ADVANCE SHEET HEADNOTE
April 14, 2025

2025 CO 15

No. 24SA257, *Garcia v. Centura Health Corp.*—Hospital Lien Statute—Discovery Disputes—Abuse of Discretion.

After the supreme court remanded this case with instructions that the district court determine and make specific findings regarding whether certain discovery sought by the defendant was relevant to the claims and defenses in this case, keeping in mind that this lawsuit involves wrongful lien claims for which statutory damages are established by law, the district court again ordered that the plaintiff respond to substantial discovery requests propounded by the defendant. Plaintiff petitioned for relief under C.A.R. 21, arguing that the district court violated the court's prior mandate and abused its discretion in ordering the discovery at issue, and the court issued an order to show cause.

The court now concludes that the district court abused its discretion in ordering the discovery at issue and, therefore, the plaintiff is not required to respond to those discovery requests.

Accordingly, the court makes its order to show cause absolute and remands this case to the district court for further proceedings consistent with this opinion.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2025 CO 15

Supreme Court Case No. 24SA257
Original Proceeding Pursuant to C.A.R. 21
District Court, City and County of Denver, Case No. 17CV32645
Honorable Kandace C. Gerdes, Judge

In Re
Plaintiff:

Jina Garcia, individually and on behalf of others similarly situated,

v.

Defendant:

Centura Health Corporation.

Order Made Absolute
en banc
April 14, 2025

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JUSTICE GABRIEL delivered the Opinion of the Court, in which **CHIEF JUSTICE MÁRQUEZ**, **JUSTICE BOATRIGHT**, **JUSTICE HOOD**, **JUSTICE HART**, **JUSTICE SAMOUR**, and **JUSTICE BERKENKOTTER** joined.

JUSTICE GABRIEL delivered the Opinion of the Court.

¶1 This case, which involves claims for alleged violations of the hospital lien statute, section 38-27-101, C.R.S. (2024), comes before us a second time. After the district court ordered that Jina Garcia respond to substantial discovery requests propounded by Centura Health Corporation, we granted and made a rule to show cause absolute. *Garcia v. Centura Health Corp.*, 547 P.3d 1152 (Colo. 2024) (mem.). In our order, we remanded this case with instructions that the district court determine and make specific findings regarding whether the discovery sought by Centura was relevant to the claims and defenses in this case, expressly directing the district court to keep in mind that this lawsuit involves wrongful lien claims for which statutory damages are established by law. *Id.* at 1152.

¶2 On remand, the district court again ordered that Garcia respond to substantial discovery requests propounded by Centura, prompting Garcia to seek further C.A.R. 21 relief. In her petition, she argued that the district court violated our prior mandate and abused its discretion in ordering the discovery at issue. We issued an order to show cause.

¶3 We now conclude that the district court abused its discretion in ordering the discovery at issue and, therefore, Garcia is not required to respond to those discovery requests. In light of this determination, we need not address Garcia's contention that the district court did not comply with our remand order.

¶4 Accordingly, we make our order to show cause absolute, and we remand this case to the district court for further proceedings consistent with this opinion.

I. Facts and Procedural History

¶5 Garcia received treatment from St. Anthony North Hospital, which is operated and controlled by Centura, as a result of injuries that she allegedly sustained in a motor vehicle accident. When Garcia was admitted to the hospital, she informed personnel there that she had both Medicare and Medicaid coverage and that her automobile insurance carrier was Progressive Insurance.

¶6 After determining that Garcia's injuries were the result of the wrongful acts of another (or others), Centura asserted a hospital lien against Garcia in the amount of $2,170.35, reflecting the amount of medical services and treatment rendered at St. Anthony North Hospital as a result of the accident in which Garcia had been involved. It appears undisputed that Centura did not bill Medicare prior to asserting this lien.

¶7 Garcia, on behalf of herself and others similarly situated, subsequently filed a putative class action lawsuit against Centura, alleging that Centura had violated section 38-27-101 by filing its lien against Garcia and the other class members before billing Medicare. Pursuant to the statute, Garcia sought damages of twice the amount of the asserted lien. The district court subsequently certified a class consisting of "[a]ll Colorado residents who had Medicare as their primary medical

insurance at the time [Centura] provided them with services for injuries resulting from the negligence or other wrongful acts of another person and against whom [Centura] asserted a hospital lien without first billing Medicare."

¶8 As pertinent here, Centura requested substantial discovery from Garcia, including, among other things, medical records, other documents relating to her claimed damages, attorney-client communications, settlement agreements relating to the underlying accident, documents relating to fault in the underlying accident, and financial records establishing the damages caused by the hospital lien asserted against her. Garcia objected to this discovery, asserting, among other things, that it sought information that was not related to the claims and defenses of any party; was not proportional to the needs of the case; was overboard, unduly burdensome, and irrelevant; invaded her right to privacy; improperly sought attorney mental impressions; and sought information protected by the attorney-client, physician-patient, and attorney work-product privileges.

¶9 By order dated January 17, 2024, the district court required Garcia to provide much of the discovery that Centura had requested. Garcia then sought relief in this court under C.A.R. 21, and we issued an Order and Rule to Show Cause.

¶10 After receiving substantial briefing from the parties, we issued an order making our Rule to Show Cause Absolute and remanding this case to the district court for further proceedings. Our order provided, in pertinent part, as follows:

> 2. In ordering Petitioner to respond, over her objections, to the discovery requests at issue, the District Court did not adequately conduct the analyses required by the applicable rules and this Court's case law to support its order.
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> 3. Accordingly, the District Court's January 17, 2024 order is VACATED, and this case is remanded with instructions that the District Court reconsider the discovery matters before it as follows:
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> A. The District Court shall determine and make specific findings regarding whether the discovery sought by Respondent is relevant to the claims and defenses in this case, keeping in mind that this lawsuit involves claims of wrongful liens for which statutory damages are established by law. Accordingly, relevance is not established by the fact that the discovery sought is typical of the types of discovery requested in motor vehicle accident cases.
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> B. If the District Court finds that the discovery sought by Respondent is relevant to the claims and defenses in this case, and if the discovery sought seeks private and privileged medical and financial information, attorney work-product, and other private and confidential information, then the District Court shall perform the balancing test required by *In re District Court*, 256 P.3d 687 (Colo. 2011), and shall determine and make specific findings regarding whether to order the requested discovery over the privacy and confidentiality concerns asserted by Petitioner.
>
> C. After conducting the foregoing analyses, the District Court shall determine and make specific findings regarding whether the discovery sought by Respondent is proportional to the needs of this wrongful lien action.

Garcia, 547 P.3d at 1152.

¶11 On remand, the district court convened a hearing and, after considering the parties' arguments, issued an order requiring Garcia to respond to certain of Centura's discovery requests. These requests sought, among other things, information concerning (1) any damages or injuries that Garcia had suffered as a result of the lien; (2) payments made by Garcia or on her behalf for medical services provided by St. Anthony North Hospital as a result of the underlying motor vehicle accident, including all communications related thereto and any Medicare liens relating to such medical services; (3) the facts and circumstances involving the underlying accident, including documents and communications relating to evaluations and determinations of the fault of any driver; (4) police reports, statements, settlement agreements or other resolutions of legal claims relating to the accident, insurer documents, and Garcia's claims for damages arising from the accident (as well as any claims made against her); (5) Garcia's retention of an attorney in connection with the accident; (6) admissions of liability related to the accident; and (7) any police citations issued as a result of the accident.

¶12 Garcia again sought relief pursuant to C.A.R. 21, and we issued an order to show cause.

II. Analysis

¶13 We begin by discussing our jurisdiction under C.A.R. 21 and the discovery principles that apply here, including the pertinent standard of review. Next, we

address the hospital lien statute and Garcia's claims thereunder. We then turn to the question of whether the district court abused its discretion in ordering Garcia to respond to the discovery requests at issue.

A. Original Jurisdiction

¶14 The exercise of our original jurisdiction under C.A.R. 21 rests within our sole discretion. *Fox v. Alfini*, 2018 CO 94, ¶ 15, 432 P.3d 596, 600. An original proceeding under C.A.R. 21 is an extraordinary remedy that is limited in both its purpose and availability. *Id.*

¶15 Although discovery orders are usually interlocutory in nature and therefore are reviewable only on appeal, we have exercised our discretion under C.A.R. 21 to review whether a district court abused its discretion in circumstances in which an appellate remedy would be inadequate. *Id.* We have also exercised our original jurisdiction under C.A.R. 21 when a pretrial discovery ruling is so broad and burdensome that it "places a party at a significant disadvantage litigating the merits of the controversy" and renders any appellate remedy inadequate. *DCP Midstream, LP v. Anadarko Petroleum Corp.*, 2013 CO 36, ¶ 22, 303 P.3d 1187, 1193.

¶16 Here, as noted above, a number of the discovery requests at issue implicate potentially private and confidential medical and financial information, as well as matters protected by the attorney-client and work-product privileges. Because the improper disclosure of such information could not adequately be remedied on

appeal, this alone supports the exercise of our original jurisdiction. *See Ortega v. Colo. Permanente Med. Grp., P.C.*, 265 P.3d 444, 447 (Colo. 2011) (invoking our C.A.R. 21 jurisdiction when the discovery order at issue involved records that the plaintiff claimed were protected by a statutory privilege and, therefore, a direct appeal would not have been adequate to remedy the erroneous disclosure of such records).

¶17 In addition, the discovery requests at issue are substantial and, in Garcia's view, wholly irrelevant to the issues involved in this case, thereby placing a significant and needless burden on her. Moreover, this is the second time that these same issues are before us. And, in our view, ongoing litigation over these issues will serve no purpose other than to increase the cost of litigating this case and to delay further the final resolution of a case that has already been pending for over seven years.

¶18 In these circumstances, we deem it appropriate to exercise our jurisdiction over this matter.

B. Applicable Principles of Discovery

¶19 C.R.C.P. 26 sets forth the general rules governing discovery in civil proceedings. *Bailey v. Hermacinski*, 2018 CO 14, ¶ 9, 413 P.3d 157, 160. These rules are intended to eliminate surprise at trial, enable the parties to obtain relevant evidence, and promote the efficient settlement of cases. *Id.*

¶20 Subject to the limitations and considerations set forth elsewhere in the civil rules, C.R.C.P. 26(b)(1) allows discovery

> regarding any matter, not privileged, that is relevant to the claim or defense of any party and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.

Information within the scope of discovery, however, need not be admissible in evidence to be discoverable. *Id.*

¶21 Although the scope of allowable discovery under C.R.C.P. 26 is broad, it is not unlimited. *Dist. Ct.*, 256 P.3d at 690. As C.R.C.P. 26(b)(1) itself makes clear, requested discovery must be proportional to the needs of the case, considering the factors set forth in that rule. *See also DCP Midstream*, ¶ 34, 303 P.3d at 1197 (noting that C.R.C.P. 26(b) requires trial courts to take an active role in managing discovery and that when faced with an objection to the scope of proposed discovery, a trial court must determine the discovery's proper scope in light of the reasonable needs of the case and must tailor discovery to those needs).

¶22 As the comments to the 2015 amendments to C.R.C.P. 26 explained, "[T]he concept is to allow discovery of what a party/lawyer *needs* to prove its case, but not what a party/lawyer *wants* to know about the subject of a case." C.R.C.P. 26 cmt. 14. Accordingly, "trial judges have and must exercise discretion, on a

case-by-case basis, to effectuate the purposes of these rules," C.R.C.P. 26 cmt. 15, including C.R.C.P. 1(a)'s mandate that the rules be "liberally construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action."

¶23 In addition to the foregoing limitations, when a party opposes discovery on the ground that it would violate their right to privacy or implicate confidential information, a court "must give the discovery request special consideration and balance an individual's right to keep personal information private with the general policy in favor of broad disclosure." *Dist. Ct.*, 256 P.3d at 690–91. We outlined the applicable test governing these circumstances as follows:

> The party requesting the information must always first prove that the information requested is relevant to the subject of the action. Next, the party opposing the discovery request must show that it has a legitimate expectation that the requested materials or information is confidential and will not be disclosed. If the trial court determines that there is a legitimate expectation of privacy in the materials or information, the requesting party must prove either that disclosure is required to serve a compelling state interest or that there is a compelling need for the information. If the requesting party is successful in proving one of these two elements, it must then also show that the information is not available from other sources. Lastly, if the information is available from other sources, the requesting party must prove that it is using the least intrusive means to obtain the information.

Id. at 691–92.

¶24 We review a district court's discovery orders for an abuse of discretion. *Fox*, ¶ 17, 432 P.3d at 600. A district court abuses its discretion when its ruling is

"manifestly arbitrary, unreasonable, or unfair, or based on a misapprehension of the law." *Cath. Health Initiatives Colo. v. Earl Swensson Assocs., Inc.*, 2017 CO 94, ¶ 8, 403 P.3d 185, 187.

C. Hospital Lien Statute and Garcia's Claims

¶25 Section 38-27-101 provides in pertinent part:

> (1) *Before a lien is created*, every hospital duly licensed by the department of public health and environment . . . which furnishes services to *any person injured as the result of the negligence or other wrongful acts of another person* . . . shall submit all reasonable and necessary charges for hospital care or other services for payment to the property and casualty insurer *and the primary medical payer of benefits* available to and identified by or on behalf of the injured person . . . .
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> . . . .
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> (4) *After a hospital satisfies the requirements of this section*, and subject to this article, the hospital shall have a lien for all reasonable and necessary charges for hospital care upon the net amount payable to the injured person . . . out of the total amount of any recovery or sum had or collected, or to be collected, whether by judgment, settlement, or compromise, by the person . . . as damages on account of the injuries.
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> . . . .
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> (7) An injured person who is subject to a lien in violation of this section may bring an action in a district court to recover two times the amount of the lien attempted to be asserted.

(Emphases added.)

¶26 A division of our court of appeals has observed that the General Assembly's intent in adopting this statute and the amendments thereto was "to protect insured

accident victims, including Medicare recipients, from hospital liens." *Garcia v. Centura Health Corp.*, 2020 COA 38, ¶ 26, 490 P.3d 629, 635. Along the same lines, we have observed that the sponsors of the 2015 amendments to the statute made clear that the bill was intended to prevent hospitals from filing liens against patients before the patients or their insurers had been given an opportunity to pay. *Harvey v. Cath. Health Initiatives*, 2021 CO 65, ¶ 30, 495 P.3d 935, 941. We have further observed that the legislative history revealed the legislature's intent "to protect accident victims from the aggressive lien practices that some hospitals had employed" and that although the statute continues to protect a hospital's right to be paid for the care that it provides, it also protects individuals from a second injury, namely, the lien. *Id.* at ¶ 32, 495 P.3d at 941. Lastly, as pertinent here, we have determined that for purposes of section 38-27-101(1), when Medicare is a patient's primary health insurer, the statute "requires a hospital to bill Medicare for the medical services provided to the patient before asserting a lien against that patient." *Id.* at ¶ 4, 495 P.3d at 937.

¶27 In light of the foregoing legal principles, Garcia now contends that Centura violated section 38-27-101 by asserting a lien against her and others similarly situated before billing Medicare, and she further alleges that Centura has routinely done so. Accordingly, she is seeking, on behalf of herself and the class that she

represents, two times the amount of the liens asserted against her and the other class members.

D. The Discovery Requests at Issue

¶28 Having thus set forth the applicable law and Garcia's claims in this case, we turn to the discovery requests at issue. Garcia asserts that the district court abused its discretion by ordering her to reveal certain attorney-client privileged communications and to produce attorney work-product and other documents relating to (1) the underlying motor vehicle accident and fault for the accident, (2) her asserted damages, (3) insurer documents, (4) settlement agreements, (5) payments for medical services provided by Centura, and (6) confidential medical and financial information. In her view, none of these requests are relevant to the claims or defenses of any party, and none are proportional to the needs of this case. We agree.

¶29 The legal and factual issues in this case are narrow: Garcia claims that Centura violated the lien statute by asserting liens against her and the members of the class without first billing Medicare. As a result, Garcia seeks, on behalf of herself and the other members of the class, two times the face amount of the liens asserted. This case is not a litigation on the merits of the underlying motor vehicle accident. Rather, the principal factual issues presented by Garcia's claims appear to be (1) whether Centura asserted liens against Garcia and the other members of

the class, which is defined to include Colorado residents who had Medicare as their primary medical insurance at the time Centura provided them with services for injuries resulting from the negligence or other wrongful acts of another; (2) the amount of those liens; and (3) whether Centura billed Medicare before asserting those liens.

¶30 Notwithstanding the foregoing, Centura asserts that the district court properly authorized the discovery requests at issue because the information sought is relevant to (1) Centura's anticipated motion to decertify the class; (2) whether our decision in *Harvey*, ¶ 4, 495 P.3d at 937 (concluding that for purposes of section 38-27-101(1), when Medicare is a patient's primary health insurer, a hospital must bill Medicare for the medical services provided to the patient before asserting a lien against that patient), should be applied retroactively; (3) whether Garcia was an "injured person" under the hospital lien statute and whether her injuries were due to the negligence or other wrongful acts of another person; and (4) the net amount payable to Centura, which Centura contends is the amount on which it attempted to assert its lien. We are unpersuaded and address each of these points in turn.

1. Relevance to Class Decertification

¶31 With respect to Centura's anticipated motion to decertify the class, Centura contends that its requested discovery is relevant to whether a class action is

superior to other methods for the fair and efficient adjudication of this case, whether Garcia's claims are typical of the claims of the class, and whether common questions of law or fact predominate over questions affecting only individual class members, all as required by C.R.C.P. 23(a) and C.R.C.P. 23(b)(3).

¶32 Specifically, Centura asserts that under *Wilcox v. Commerce Bank of Kansas City*, 474 F.2d 336, 345–47 (10th Cir. 1973), the requirement of superiority is not satisfied when a statutory penalty would be enormous in comparison to the actual harm to the class members. In that case, the defendant alleged that its penalty exposure could exceed one billion dollars. *Id.* at 340.

¶33 As an initial matter, we question *Wilcox*'s ongoing vitality. The Tenth Circuit does not appear to have cited that case since 1978. Moreover, in the time since *Wilcox* was decided, the Supreme Court has twice rejected arguments that a federal court should decline to certify a class because a statutory scheme could be deemed to lead to unfair or unintended results. *See Califano v. Yamasaki*, 442 U.S. 682, 700 (1979) ("In the absence of a direct expression by Congress . . . , class relief is appropriate in civil actions brought in federal court . . . ."); *Reiter v. Sonotone Corp.*, 442 U.S. 330, 344–45 (1979) (noting that concerns as to the cost of defending a consumer class action seeking treble damages are "policy considerations more properly addressed to Congress than to this Court"). In accordance with the Supreme Court's reasoning, we perceive nothing in the hospital lien statute that

indicates a legislative desire to preclude class actions in cases arising thereunder, and Centura's concern for the effect of that statute appears to be a matter of policy best directed to our General Assembly.

¶34 Even if *Wilcox* were still good law, however, we are not convinced that it applies here. Notwithstanding Centura's assumption to the contrary, nothing in the hospital lien statute suggests that the statutory damages allowed constitute a penalty, which, if grossly excessive or oppressive, could implicate due process concerns. *See Dewey v. Hardy*, 917 P.2d 305, 309 (Colo. App. 1995). Nor has Centura cited any applicable authority suggesting that statutory damages become a penalty merely because a large number of people can assert them in a class action. And, in any event, we are not persuaded that the potential damages in this case are so astronomical (compared with the billion dollar exposure in *Wilcox*) to render a class action an inferior way to proceed. To the contrary, this case appears to be representative of the very kind of case for which the class action mechanism was created: the injury to individual plaintiffs (e.g., two times $2,170.35, in Garcia's case) would likely be too small to justify the costs of proceeding individually in a case like this. *See Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 617 (1997) ("The policy at the very core of the class action mechanism is to overcome the problem that small recoveries do not provide the incentive for any individual to bring a solo action prosecuting his or her rights. A class action solves this problem by

aggregating the relatively paltry potential recoveries into something worth someone's (usually an attorney's) labor.") (quoting *Mace v. Van Ru Credit Corp.*, 109 F.3d 338, 344 (7th Cir. 1997)); *Colo. Cross-Disability Coal. v. Taco Bell Corp.*, 184 F.R.D. 354, 362 (D. Colo. 1999) (concluding that a class action was the superior method of managing the dispute before the court because the matter involved a large number of class members who had relatively small amounts of individual damages and, in such circumstances, denial of a class action would effectively have denied such claimants judicial redress).

¶35 Centura's arguments that the discovery at issue is relevant to its anticipated challenges to the typicality of Garcia's claims and the predominance of common issues of law and fact fare no better. Centura observes that section 38-27-101(1) concerns liens on persons injured as a result of the negligence or other wrongful acts of another person. From this premise, it contends that it requires the discovery at issue to determine whether Garcia was, in fact, injured and whether her injuries were caused by others. If Garcia was not injured, or if she were the party at fault, the argument goes, then she would not have a viable claim under the statute and her claims would not be typical of those of the other class members. Similarly, Centura asserts that because it will ultimately need to assess the questions of injury and fault for each class member, common issues of law and fact do not predominate here.

¶36 Centura, however, ignores the facts that its own records indicate that it had determined that Garcia had been injured through the negligence of another and that under the plain language of section 38-27-101(1), it was not permitted to assert a lien unless it furnished services to a person who was injured as the result of the negligence or wrongful acts of another and then submitted its reasonable and necessary charges for payment to the property and casualty insurer and the primary medical payer of benefits. Under section 38-27-101(4), it is only "[a]fter a hospital satisfies the requirements of [section 38-27-101]" that it has a lien. If the hospital asserted a lien against someone who was not injured or who was not injured as a result of the negligence of another, then the hospital would have had no basis under the hospital lien statute to assert that lien at all. Garcia's claims thus correctly rest on the premise that she and others similarly situated were injured by the negligence or other wrongful acts of another, and therefore, whether Garcia was injured by another's negligence or wrongful acts is not at issue here, where Centura filed its lien based on that essential factual premise.

¶37 Accordingly, on the facts of this case, the discovery that Centura seeks is not relevant to superiority, typicality, or predominance, as those terms are used in the class action context.

2. Relevance to the Retroactivity of *Harvey*

¶38 With respect to whether our decision in *Harvey* should be applied retroactively, Centura contends that the discovery at issue is necessary to allow it to conduct the three-part analysis for retroactivity outlined in *Chevron Oil Co. v. Huson*, 404 U.S. 97, 106–07 (1971). Under the test set forth in that case, in determining whether a judicial decision is to be applied retroactively, courts are to consider (1) whether the decision established a new principle of law; (2) the prior history of the rule in question, its purpose and effect, and whether retrospective operation would further or hinder its operation; and (3) any inequities that would result from the retroactive application of the decision. *Id.* Centura asserts that it requires discovery concerning Garcia's actual damages from the lien to assess whether the retroactive application of *Harvey* would further or hinder the lien statute's purpose of preventing harm from improper liens. Centura further argues that it requires discovery regarding the damages that Garcia claimed vis-à-vis the tortfeasor because, in Centura's view, this would show that Garcia used billed charges, as opposed to amounts paid by her insurer, as a measure of her damages. According to Centura, this, in turn, would show the inequity of *Harvey*'s retroactive application. For a number of reasons, we are unpersuaded.

¶39 First, it is not clear to us that applying *Harvey*, which simply interpreted the hospital lien statute and did not alter any prior law, to this still-pending case would amount to the retroactive application of a new principle of law. To the contrary, applying *Harvey* here amounts to nothing more than applying current law to the facts of a pending case.

¶40 Second, even if *Harvey*'s application could be deemed to be retroactive such that the *Chevron* factors would apply, it is not self-evident to us that this would make the discovery at issue relevant to any claim or defense at issue in this case, particularly given that the question of the retroactive application of a judicial decision presents a question of law, not a question of fact. *McDonald v. People*, 2024 CO 75, ¶ 7, 560 P.3d 412, 417; *People v. Cooper*, 2023 COA 113, ¶ 7, 544 P.3d 679, 681.

¶41 Third, contrary to Centura's assertion that it needs discovery regarding Garcia's actual damages to determine whether *Harvey*'s application would further or hinder the hospital lien statute's operation, as noted above, the statute's purpose was to ensure that hospitals give patients or their insurers an opportunity to pay before asserting a lien against the patients. We cannot discern how the statute's purpose would be hindered by applying our decision in *Harvey* here because our determination that Medicare can be a primary medical payer of benefits *furthers* the legislative intent that a hospital bill a patient's insurers before asserting a lien.

¶42 Finally, Centura's assertion that it requires discovery concerning whether Garcia sought damages from the tortfeasor based on the amount she was billed for services, as opposed to the amount that her insurers actually paid, and that such facts would show the inequity of applying *Harvey* in this case, is nothing more than an effort to relitigate the question of whether an injured plaintiff's damages should be measured by the amounts paid by an insurer to the medical provider, as opposed to the amounts billed by the medical provider. We, however, settled this question over a decade ago. *See Wal-Mart Stores, Inc. v. Crossgrove*, 2012 CO 31, ¶ 25, 276 P.3d 562, 568 (concluding that the amount paid by an insurer is inadmissible under the pre-verdict evidentiary component of the collateral source rule).

¶43 For these reasons, we conclude that the discovery at issue is not relevant to any argument regarding the retroactive application of our decision in *Harvey*.

3. Relevance to Whether Garcia Was Injured by Another's Negligence

¶44 With respect to Centura's contention that it requires the discovery at issue to determine whether Garcia was an injured person under the statute and whether any injury was caused by the negligence or other wrongful act of another person, we are again unpersuaded. For the reasons discussed above, by filing its lien, Centura necessarily determined (as its own records confirm) that Garcia was an injured person and that her injuries were caused by the negligence or wrongful act

of another. *See* § 38-27-101(1), (4). Accordingly, this argument does not establish the relevance of the discovery at issue.

4. Relevance to Net Amount Payable and Total Recovery

¶45 Finally, with respect to Centura's claim that it requires discovery regarding the sums that Garcia recovered from the tortfeasor and the amounts, if any, due to any attorneys whom she retained in connection with such claims, so that it could calculate the net amount payable to Garcia (which is the amount against which Centura may assert a lien), the facts of this case and Garcia's claims belie this assertion.

¶46 As Centura correctly observes, section 38-27-101(4) provides that after a hospital complies with the lien statute's notice and other requirements, it has a lien for its reasonable and necessary charges "upon the net amount payable to the injured person . . . out of the total amount of any recovery or sum had or collected, or to be collected, whether by judgment, settlement, or compromise, by the person . . . as damages on account of the injuries."

¶47 Centura, however, ignores the fact that it asserted a lien in an amount certain (here, $2,170.35), and if Garcia establishes that Centura violated the hospital lien statute (as, for example, by filing the lien before first billing Medicare for the services provided to Garcia), then Garcia is entitled to twice the amount of that asserted lien. § 38-27-101(7).

¶48 Accordingly, the sums to which Garcia (and the other class members) would be entitled upon proof of such a violation of the lien statute in no way turn on the amounts against which Centura could have asserted liens absent the alleged statutory violations. They are, instead, a matter of simple math: two times the amount of the asserted lien. The net amount payable to Garcia and the other class members and the total amounts that they recovered from their tortfeasors is therefore irrelevant to any issue in this case.

¶49 We thus conclude that the discovery requests at issue are not relevant to the claim or defense of any party and are not proportional to the needs of this case, and therefore, the district court abused its discretion in ordering Garcia to respond to such discovery requests. In light of this determination, we need not address Garcia's contention that the district court did not comply with our remand order. Nor need we proceed to perform the balancing test set forth in *District Court*, 256 P.3d at 691–92, to assess the discoverability of any confidential information included within the scope of the requested discovery.

III. Conclusion

¶50 For these reasons, we conclude that the district court abused its discretion in ordering the discovery at issue in this case and, therefore, Garcia is not required to respond to that discovery.

¶51 Accordingly, we make our order to show cause absolute, and we remand this case to the district court for further proceedings consistent with this opinion.