 379 So. 3d at 649, n. 16 (declining to consider the case in its review of general damages "as it is clearly an outlier.")

• The seventy-year-old decedent in *Lege v. Union Carbide Corp.* suffered for four years with his mesothelioma symptoms. *See 2020-0252, pp. 1-2 (La. App. 4 Cir. 4/1/21), 365 So. 3d 617, 624*. During that time, Mr. Lege struggled with breathing, experienced pain, lost [Pg 11] his independence, and became depressed over his declining health. *See id. at pp. 7-10, 365 So. 3d at 627-28*. Like Mr. Morris, Mr. Lege had two **[*15]** liters of fluid drained from his lungs. *Id. at p. 8, 365 So. 3d at 627*. The Fourth Circuit affirmed the jury's $4,000,000.00 general damage award for his pain and suffering. *Id. at p. 1, 365 So. 3d at 624*.

• The plaintiff in *Pete* was seventy-four years old at the time of his trial. 2023-00170, p. 13, 379 So. 3d at 646. Similar to Mr. Morris, Mr. Pete had fluid drained from his lungs. *Id.* He testified to being depressed, in pain, and reliant on others. He also described his chemotherapy treatments as being "very rough" on his body and mind. *Id.* The jury awarded Mr. Pete $9,800,000.00 in general damages. *Id.* at p. 2, 379 So. 3d at 639. However, after considering the facts of his case, the Louisiana Supreme Court found that the highest award within the jury's discretion to be $5,000,000.00, and it reduced his award to that amount. *Id.* at p. 19, 379 So. 3d 650.

Although the record establishes that Mr. Morris has endured substantial physical pain, emotional distress, and loss of independence, the nature and severity of his injuries are comparable to those considered in prior mesothelioma cases. Those decisions, viewed alongside the particular evidence presented here, provide guidance in determining whether the district court's award falls within the range of its discretion. "[F]actors to be considered **[*16]** in assessing quantum for pain and suffering are severity and duration." *Lege*, 2020-0252, p. 24, 365 So. 3d at 635 (citation omitted). In terms of age, Mr. Morris is one of the oldest mesothelioma plaintiffs, and his doctor estimated he would have one more year to live at the time of trial. Further, the testimony offered at trial regarding his pain and declining health aligned with the testimony of others who received less for their pain and suffering. Yet, the district court's award is double the highest amount given to similar mesothelioma plaintiffs, and in reviewing the transcript and reasons for judgment, it appears to be a result of the trial judge's sympathies rather than based on a balanced consideration of Mr. Morris' circumstances with prior awards. We conclude that the district court abused its great discretion in its award of general [Pg 12] damages, and we lower its general damage award to $5,000,000.00, finding this to be the highest amount it could have awarded based on Mr. Morris' particular circumstances.

Assignment of Error No. 2: Whether the district court committed manifest error in its award of special damages

Lastly, Goodyear challenges the amount of special damages awarded to Mr. Morris. Special damages are those which may be determined with relative certainty. *McCloskey v. Higman Barge Lines, Inc., 2018-1008, p. 4 (La. App. 4 Cir. 4/10/19), 269 So. 3d 1173, 1178* (quoting *Kaiser v. Hardin, 2006-2092, p. 11 (La. 4/11/07), 953 So. 2d 802, 810*). A challenge to a special damages award is reviewed for manifest error. *E.g. Talley*, 2025-0854, p. 15, 438 So. 3d at 831 (citation omitted). Under this standard, the appellate court will overturn the award if it finds that there is no reasonable basis in the record for the lower court's ruling and that the award is clearly wrong. *Caruso v. Chalmette Refin., LLC, 2016-1117, p. 9 (La. App. 4 Cir. 6/28/17), 222 So. 3d 859, 865* (citing *Kaiser*, 2006-2092, p. 12, 953 So. 2d at 810).

Goodyear's second assignment of error is two-fold as it challenges both the award for past medical expenses and the award for future medical expenses. We address each in turn.

i. Past Medical Expenses

The district court awarded Mr. Morris the full amount of his billed medical expenses, totaling $1,031,881.95. Of the total amount, $910,706.37 was adjusted or written off pursuant to a contractual write-off between Mr. Morris' medical provider and insurer. Goodyear argues that the district court should have awarded a [Pg 13] lesser amount in past medical **[*17]** expenses based on the large amount of the bill being written off.

Goodyear first contends that the district court should have applied La. R.S. 9:2800.27 in calculating its award for past medical expenses. Louisiana Revised Statute 9:2800.27 was first enacted in 2021.[8] At the time Mr. Morris filed suit, the statute provided:

> In cases where a claimant's medical expenses have been paid, in whole or in part, by a health insurance issuer or Medicare to a contracted medical provider, the claimant's recovery of medical expenses is limited to the amount actually paid to the contracted medical provider by the health insurance issuer or Medicare, and any applicable cost sharing amounts paid or owed by the claimant, and not the amount billed. The court shall award to the claimant forty percent of the difference between the amount billed and the amount actually paid to the contracted medical provider by a health insurance issuer or Medicare in consideration of the claimant's cost of procurement, provided that this amount shall be reduced if the defendant proves that the recovery of the cost of procurement would make the award unreasonable.

La. R.S. 9:2800.27(B), as amended by Acts 2022, No. 511, § 1. Based on this, Goodyear argues that Mr. Morris' award for past medical expenses should be reduced. **[*18]** However, Mr. Morris counters that La. R.S. 9:2800.27 was not in effect at the time he was exposed to ***asbestos*** in the 1970s, and, therefore, this statute does not apply to his case.

Article 6 of the Louisiana Civil Code dictates, "In the absence of contrary legislative expression, substantive laws apply prospectively only. Procedural and interpretative laws apply both prospectively and retroactively, unless there is a legislative expression to the contrary." Our inquiry regarding the applicability of La. R.S. 9:2800.27 starts with determining the Legislature's intent in its enactment [Pg 14] of the statute, and the Legislature has made its intent clear. In enacting the law, and in each subsequent amendment since, the Legislature has explicitly stated that the law shall have "prospective application only" and that it shall not apply to any causes of action arising or pending prior to its enactment. *See* Acts 2020, 1st Ex. Sess., No. 37, § 6; *see also* Acts 2022, No. 511, § 2; Acts 2025, No. 466, § 2. Mr. Morris' cause of action arose in the 1970s, long before the enactment of this legislation. Therefore, La. R.S. 9:2800.27 does not apply in this case.

In defense of the district court's award, Mr. Morris implores this Court to apply Louisiana's prior collateral source rule. Nevertheless, Goodyear urges us to find that the collateral source rule does not apply **[*19]** in this case because Mr. Morris did not "receive" any money from a collateral source; instead, his charges were written off.

Under the collateral source rule, any payments a plaintiff receives from an independent source are not deducted from a later award. Hoffman v. 21st Century North America Ins. Co., 2014-2279, p. 3 (La. 10/2/15), 209 So. 3d 702, 704 (citation omitted). In analyzing the issue of write-offs, the Louisiana Supreme Court has opined that write-offs procured through the payment of insurance premiums are benefits resulting from a plaintiff's contractual bargain with his insurance provider. Bozeman v. State, 2003-1016, p. 19 (La. 7/2/04), 879 So. 2d 692, 703-04. To receive the benefits from his insurer, the plaintiff's patrimony is diminished, so the recovery of the write-offs does not constitute a windfall. Bridges v. Baton Rouge Gen. Med. Ctr., 2020-0270, pp. 19-20 (La. App. 1 Cir. 12/30/20), 317 So. 3d 662, 679 (citing Cutsinger v. Redfern, 2008-2607, pp. 11-12 (La. 5/22/09), 12 So. 3d 945, 953). Thus, write-offs made pursuant to Medicare or private insurance benefits are recoverable under the collateral source rule. Id. at p. [Pg 15] 20, 317 So. 3d at 679; *see also* Bozeman, 2003-1016, p. 22, 879 So. 2d at 706 ("[W]here [a] plaintiff's patrimony has been diminished in some way in order to obtain the collateral source benefits, then [the] plaintiff . . . may recover the full value of his medical services, including the 'write-off' amount.").

At trial, Mr. Morris introduced an itemized estimate of his medical bills. The estimate notes that Mr. Morris receives insurance coverage from Humana Medicare. **[*20]** The estimate shows charges for his medical services, the amount Mr. Morris and his insurer paid, and the amount adjusted through a "contractual write-off." Goodyear does not dispute that Mr. Morris was billed for a total of $1,031,881.95 or that $910,706.37 of the total was written off pursuant to an agreement between Mr. Morris' provider and insurer. The law is clear—those amounts that were written off are recoverable under the collateral source rule. Therefore, Goodyear's argument on this issue is without merit.

ii. Future Medical Expenses

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[8] La. R.S. 9:2800.27 has been amended several times since its enactment, with the most recent amendment taking effect on January 1, 2026.

Next, Goodyear challenges the district court's award of $1,500,000.00 for Mr. Morris' future medical expenses.

A plaintiff is entitled to an award of future medical expenses if he proves through a preponderance of the evidence that the future expenses will be medically necessary. *Hankton v. State, 2019-0557, p. 11 (La. App. 4 Cir. 3/4/20), 294 So. 3d 25, 33-34* (citation omitted). There must be evidence that the future medical expenses will more probably than not be incurred, and the expenses must be established with some degree of certainty. *Menard v. Lafayette Ins. Co., 2009-1869, p. 12 (La. 3/16/10), 31 So. 3d 996, 1006* (citation omitted).

At trial, Dr. Staggs testified that if Mr. Morris were to live another year, he would anticipate his future medical expenses to cost the same as his past medical [Pg 16] **[*21]** expenses. Dr. Johnson testified that he estimated patients receiving immunotherapy to have expenses ranging from $1 million to $1.5 million each year. He also opined that Mr. Morris would live for another year because of his positive response to the immunotherapy treatment. Prior to trial, Mr. Morris had been taking Entyvio and Yervoy as part of his immunotherapy treatment, but Mr. Morris had stopped taking Yervoy at the time of trial because he developed colitis as a side effect from the drug. Although his hope was to get Mr. Morris back on Yervoy, Dr. Johnson testified that he may take Mr. Morris off Yervoy permanently depending on Mr. Morris' response to just Entyvio. Dr. Johnson confirmed that each of the drugs cost about $760,000.00 and that any future medical expenses would be reduced by that amount if he dropped the Yervoy treatment.

Goodyear urges us to reduce Mr. Morris' future medical expenses by $760,000.00 for the cost of Yervoy because he failed to prove that it was more likely than not that he would continue to take the drug in the future. To lower the district court's award, we must find that the district court had no reasonable basis to believe it was more likely than **[*22]** not that Mr. Morris would receive Yervoy in the future. In reviewing the record, we cannot say this. Dr. Johnson's testimony establishes that his plan at the time of trial was to have Mr. Morris take Yervoy again. We are guided by the following testimony during Goodyear's cross-examination of Dr. Johnson.

> **Q**: And your hope is that you're going to be able to drop the medication going forward, correct.
>
> **A**: Well our hope is to try to get him back on it because that's a very important medication for the treatment of mesothelioma, but if there is going to be one that we have to drop because of the side effects that would be the one.
>
> . . .
>
> [Pg 17] **Q**: . . . [Y]ou're actually going to get him back on it and if you need to drop it you will. Is that fair?
>
> **A**: Correct.

Based on the above, the record establishes that Mr. Morris would take Yervoy again in the future. Therefore, the district court had a reasonable basis for including the anticipated cost of Yervoy in its calculation of future medical expenses, and we cannot say that the district court committed manifest error in awarding Mr. Morris $1,500,000.00 for future medical expenses.

DECREE

For the above reasons, we reduce the district court's general **[*23]** damages award to $5,000,000.00 and affirm its judgment on all other aspects.

AFFIRMED AS AMENDED
