MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

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IN THE
COURT OF APPEALS OF INDIANA

Julia Taylor,
Appellants-Plaintiffs,

v.

St. Vincent Salem Hospital, Inc.,
Appellee-Defendant.

November 12, 2021

Court of Appeals Case No. 21A-MI-655

Appeal from the Washington Circuit Court

The Honorable Larry R. Blanton, Senior Judge

Trial Court Cause No. 88C01-1603-MI-146

Friedlander, Senior Judge.

[1] Julia Taylor was under suspicion for Operating While Intoxicated and was arrested on August 28, 2015. Toxicological services were rendered by St. Vincent Salem Hospital, Inc. (the Hospital) at the request of the Salem Indiana Police Department (SPD). Later, Taylor received invoices from the Hospital seeking payment for those toxicological services.

[2] Taylor filed a "Class Action Complaint for Declaratory Judgment," which she later amended to include others similarly situated, largely seeking: 1) certification of the matter as a class action; 2) an order finding that she and the class were not responsible for payment of the invoices from the Hospital; 3) reimbursement to the members of the class for any fees already paid; and 4) injunctive relief to prevent the Hospital, going forward, from seeking payment directly from individuals for those toxicology services. Appellants' App. Vol. 2, pp. 25-29, 45-46.

[3] The trial court found that a class was sustainable, meeting all the criteria of Indiana Trial Rule 23(A), but that the action was moot because there was no "palpable harm not previously addressed by statute." *Id.* at 23. The court then dismissed the part of Taylor's complaint seeking a declaratory judgment and stated that the Hospital must follow Indiana Code section 36-2-13-18(g) (2011) when seeking reimbursement for the cost of services conducted at the request of law enforcement. The court further found that Rule 23(B)(2)[1] did not extend to cases where the "appropriate final relief relates primarily, principally, and predominantly to monetary damages." *Id.* at 22. Taylor now appeals and the Hospital cross-appeals. We affirm.

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[1] Indiana Trial Rule 23(B)(2) provides in pertinent part as follows:

> An action may be maintained as a class action if the prerequisites of subdivision (A) are satisfied, and in addition: (2) the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole[.]

[4] On cross-appeal, the Hospital raises this potentially dispositive issue:

> 1. Did the court err by refusing to conclude that the doctrine of defensive collateral estoppel was a bar to Taylor's complaint?

[5] Taylor raises the following issue for our review:

> 2. Was the court's rationale for dismissing Taylor's request for a declaratory judgment erroneous?

Taylor presents the additional following issue for our review in her cross-appellee/reply brief:

> 3. Did the court err by concluding that Taylor was responsible for the costs of the toxicological testing because she was convicted?

[6] On August 28, 2015, Taylor was detained by an SPD officer for suspicion of committing the offense of Operating While Intoxicated and was transported by an SPD officer to the Hospital for toxicological testing. After Taylor objected, an SPD officer obtained a search warrant to compel the testing. The Hospital's personnel collected her bodily substances and tested them at the request of SPD. Taylor was later billed directly by the Hospital for those services.

[7] Taylor contested that she was financially responsible for those charges, arguing that they were conducted over her objection, not at her request, and that she did not derive any benefit from the testing. Indeed, Taylor was convicted of

Operating a Vehicle While Intoxicated Endangering a Person[2] as a result of the events on August 28, 2015. Appellants' App. Vol. 2, p. 88.

[8] On March 23, 2016, Taylor filed a class action complaint alleging that charging her and others similarly situated for the Hospital's services, which were conducted at the behest of SPD and other law enforcement agencies in Washington County, was contrary to law. Taylor alleged in her complaint that she was not the only person who had been charged directly by the Hospital for services requested by those law enforcement agencies, and it was the Hospital's policy to do so. She asked the court to certify the action as a class action for all persons who were charged for testing conducted at the request of law enforcement in Washington County from March 23, 2014 until the present. She also requested an order finding her not financially responsible for the testing and sought reimbursement for any fees that were already paid.

[9] Next, the Hospital filed an answer, admitting that Taylor received the bill for the services rendered and opposing the class certification, citing the requirements of Indiana Trial Rule 23, and arguing that Taylor could not meet the requirements of the Rule. Taylor filed an amended complaint for declaratory judgment, repeating her original requests, and adding a request that all members of the class be found not financially responsible for the Hospital's bills, and seeking reimbursement to each class member for fees already paid.

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[2] Ind. Code § 9-30-5-2(b) (1991).

Taylor also asked for injunctive relief, prohibiting the Hospital from directly charging other individuals for tests conducted by the Hospital at the request of law enforcement in the future. The Hospital filed an answer on March 20, 2017.

[10] On June 28, 2017, Taylor filed her motion and brief in support of class certification, setting out her arguments in support of her fulfillment of the Rule 23(B) requirements. The Hospital filed its supplemental opposition to class certification, and after completion of discovery, the matter was set for hearing on the class certification request. The parties later agreed to waive a hearing and asked the court to rule on the parties' submissions.

[11] The court's final judgment was entered on March 18, 2021, in which it concluded in pertinent part as follows:

> LEGAL AUTHORITY FOR CERTIFICATION
>
> * * *
>
> The Court using the criteria set out under TR 23(A) and 23(B) finds that [Taylor] has met the requirements of numerosity, commonality, typicality and adequacy of representation.
>
> * * *
>
> The Court has the responsibility and the authority to interpret Trial Rules and case law [precedents]. This Court determines that the individuals herein identified and described, as well as the possibility of any operator of a motor vehicle within this [Court's] jurisdiction, creates a class.
>
> * * * *
>
> Determination that a class of [Plaintiffs] exists, does not create a cause of action in and of itself. Certification as a class carries no

implication as regarding the merit of the Case[.] In this instant case there is clearly a class of Plaintiffs who have been aggrieved or [may be aggrieved] by mistake, misunderstanding or misinterpretation of the law.

* * * *

St. Vincent Salem Hospital, Inc. acted at the direction of the law officers from a multiplicity of jurisdictions. Those officers caused St. Vincent Salem, [sic] to perform tests and laboratory analyses acting under the color of law. (see 42 U.S.C.A. Section 1983). St. Vincent Salem assumed they were following lawful procedure when they charged the arrestees for medical services. The hospital was given a reason to believe that the officers had the authority to create such an obligation.

* * * *

An arresting officer, without court approval, can not cause a suspect to suffer financial charges without the [arrestee's] consent. It is a matter of common law that no man can incur debt obligating another person. The Legislature addressed this matter. The State can not assess fines, fees and costs without a determination of guilt. (*See IC 36-2. et seq and 11-12 et seq*). Arrestees are not responsible to the provider of services. They can not be held to account nor can they be sued for services that are the responsibility of governmental or political subdivisions.

St. Vincent Salem Hospital performed tests, did analysis and laboratory work based on apparent authority of the presenting officers. The delivery of suspects to a hospital for testing should be a rare occurrence. St. Vincent Salem Hospital has suffered from this regulatory dispute. Resources of the hospital have been expended and time has been consumed without just cause or reason. The hospital has incurred legal costs in defending the suit.

Under the law of "implied consent" any operator of any vehicle can refuse tests and suffer the consequences that flow from their refusal. It is blatantly unfair to the arrestee to be threatened by law enforcement with loss of license for refusing an invasive

procedure without a court order, and then be assessed a charge for those procedures.

CHEMICAL TEST AND FINANCIAL RESPONSIBILITY

An individual who is placed in a Sheriff's car, State Police Cruiser, Indiana State Conservation [Officer's] or Town [Marshall's] commission or any other vehicle used by law enforcement is ARRESTED. Upon arrest the suspect becomes the responsibility of the County where he is held. *(Indiana Code 36-2-13-19).* The suspect arrestee may voluntarily pay or their medical insurance may be used to defray costs. *IC 36-2-13-18(g):*

> "If a person is subjected to lawful detention after entering onto the premises of a hospital, the County in which the hospital is located is financially responsible under IC 11-12-5 for health care services provided to the person while the person is subject to lawful detention[.]" [Emphasis added]

This statute does not prohibit the County from seeking payment nor assessing fees against the arrestee. It does not permit the hospital to directly bill the arrestee.

* * * *

Only the State may impose a fine after the accused is convicted of an alcohol or drug offense in violation of law, by either trial [or] plea bargain. Then [the] State may impose fines, fees and costs sufficient to make the county whole.

* * * *

DECLARATORY JUDGMENT

This cause having come[] before this Court on Motion of the Plaintiff[s] and after being fully briefed by the parties, and after considering the argument of counsel, the court comes now and determines that a Declaratory Judgment is not appropriate in this Cause and does hereby DISMISS THE [PLAINTIFFS'] prayer for Declaratory Judgment Summary. It is the Court's opinion that the Plaintiffs have failed in their proof of damages and further failed to show St. Vincent Salem Hospital to be either culpable or malicious in their actions. Class actions and the

Court[']s decision to certify the matter as such is conditional and may be reversed, revoked or modified at any time prior to a final judgment being entered. Trial Rule 23(B)(2) is intended to reach situations where a part[y] has taken action or refused to take action with respect to a class, and final relief of an injunctive nature or of a corresponding declaratory nature, settling the legality of the aggrieving behavior with respect to the behavior against the interests of the class as a whole. Declaratory relief "corresponds" to injunctive relief when, as a practical matter, it affords injunctive relief or serves as the basis for later injunctive relief. This section does not extend to, nor does it service claims such as presented in the Cause. This section does not extend to cases as here, in which the appropriate final relief relates primarily, principally, and predominantly to monetary damages.

The statute is clear, the responsibility of State sanctioned testing lies with the political subdivision that requested the tests. The Sheriff's Department, the detention center or the county government is responsible, and St. Vincent Salem presented persons bills for charges that are not sustainable.

* * * *

RULE

1. Plaintiff[s'] request for class certification is sustainable however it is MOOT. There being NO palpable harm not previously addressed by statute;

2. Plaintiff[s] may seek relief under the Statutes as provided. Those who have been found in violation of the law for driving while impaired by alcohol or illegal substances must stand their costs as they apply;

3. All chemical tests, hospital services of any kind necessitated or treatment brought about by any Law [Enforcement] agency shall be the responsibility of the requesting agency, the Sheriff's Department, Prosecutor's Office or County Government as provided by Statute. The arrestee, upon a determination of guilt or violation of the rules of operating a motor vehicle, may

> voluntarily pay the fine and costs or they may use the benefits of medical insurance; and
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> 4. St. Vincent Salem must not bill the individuals subjected to law enforcement requests for testing and analysis. They are directed to seek payment pursuant to this order as stated above.

Id. at 16-23.

[12] The court also noted that similar causes of action had been filed in circuit courts, including that very one, concerning the very same question. The court did not read any of those other findings, apparently to reach an independent decision on the present matter. Additionally, the court noted that the Hospital argued that the matter presented is "res judicata" based on the prior rulings, but the court concluded that those rulings "are persuasive [sic] <u>they are not</u> precedent, they are not authority." *Id.* at 22.

[13] More specifically, the trial court observed,

> Trial Courts are at the bottom of the judicial hierarchy in authority and jurisdiction. The decisions from a [Trial] Court are most usually persuasive as primary authority. Trial Court rulings and opinions bind the parties involved in that instant case, but other trial courts hearing similar cases are not bound by the opinions of other trial courts in different jurisdiction[s]--or within the same Court. Rulings and opinions of Trial Courts are case specific.

Id. at 22-23. This appeal followed.

1. Res judicata

[14] *Charles Darnell v. St. Vincent Salem Hospital, Inc.*, 88C01-1702-MI-87,[3] filed on February 1, 2017, and decided after a bench trial on the issue of class certification on April 9, 2020, is a case the trial court in the case before us acknowledged was decided by a special judge in the same court. However, the trial court in the instant case – Taylor's case – did not read the special judge's order in *Darnell*. The Hospital brings the *Darnell* case to our attention in support of its res judicata argument. Because resolution of the cross-appeal appeal issue will influence the resolution of the other issues, we address it first.

The Darnell Case

[15] In the *Darnell* case, counsel who represented Darnell and his proposed class revealed that he also served as counsel for Taylor and her proposed class in what counsel referred to as a "companion case." *Darnell*, 88C01-1702-MI-87 ("Plaintiff's Motion & Brief In Support Of Class Certification" *2). The *Darnell* decision was issued prior to the decision in *Taylor*. Taylor's complaint sought to include in her class action members of the motoring public in Washington County from March 23, 2014 until the present, and Darnell sought to include in his class action members of the motoring public in Washington County from February 1, 2015 to the present, each including in their classes those who had

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[3] Ind. Evid. Rule 201(a)(1)(B) & (c); "A court may take judicial notice whether requested or not." *Sanders v. State*, 782 N.E.2d 1036, 1038 n.4 (Ind. Ct. App. 2003). We take judicial notice of this case. The decision is also included in the record. *See* Appellants' App. Vol. 2, pp. 104-14.

been charged by the Hospital for toxicological testing completed at the request of law enforcement in Washington County. Though not named, Taylor's August 28, 2015 arrest that led to the Hospital's billing, arguably fell within this class.

[16] The *Darnell* court concluded that: 1) Darnell had not met the requirements under Rule 23(A) or (B) for class certification; 2) Darnell's request for declaratory judgment was moot based on the evidence presented at the hearing of Darnell's non-payment of the bill; 3) the request for reimbursement was denied based on the same evidence presented at the hearing; and 4) the request for injunctive relief was denied as moot because the Hospital had indicated it was no longer pursuing payment on bills previously issued and had changed its policy to cease billing individuals directly, instead billing the law enforcement agency or the prosecutor's office. *Darnell*, 88C01-1702-MI-87 (April 1, 2020 order, *11); Appellants' App. Vol. 2, pp. 100-02.

Res Judicata in the Taylor Case

[17] The Hospital contends that the judgments in *Darnell* and another case decided in Harrison Circuit Court on December 18, 2018, preclude Taylor from bringing her action and that the trial court erred as a matter of law by finding that res judicata did not apply. The Hospital says that the court's judgment should be reversed, and Taylor's claim dismissed. We disagree.

[18] The Hospital's res judicata argument requires us to analyze both issue preclusion and claim preclusion, the two branches of res judicata. *See Freels v.*

Koches, 94 N.E.3d 339 (Ind. Ct. App. 2018). Whether res judicata applies as claim preclusion or issue preclusion (or collateral estoppel), its aim is to "prevent repetitious litigation of disputes that are essentially the same, by holding a prior final judgment binding against both the original parties and their privies."[4] *M.G. v. V.P.*, 74 N.E.3d 259, 264 (Ind. Ct. App. 2017). A trial court does not have discretion to ignore the doctrine of res judicata, because res judicata "supersedes [discretion] and compels judgment[.]" *Id.* at 263 (quoting *State v. Lewis*, 543 N.E.2d 1116, 1118 (Ind. 1989) (internal quotations omitted)). But a trial court's decision to disallow the defensive use of collateral estoppel will be reversed only upon an abuse of discretion. *Reid v. State*, 719 N.E.2d 451, 456 (Ind. Ct. App. 1999), *cert. denied.* Here, the trial court ignored the substance of the order, finding that res judicata was inapplicable on the basis of judicial hierarchy. Although we disagree with the rationale, we agree with the result.

Does Claim Preclusion or Issue Preclusion (Collateral Estoppel) Apply?

[19] So, our analysis turns to whether claim preclusion or issue preclusion, also described as collateral estoppel, applies. In *Angelopoulos v. Angelopoulos*, 2 N.E.3d 688, 696 (Ind. Ct. App. 2013), *trans denied*, we described the requirements for the application of claim preclusion and issue preclusion. What is common to both is that the party in the prior action must have been a party or

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[4] "[A] 'privy' is one who after rendition of [a] judgment has acquired an interest in the subject matter affected by the judgment," or "whose interests are represented by a party to the action." *Becker v. State*, 992 N.E.2d 697, 700-01 (Ind. 2013) (quoting *MicroVote Gen. Corp. v. Ind. Election Comm'n*, 924 N.E.2d 184, 196 (Ind. Ct. App. 2010)).

in privity with the parties to the prior judgment. In the present case, the *Darnell* decision is not controlling because Taylor was neither a party to, nor a privity of, the party in the *Darnell* case.

[20] In *Smith v. Bayer Corp.*, 564 U.S. 299 (2011), the United States Supreme Court resolved a division in the federal courts as to whether the denial of a class certification could establish collateral estoppel or issue preclusion. *See e.g.*, *In re Baycol Prods. Litig.*, 593 F.3d 716, 723 (8th Cir. 2010) (denial of class certification is binding on unnamed putative class members due to privity and adequate representation in prior proceeding); *In re Bridgestone/Firestone, Inc. Tires Prods.*, 333 F.3d 763, 768-69 (7th Cir. 2003) (unnamed putative class members treated as parties for purposes of collateral estoppel); *In re Bayshore Ford Truck Sales, Inc.*, 471 F.3d 1233, 1253-54 (11th Cir. 2006) (denial of class certification not sufficiently final to establish collateral estoppel).

[21] The *Smith* Court began its analysis by restating "another basic premise of preclusion law: A court's judgment binds only the parties to a suit, subject to a handful of discrete and limited exceptions." 564 U.S. at 313. The Court further noted that because only parties can be bound by prior judgments, the Court has taken a "constrained approach to nonparty preclusion." *Id.* (quoting *Taylor v. Sturgill*, 553 U.S, 880, 898 (2008)). As for the definition of a party, the *Smith* Court observed that a party is "[o]ne by or against whom a lawsuit is brought, or one who becomes a party by intervention, substitution, or third-party practice." *Id.* (internal citations and quotations omitted). Additionally, while an unnamed member of a certified class may be considered a party for the

purpose of appealing an adverse judgment, it is erroneous to argue that a nonnamed class member is a party to the class action litigation before the class is certified or once certification is denied. *Id.* (internal citation and quotations omitted).

[22] Based on the holding in *Smith*, we conclude that any error committed by ignoring the substance of the *Darnell* order is harmless because the court properly did not apply collateral estoppel or claim preclusion to the facts of the present case, thus leading to the same result as in *Smith*. The party/privity requirement is necessary for both claim preclusion and issue preclusion. The *Smith* Court's decision based on the definition of a party resolves the issue raised here under both branches of res judicata. Taylor was not a party to the *Darnell* case.

2. Declaratory Judgment

[23] In her amended complaint, Taylor argued that the Hospital "has a policy of performing collection of bodily substances/testing at the request of law enforcement and then charging the individual" for that testing. Appellants' App. Vol. 2, p. 45. She sought a declaratory judgment finding that the named plaintiffs and the unnamed members of the class were not responsible for any expense associated with the Hospital's collection/testing and that the members of the class were entitled to reimbursement for any fees that were already paid. *Id.* Additionally, she sought injunctive relief to prevent the Hospital from engaging in those billing practices in the future.

Standard of Review

[24] Taylor argues on appeal that the court erred by holding that a declaratory judgment was inappropriate, challenging the court's rationale for its decision. Here, the trial court entered specific findings of fact and conclusions of law sua sponte. When the trial court does so, the specific findings control only as to the issues they cover, and a general judgment standard applies to any issues upon which the court has not found. *Indep. Hill Conservancy Dist. v. Sterley*, 666 N.E.2d 978, 981 (Ind. Ct. App. 1996). A two-tiered standard of review is used when reviewing specific findings. *Harris v. Harris*, 800 N.E.2d 930, 934-35 (Ind. Ct. App. 2003), *trans. denied*. First, we determine whether the evidence supports the findings and then whether the findings support the judgment. *Id.* at 935. In deference to the trial court's proximity to the issues, we will reverse a judgment only when it is shown to be clearly erroneous. *Id.* A judgment is clearly erroneous when it is unsupported by the findings of fact and conclusions entered on the findings. *Id.* Although we defer substantially to the trial court's findings of fact, we do not do so as to the conclusions of law. *Id.* We evaluate questions of law de novo and owe no deference to the trial court's legal determinations. *Id.*

Federal Guidance

[25] Because Indiana Trial Rule 23 is based on Rule 23 of the Federal Rules of Civil Procedure, it is appropriate to consider federal court interpretations when applying the Indiana rule. *Farno v. Ansure Mortuaries of Ind., LLC*, 953 N.E.2d 1253, 1269 (Ind. Ct. App. 2011).

[26] The Federal Advisory Committee Notes on the 1966 Amendment to the federal rule explicitly state that subdivision (B)(2) of Rule 23 "is intended to reach situations where a party has taken action or refused to take action with respect to a class, and final relief of an injunctive nature or of a corresponding declaratory nature, settling the legality of the behavior with respect to the class as a whole, is appropriate." 39 F.R.D. 69, 102 (1966). The Committee observes that "[a]ction or inaction is directed to a class within the meaning of this subdivision even if it has taken effect or is threatened only as to one or a few members of the class, provided it is based on grounds which have general application to the class." *Id.* "However, *this subdivision does not extend to cases in which the appropriate final relief relates exclusively or predominately to money damages*." *Id.* (emphasis added).[5]

Application of the Law to Taylor's Case

[27] Here, the trial court found and concluded that Taylor and the class had failed "in their proof of damages," further concluding that declaratory judgment was not appropriate against the Hospital, and that the Hospital was neither culpable or malicious in its actions. Appellants' App. Vol. 2, p. 21. The court echoed the language of the Federal Advisory Committee Notes by concluding that the method by which Taylor had sought declaratory and injunctive relief–Rule 23(b)(2)–did not "extend to cases as here, in which the appropriate final relief

[5] This language was cited in dicta in *Wal-Mart v. Bailey,* 808 N.E.2d 1198, 1207-08 (Ind. Ct. App. 2004).

relates primarily, principally, and predominately to monetary damages." *Id.* at 22.

[28] Our Supreme Court said in *Dible v. City of West Lafayette*, 713 N.E.2d 269, 272 Ind. (1999) (citing *Volkswagenwerk, A.G. v. Watson*, 181 Ind. App. 155, 390 N.E.2d 1082, 1085 (1979) (citations omitted)),

> When considering a motion for declaratory judgment, the test to be applied is whether the issuance of a declaratory judgment will effectively solve the problem, whether it will serve a useful purpose, and whether or not another remedy is more effective or efficient. The determinative factor is whether the declaratory action will result in a just and more expeditious and economical determination of the entire controversy.

The *Dible* Court further quoted from *Volkswagenwerk* as follows:

> The use of a declaratory judgment is discretionary with the court and is usually unnecessary where a full and adequate remedy is already provided by another form of action. However, according to [Ind. Trial Rule 57], the existence of another adequate remedy *does not preclude* a judgment for declaratory relief in cases where it is appropriate. *Id.* (citations omitted).

Id. (quotations omitted) (emphasis added). Again, the issuance of declaratory relief lies in the discretion of the trial court and "the rule *permits* the original judgment to be supplemented . . .by damages. . . ." 10A C. WRIGHT, A. MILLER, & M. KANE, FEDERAL PRACTICE AND PROCEDURE § 2771 (1983) (emphasis added).

[29] The relief Taylor sought predominately involved monetary damages, i.e., an order stating that she and the class did not have to pay the Hospital. The court found and concluded that Indiana Code section 36-2-13-18(g) (2011) already establishes the financial responsibility for health care services provided to a person who is in lawful detention. That responsibility lies with the county. *See id.*

[30] The damages claim also sought reimbursement for fees already paid, i.e., monetary damages. Because recovery of monetary damages was the predominate reason for the request for declaratory relief, it is exactly the kind of relief the Federal Advisory Committee found was not available under Rule 23(b)(2) as the primary basis for the judgment. The court properly concluded that although a damages award could be made to supplement a judgment, it should not be made in this case. This decision comports with the language from *Dible* and *Volkswagenwerk*. While a damages award is *not precluded* as a supplement to the judgment, it is not mandated either "where the appropriate final relief relates primarily, principally, and predominately to monetary damages." *See* 39 F.R.D. at 102.

[31] Examining whether the evidence supports the findings, the record reflects that Taylor and the class failed in their proof of damages. The Hospital was acting under the direction and authority of SPD. The evidence did not support a finding of culpable or malicious behavior on the part of the Hospital. Taylor's medical insurance paid the allowable amount for the services and the remainder of the charge was written off, leaving her with a balance of zero. Appellants'

App. Vol. 2, p. 87. Others included in the class may not have been convicted, may not have paid the Hospital's bill, others may have discharged the "debt" in bankruptcy, others may have had insurance coverage similar to Taylor's, while still others may have voluntarily paid. Because Indiana Code section 36-2-13-18(g) already establishes financial responsibility for medical services in situations involving arrestees, we cannot say that the trial court abused its discretion by concluding that declaratory relief was inappropriate. The order would have reiterated what the statute already says.

[32] Additionally, under the general judgment standard, we note that the substance of the *Darnell* court's order, which was before the court but ignored, emphasized that "the Hospital had indicated it was no longer pursuing payment on bills previously issued and had changed its policy to cease billing individuals directly, instead billing the law enforcement agency or the prosecutor's office." *Darnell*, 88C01-1702-MI-87 (April 1, 2020 order, *11); Appellants' App. Vol. 2, p. 114. This is further evidence to support the court's determination that declaratory judgment was unnecessary because the dispute had been resolved.

[33] The trial court included in its order that the Hospital must not directly bill individuals brought in for testing by law enforcement but must seek payment as outlined in the court's order, i.e., from the county or requesting agency. *See id.* at 23. An issue becomes moot when "the principal questions in issue have ceased to be matters of real controversy between the parties." *Haggerty v, Bloomington Bd. of Public Safety*, 474 N.E.2d 114, 116 (Ind. Ct. App. 1985). "Under the Uniform Declaratory Judgments Act, cases which may be

considered by the courts . . . [must] not [be] moot and . . . [must] not call for merely advisory opinions." *Saylor v. State*, 81 N.E.3d 228, 232 (Ind. Ct. App. 2017) (internal quotations omitted). Taylor obtained the relief she sought in the court's order albeit not as a declaratory judgment.

[34] The court had the discretion to deny or issue a declaratory judgment. Under the facts and arguments presented here, we conclude that the trial court did not abuse its discretion and its order denying declaratory relief was not clearly erroneous.

3. Financial Responsibility

[35] Taylor argues in her cross-appellee/reply brief that the trial court erred by stating in its order that she and those in the class "who have been found in violation of the law for driving while impaired by alcohol or illegal substances must stand their costs as they apply[.]" Appellants' App. Vol. 2, p. 23.

[36] This issue was not raised in Taylor's opening brief. "The law is well settled that grounds for error may only be framed in an appellant's initial brief and if addressed for the first time in the reply brief, they are waived." *Monroe Guar. Ins. Co. v. Magwerks Corp.*, 829 N.E.2d 968, 977 (Ind. 2005); *see also*, Ind. Appellate Rule 46(C) ("No new issues shall be raised in the reply brief."). Additionally, in the case of cross-appeals, "[t]he appellant's reply brief shall address the arguments raised on cross-appeal." Ind. Appellate Rule 46(D)(3).

[37] Taylor's opening brief addressed whether the trial court abused its discretion by failing to issue a declaratory judgment. The Hospital's brief raised a cross-

appeal issue, arguing that the trial court erred by failing to find that res judicata applied. The Hospital also responded to Taylor's declaratory judgment arguments, contending that the court did not err.

[38] Taylor's argument here is not in response to the cross-appeal argument and is raised for the first time in a reply brief. Taylor's argument is waived.

[39] For all the foregoing reasons, we affirm the judgment of the trial court.

[40] Judgment affirmed.

Mathias, J., and Crone, J., concur.