Superior Court of New Jersey

Appellate Division

Docket No. A-002311-24

BARRY INGRAM and ILEANA INGRAM,	:	CIVIL ACTION
	:	ON APPEAL FROM THE FINAL ORDER OF THE SUPERIOR COURT OF NEW JERSEY, LAW DIVISION, OCEAN COUNTY
Plaintiffs-Appellants,	:	
vs.	:	
	:	DOCKET NO.: OCN-L-2217-23
FARMERS INSURANCE COMPANY OF FLEMINGTON,	:	Sat Below:
	:	HON. CRAIG L. WELLERSON, J.S.C.
Defendant-Respondent.	:	

BRIEF ON BEHALF OF PLAINTIFFS-APPELLANTS

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PRELIMINARY STATEMENT

Plaintiff-Appellants, Barry Ingram and Ileana Ingram ("Plaintiffs"), submit this brief in support of their appeal from an order of Superior Court, Ocean County (Wellerson, C.), entered February 28, 2025, which granted Defendant Farmers Insurance Company of Flemington's ("Defendant") Motion for Summary Judgment and dismissed Plaintiffs' Complaint with prejudice while subsequently denying Plaintiffs' Motion for Summary Judgment. For the reasons set forth herein, Plaintiffs respectfully submit that the Superior Court erred in Granting Defendant's motion and in denying Plaintiffs' motion.

This is an insurance dispute between Plaintiffs and their insurance carrier, Defendant Farmers Insurance Company of Flemington. Defendant issued a policy of insurance to Plaintiffs (the "Policy") which covered Plaintiffs' property, located at 38 Fielder Avenue in Ortley Beach, New Jersey (the "Property"). The Policy provided coverage for, amongst other things, direct physical loss to the Property resulting from fire. On February 4, 2022, while the Policy was in full force and effect, the Property sustained a direct physical loss or damage as the result of a fire. Though Plaintiffs subsequently filed a claim and satisfied all conditions precedent for full coverage, Defendant has refused to pay Plaintiffs all they are owed under the Policy.

Regarding the terms of the Policy, the Coverage A limit of insurance

was $392,000. The Policy declarations also contained Building Code or Law Coverage ("BCL Coverage") for 10% of the Coverage A limit, or $39,200. Notably, pursuant to Plaintiffs' purchase of the "Increased Special Limit-Section I", the BCL Coverage was increased to 20% of the Coverage A limit, or $78,400. This purchase resulted in an additional $90 cost to Plaintiffs' premium. The costs to repair the Property as a result of the fire exceeded the Coverage A limit of $392,000, and the parties agree that Defendant issued payment to Plaintiffs in that amount. However, during the rebuild of their home, Plaintiffs were required to comply with local building codes and laws, which increased the cost to repair the home beyond the Coverage A limit. Despite Plaintiffs' purchase of the increased BCL Coverage—for which they pay an additional premium—Defendant alleged that the BCL Coverage was included within the Coverage A limit and has refused to pay the additional monies Plaintiffs are entitled to pursuant to that supplemental coverage.

This appeal arises from a dispute over whether the supplemental BCL Coverage is subject to, or in addition to, the Coverage A limit of the Policy. The Superior Court erroneously granted Defendant's motion for Summary Judgment under Rule 4:45-1 et seq. and held that the BCL did not extend the Coverage A limit, contrary to both the policy language and the insured's reasonable expectations. Plaintiffs seek a reversal of that decision.

STATEMENT OF RELEVANT FACTS AND PROCEDURAL HISTORY[1]

A. Statement of Relevant Facts

Defendant Farmers Insurance Company of Flemington issued a policy of insurance to Plaintiffs which covered Plaintiffs' property, located at 38 Fielder Avenue, Ortley Beach, New Jersey. (Pa29-Pa79). The Policy provided coverage for, amongst other things, direct physical loss to the Property resulting from fire. (Pa37). The Coverage A limit of insurance on the Policy was $392,000. (Pa32). The Policy declarations also contained Building Code or Law Coverage for 10% of the Coverage A limit, or $39,200. (Pa42). Notably, pursuant to the Plaintiffs' purchase of the "Increased Special Limit-Section I", the BCL Coverage was increased to 20% of the Coverage A limit, or $78,400. (Pa78). This purchase resulted in an additional $90 cost to Plaintiffs' premium. (Pa39). The costs to repair the Property exceeded the Coverage A limit of $392,000, and the parties agree that Defendant issued payment to Plaintiffs in that amount. (Pa22-Pa28). However, during the rebuild of their home, Plaintiffs were required to comply with local building codes and laws, which increased the cost to repair the home beyond the Coverage A limit. (Pa22-Pa28). Plaintiffs sought payment for these costs under the Policy's supplemental BCL Coverage, and Defendant denied its obligation to pay,

[1] The factual background and procedural history of the matter are intertwined and therefore presented together.

claiming the BCL Coverage was included in, and not in addition to, the Coverage A limit. (Pa18).

B. Procedural History

1. Plaintiffs' Complaint

Plaintiff filed this action alleging breach of contract and breach of the Implied Covenant of Good Faith and Fair Dealing by Defendant, as the plain language of the Policy and Plaintiffs' reasonable expectations upon receiving and reviewing the terms of said Policy, drafted by Defendant, indicate that the BCL Coverage for which Plaintiffs pay an increased premium extends the Coverage A limit by up to 20% of said limit. (Pa22-Pa28).

2. Defendant's Motion for Summary Judgment

Defendant moved for summary judgment in its favor under Rule 4:45-1 et seq., denying the existence of a genuine issue of material fact in the matter and asserting that the unambiguous language of the Policy established that the BCL Coverage afforded to Plaintiffs was included in, and did not increase, the Coverage A limit. (Pa14-Pa19).

3. Plaintiffs' Cross Motion for Summary Judgment

Plaintiffs filed a cross motion opposing Defendant's motion in its entirety and seeking summary judgment in their favor. (Pa103-Pa107). Plaintiffs contended that the plain text of the Policy and the Plaintiffs'

reasonable expectations of coverage established that the BCL Coverage, for which Plaintiffs paid an additional premium, was not subject to the Coverage A limit. (Pa103-Pa107). Plaintiffs also argued, in the alternative, that the relevant policy language regarding the BCL coverage is, in the least, ambiguous, and cited New Jersey case law establishing that such ambiguities must be construed in favor of the insured. (Pa112-113[2]). Plaintiffs additionally sought that, should the Superior Court issue relief in favor of Defendant, said relief be granted without prejudice. (Plaintiffs' Brief in Support of Cross-Motion for Summary Judgment, trial court docket no. OCN-L-002217-23, submitted February 17, 2025 (omitted from appendix)).

C. The Superior Court's Decision

The Superior Court heard oral argument on the parties' cross motions for Summary Judgment. (T1-T25). At oral argument, the Superior Court acknowledged that the BCL Coverage provided increased coverage and protections for the policyholder. ("THE COURT: it's talking about increasing the coverage, meaning the protection that's afforded by the contract, and when

[2] The relevant portion of the Brief in Support of Plaintiffs' Motion for Summary Judgment is included in the Appendix pursuant to New Jersey Court Rule 2:6-1(a)(2), as the issue of ambiguity in the insurance policy language was raised at oral argument and referenced by the trial court in reaching its decision. The issue is also germane to this appeal, as the existence of ambiguous policy language and the insureds' reasonable expectations are central to Plaintiffs' contentions.

you are entitled to receive additional protections that otherwise wouldn't have been covered . . . this supplemental coverage would be available if there was some regulation by action of law, some governmental agency which would require the entire thing to be replaced"). (T22:16-T23:5). However, the Superior Court did not find that this extension of coverage increased the Coverage A limits. ("THE COURT: it does not talk about increasing the limits of coverage, only that it extends the protection, meaning when you are entitled to insurance"). (T23 6-8). The Superior Court referenced a supplemental coverage section of the Policy that allegedly supported Defendant's position. ("THE COURT: and then it says unless otherwise stated these limits are shown for the following are part of and not in addition to the limits shown in the declarations. And the limits shown in the declarations was $392,000. The additional property coverages goes through in Section 11, it's the building code coverage. It is a supplemental coverage. And the Court can find no example of when the amount of liability is increased for Section 11, which is the building liability coverage). (T24 2-12).

The Superior Court concluded that the supplemental coverages were "contained therein, and not in addition to" the Coverage A limit. (T24 13-18). The Superior Court subsequently granted Defendant's Motion for Summary Judgment. (Pa1-Pa2).

LEGAL ARGUMENT

POINT I

SUPERIOR COURT ERRED IN GRANTING SUMMARY JUDGMENT TO DEFENDANT AND SHOULD HAVE GRANTED SUMMARY JUDGMENT TO PLAINTIFF BASED ON PROPER INTERPRETATION OF THE INSURANCE POLICY LANGUAGE AND ANY AMBIGUITIES THEREIN (Pa1)

A. Standard of Review: Summary Judgment (Pa1)

Appellate review of a Motion for Summary Judgment is *de novo*. *Schwartz v. Menas*, 251 N.J. 556, 570, 279 A.3d 436 (2022). Additionally, interpretation of an insurance policy, as in the immediate case, presents a question of law that the Court reviews *de novo*. *Abboud v. Nat'l Union Fire Ins. Co.*, 450 N.J. Super. 400, 406, 163 A.3d 353 (App. Div. 2017). New Jersey Court Rule 4:46-2(c) states that a motion for summary judgment should be granted when "the pleadings, depositions, answers to interrogatories and admission on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law.

This Court must determine whether either party, in making its motion, has demonstrated that there are no genuine disputes as to material facts. *See Atlantic Mutual Ins. Co. v. Hillside Bottling Co*., 387 N.J. Super. 224, 230-31 (App. Div.), *certif. denied*, 189 N.J. 104 (2006). The Court must view the

evidence in the light most favorable to the non-moving parties. *See*, *Brill v. Guardian Life Ins. Co. of Am.,* 142 N.J. 520, 540, 666 A.2d 146 (1995). Summary judgment is appropriate when the evidence "is so one-sided that one party must prevail as a matter of law." *See id.* at 533 (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986)). In the context of the instant motions, these rules mean that, for every factual issue where there is conflicting evidence, the Court must reject the moving party's version of the facts and accept the respondent's version. In addition, the Court must accord the responding party the benefit of all reasonable inferences in their favor.

Pursuant to the New Jersey Supreme Court in *Brill, supra*, "[b]y its plain language, Rule 4:46-2 dictates that a court should deny a summary judgment motion only where the party opposing the motion has come forward with evidence that creates a 'genuine issue as to any material fact challenged.' That means a non-moving party cannot defeat a motion for summary judgment merely by pointing to any fact in dispute… In other words, where the party opposing summary judgment points only to disputed issues of fact that are 'of an insubstantial nature,' the proper disposition is summary judgment…" (internal citations omitted).

Furthermore, the Supreme Court emphasized: '[summary judgment] is designed to provide a prompt, businesslike and inexpensive method of

disposing of any cause which a discriminating search of the merits in the pleadings, depositions and admissions on file, together with the affidavits submitted on the motion clearly shows not to present any genuine issue of material fact requiring disposition at trial." (internal citations omitted). *Brill* at 530.

B. Insurance Policy Interpretation Favors the Insured and Ambiguities Must Be Construed Against the Insurer (Pa1)

In interpreting an insurance policy, "[courts] are guided by general principles: 'coverage provisions are to be read broadly, exclusions are to be read narrowly, potential ambiguities must be resolved in favor of the insured, and the policy is to be read in a manner that fulfills the insured's reasonable expectations.'" *Sosa v. Mass. Bay Ins. Co.*, 458 N.J. Super. 639, 646 (App. Div. 2019). Courts should liberally construe the policy in the insured's favor "'to the end that coverage is afforded to the full extent that any fair interpretation will allow.'" *Progressive Cas. Ins. Co. v. Hurley*, 166 N.J. 260, 273 (2001). "In determining whether there is ambiguity, we consider whether an average policyholder could reasonably understand the scope of coverage, and whether better drafting could put the issue beyond debate." *Sosa v. Mass. Bay Ins. Co.*, 458 N.J. Super. at 646.

Here, the Policy provides in relevant part:

11. Building Code or Law Coverage

(a) Coverage A is extended to cover the loss or expense described in (1), (2), and (3) that ensues as a direct consequence of a covered loss at the residence premises. We cover such for an amount determined by applying the applicable factor shown in Supplemental Coverage Limit 11 (above) to the Coverage A limit of liability shown in the Declarations. The losses or expenses covered are:

(1) The loss caused by enforcement of any building, land use, or zoning code or law in force on the date of the covered loss, that:

- Requires the demolition of parts of the same prope1ty not damaged by a covered cause of loss.
- Regulates the construction or repair of buildings.
- Establishes the building, land use, or zoning requirements at the described premises.

(2) The increased expense you incur to construct, rebuild, or repair the property caused by enforcement of building, land use, or zoning code or law in force on the date of the covered loss. The property must be intended for the same use or occupancy as the current property unless otherwise prohibited by such code or law.

(3) The expense you incur to demolish undamaged parts of the property and clear the site of such parts, caused by enforcement of building, land use, or zoning code or law in force on the date of the covered loss. (Pa42).

With the inclusion of the word "extended", the Policy can only mean that the coverage is expanded beyond that which is included in the declarations page. Black's Law dictionary defines "extend" as "to expand, enlarge, prolong, lengthen, widen, carry or draw out further than the original limit." *Black's Law Dictionary* 583 (6th ed. 1990). Defendant, in drafting the Policy, used this specific term to describe the aforementioned supplemental coverage's impact on the existing Coverage A. There can be no other logical reading of

the Policy. Thus, Plaintiffs are entitled to payment for BCL Coverage regardless of the previous exhaustion of Coverage A limits.

Additionally, the Declarations page for this Policy lists the limit of the supplemental BCL Coverage as being 10% of the Coverage A limit or $39,200. (Pa42). However, the Increased Special Limit Endorsement—MPL-44-11/2000—increases this limit to 20% or $78,400:

B. Supplemental Coverage Limits

Increase In Limit	**New Limit**		
		***Computer Media and Computer Software* Coverage**	
		Credit Card Coverage	
		Loss Assessment Coverage	
		Work Interruption Coverage	
10.00%	*20.00%*	**Building Code or Law Coverage**	(Pa78)

At the least., the language regarding application of the BCL Coverage is ambiguous and must be construed in favor of the insured's reasonable expectations. Here, Plaintiffs paid a $90 additional premium for this supplemental coverage and it was listed as an independent line item within the Policy. (Pa39). That premium would appear to Plaintiffs, and any reasonable insured, to be unnecessary, misleading, and illusory if such coverage were to be simply subsumed within the existing Coverage A limits. That this additional premium would provide an increase in coverage amount in return is a reasonable and logical expectation of anyone insured by such a Policy. If

Defendant did not intend for the coverage limits to be extended accordingly, it is unquestionable that, as described in *Sosa*, better drafting could have put this issue "beyond debate". Instead, Defendant included the above wording which supports Plaintiffs' interpretation.

Further, Defendant has pointed to two other provisions under Section 1B, specifically Supplemental Coverages #3 and #4 (the "**Supplemental Coverages**"), to differentiate the BCL Coverage provision. Defendant has noted that the Supplemental Coverages each end with the statement "[t]his is an additional amount of insurance," and contended that this sentence, which is absent from the BCL Coverage provision, would be used to signify an increase over the applicable coverage limit. (Pa18). However, while the statement in the Supplemental Coverages makes it clear that those provisions are in addition to the Coverage C that they modify, the BCL Coverage provision does not require such language because it starts out with the phrase "Coverage A is extended." (Pa42).

Nonetheless, The Superior Court erroneously accepted Defendant's restrictive interpretation of the Policy, which, as described above, is not supported by the plain language of the contract. The ordinary and common meaning of the terms used in the Policy, as understood by the average policyholder, support Plaintiffs' reasonable interpretation of the provisions and

coverage amounts included therein, or are at least so ambiguous that they must be construed in favor of the insured. Thus, the Policy includes up to $78,400.00 in BCL Coverage in excess of the Coverage A limits.

C. The Superior Court's Interpretation of the Policy Language is Erroneous (Pa1)

In interpreting the contract and granting summary judgment to Defendant, the Superior Court relied on the preamble of Section 1B of the Policy. ("THE COURT: in bold-faced type it indicates that these coverages do not extend or modify any provision of this policy except to the extent specifically described in the following items. And then it says unless otherwise stated these limits are shown for the following are part of and not in addition to the limits shown in the declarations"). (T23:24-T24:5).

However, as stated above, the first sentence of the BCL Coverage provision states "*Coverage A is extended* to cover the loss described in (1), (2), and (3) that ensues as a direct consequence of a covered loss at the residence premises" (emphasis added). (Pa42). This sentence would satisfy the "unless otherwise stated" requirement referenced in the preamble of Section 1B. There is no other reasonable way to interpret that "Coverage A is extended" than to use its plain meaning. In addition to the Black's Law Dictionary definition cited above, Merriam Webster defines "extend" as "to increase the scope, meaning, or application of." Merriam Webster, *Extend*, (last updated 16 Feb

2025) Merriam-Webster.com/dictionary/extend. Thus, the limits included in Coverage A must be increased accordingly.

The Superior Court's contention that "as written the covered losses talk about the amounts that are set forth in the declaration, and that supplemental coverages are contained therein, and are not in addition to" (T24 14-18) is contrary to the plain text of the Policy, imposes limitations that are not found in the contract, and contradicts the reasonable expectations of the insureds with respect to the coverage provided to them in the Policy.

POINT II

BECAUSE SUMMARY JUDGMENT IN FAVOR OF DEFENDANT WAS NOT WARRANTED, PLAINTIFF'S COMPLAINT SHOULD BE REINSTATED IN ITS ENTIRETY AS A MATTER OF LAW (Pa1)

The Superior Court's grant of summary judgment in favor of Defendant was predicated solely on its erroneous interpretation of the relevant policy language, as described above. Because the Superior Court's ruling was based on a legal error in the interpretation of the insurance contract, summary judgment in favor of the Defendant is not warranted as a matter of law. The plain text of the Policy with respect to application of the BCL Coverage, in conjunction with the increased premium paid by Plaintiffs for the supplemental coverage, supports Plaintiffs' contention of an increase to the Coverage A limit. At minimum, the terms are ambiguous and must consequently be

construed in favor of the reasonable expectations of the insured. *Sosa v. Mass. Bay Ins. Co.*, 458 N.J. Super. at 646. The judgment therefore should be reversed and Plaintiff's Complaint, alleging breach of contract and breach of the Implied Covenant of Good Faith and Fair Dealing by Defendant, should be reinstated for further proceedings consistent with the correct interpretation of the policy language and Plaintiff's reasonable expectations.

CONCLUSION

WHEREFORE, it is respectfully requested that this Court reverse the order of Superior Court, Ocean County (Wellerson, C.), entered February 28, 2025, which granted Defendant Farmers Insurance Company of Flemington's ("Defendant") motion for Summary Judgment and dismissed Plaintiffs' Complaint with prejudice, and request that Plaintiffs' Complaint be reinstated in its entirety. Plaintiffs further request that this Court subsequently grant Plaintiffs' Motion for Summary Judgment against Defendant.

Dated: August 6, 2025

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SUPERIOR COURT OF NEW JERSEY
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	:	Sat Below:
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PRELIMINARY STATEMENT

Defendant-Respondent, Farmers Insurance Company of Flemington, submits this brief in support of the Order of the Superior Court, Ocean County, entered February 28, 2025, which granted Defendant-Respondent's Motion for Summary Judgment, dismissed Plaintiffs-Apellants' Complaint with prejudice and, in turn, denied Plaintiffs-Appellants' Cross-Motion for Summary Judgment.

This matter arises out of an insurance coverage dispute. Defendant-Respondent issued a policy of insurance to Plaintiffs-Appellants covering a property located at 38 Fielder Avenue in Ortley, New Jersey. On February 4, 2022, the subject property sustained damages as a result of a fire.

All parties agree that, at the time of the loss, the Coverage A limit relative to the subject property, as reflected on the Declarations, was $392,000. All parties also agree that the costs to repair the property exceeded the Coverage A limit of $392,000 and that Defendant-Respondent paid Plaintiffs-Appellants the full $392,000.

Thereafter, Plaintiffs-Appellants sought additional coverage for complying with building codes/laws in rebuilding the property.

Coverage for compliance with building codes/laws is excluded by virtue of the policy's Building Law Exclusion. However, the policy reintroduces

coverage for same under certain circumstances by virtue of the Building Code or Law ("BCL") Supplemental Coverage.

The limit pertaining to BCL Supplemental Coverage is 10% of Coverage A, or $39,200. That limit is increased to 20% of Coverage A, or $78,400, by endorsement.

BCL, as a Supplemental Coverage, is subject to the following preamble/introductory language:

> **SUPPLEMENTAL COVERAGES**
> Unless otherwise stated, the limits shown for the following **are part of, and not in addition to**, the limits shown in the Declarations (emphasis supplied).

This language is clear and unambiguous. The $78,400 limit of available BCL Supplemental Coverage is a part of, and not in addition to, the Coverage A limit of $392,000.00, as shown in the Declarations.

Plaintiffs-Appellants argue that, because they paid an additional $90 premium to increase the BCL Supplemental Coverage limit from $39,200 to $78,400, they are entitled to coverage over and above the Coverage A limits, arguing that, otherwise, the additional premium payment is "unnecessary" and the increase in limits is "illusory".

However, had this not been a total loss requiring exhaustion of the $392,000 Coverage A limits, and, instead, been only a partial loss requiring

payment of less than $392,000, Plaintiffs-Appellants would have received the Supplemental Coverage they are seeking.

In addition, the beginning portion of the BCL Supplemental Coverage reads, in pertinent part, as follows:

> **11. Building Code or Law Coverage**
> **(a)** Coverage A is extended to cover…

Plaintiffs-Appellants argue that the phrase "Coverage A is extended to cover", and specifically the word "extended", means that Coverage A *limits* are extended. However, this is a misinterpretation of the plain language of the policy. The policy clearly states that *coverage* (that is otherwise excluded) is extended, not *limits*. This distinction was recognized by the Trial Court and the Trial Court correctly concluded that Defendant-Respondent had paid the full policy limit owed to Plaintiffs and that no additional payment relative to Building Code or Law Coverage was warranted.

Additionally, Plaintiffs-Appellants failed to respond to Defendant-Respondent's Statement of Material Facts filed as a part of Defendant-Respondent's Motion for Summary Judgment. As such and pursuant to Rule 4:46-2(b), all statements are deemed admitted.

PROCEDURAL HISTORY

Plaintiffs filed a Complaint against Defendant alleging breach of contract and breach of the Implied Covenant of Good Faith and Fair Dealing asserting that Plaintiffs were entitled to, and did not receive, Building Code or Law Coverage under the policy of insurance issued by Defendant to Plaintiffs (Pa22-Pa28).

Defendant moved for Summary Judgment in its favor pursuant to Rule 4:45-1 et seq. asserting that all Defendant's obligations under the subject policy of insurance had been met and that Plaintiffs were not entitled to an additional payment relating to Building Code or Law Coverage (Pa14-Pa21).

Plaintiffs filed a Cross-Motion for Summary Judgment opposing Defendant's motion for Summary Judgment and seeking Summary Judgment in favor of Plaintiffs, asserting that they were entitled to, and did not receive, Building Code or Law Coverage (Pa103-Pa109).

The Trial Court heard oral argument and agreed with Defendant that Plaintiffs were not entitled to Building Code or Law Coverage (T1-T25). The Trial Court granted Defendant's Motion for Summary Judgment, dismissed Plaintiffs' Complaint with prejudice and, in turn, denied Plaintiffs' Cross-Motion for Summary Judgment (Pa1-Pa2).

COUNTERSTATEMENT OF FACTS

This matter arises out of an insurance coverage dispute concerning a fire that occurred on February 4, 2022 resulting in damages to 38 Fielder Avenue in Ortley Beach, New Jersey (Pa23-Pa25).

Prior to the loss, Defendant-Respondent issued a policy of insurance to Plaintiffs-Appellants with respect to the subject property, policy number [redacted] (Pa29-Pa79). As reflected on the Homeowners Declarations of the subject policy, the Coverage A limit of insurance for the subject property at the time of loss was $392,000 (Pa38) and the cost to rebuild the property exceeded same (Pa25). Defendant-Respondent paid Plaintiffs-Appellants the full limit of $392,000 and there is no dispute that said payment was made (Pb2).

Plaintiffs-Appellants, thereafter, asserted, by way of filed Complaint, that, in addition to $392,000, they were entitled to Building Code or Law ("BCL") Supplemental Coverage and that Defendant-Respondent wrongfully denied payment of same (Pa23-Pa25).

Coverage for compliance with building codes/laws is excluded by virtue of the policy's Building Law Exclusion (Pa49). However, the policy reintroduces coverage for same under certain circumstances by virtue of the Building Code or Law ("BCL") Supplemental Coverage (Pa42).

The limits of BCL Supplemental Coverage are noted as 10% of the Coverage A limit, or $39,200 (Pa42). Same is increased to 20% of the Coverage A limit, or $78,400, by virtue of endorsement MPL 44 11 00 ("Increased Special Limit Section I") (Pa78).

The policy indicates that the limits for Supplemental Coverages "are part of, and not in addition to, the limits shown in the Declarations" (Pa 46).

The Trial Court Judge found that, while the policy affords BCL Supplemental Coverage, the provision of that coverage does not increase the $392,000 limit shown in the Declarations, recognizing that the subject provisions do "not talk about increasing the limits of coverage only that it extends the protection, meaning when you are entitled to insurance" (T22-6-8). The Judge further noted that "coverage is to provide you with insurance protection for areas that you would otherwise not be covered for" (T7-1-3) and that the policy "doesn't indicate anywhere that they're going to increase… the limits that they have to pay" (T7-17-20). The Judge elaborated by noting that "if your house is damaged but then you're required to incur additional expenses because of zoning laws or the like you have that additional insurance coverage, that protection [but] [t]hey don't say they're going to pay you more money" (T7-3-8).

The Trial Court Judge held that he was "constrained under this circumstance to provide the coverage as written… and that supplemental coverages are contained therein, and are not in addition to" the Coverage A limit (T23-13-18).

LEGAL ARGUMENT

POINT I

THE TRIAL COURT PROPERLY GRANTED SUMMARY JUDGMENT IN FAVOR OF DEFENDANT-RESPONDENT AS SUPPLEMENTAL COVERAGE LIMITS ARE A PART OF, AND NOT IN ADDITION TO, THE STANDARD POLICY LIMITS

A. SUMMARY JUDGMENT STANDARD

Rule 4:46-2(c) sets forth the standard to be applied in the determination of a Motion for Summary Judgment, providing, in pertinent part:

> The judgment or order sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue of material fact challenged and that the moving party is entitled to a judgment or order as a matter of law.
>
> An issue of fact is genuine only if, considering the burden of persuasion at trial, the evidence submitted by the parties on the motion, together with all legitimate inferences therefrom favoring the non-moving party, would require submission of the issue to the trier of fact.
>
> See also, Brill v. Guardian Life Ins. Co. of America, 142 N.J. 520 (1995).

In Brill, the New Jersey Supreme Court, after reviewing the jurisprudence of Summary Judgment practice, provided direction to the motion judge:

> [A] determination whether there exists a "genuine issue" of material fact that precludes summary judgment requires the motion judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-

> moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party. The "judge's function is not himself [or herself] to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial." Liberty Lobby, supra, 477 U.S. at 249, 106 S. Ct. at 2511, 91 L. Ed. 2d at 212. Credibility determinations will continue to be made by a jury and not the judge. If there exists a single, unavoidable resolution of the alleged disputed issue of fact, that issue should be considered insufficient to constitute a "genuine" issue of material fact for purposes of Rule 4:46-2. Liberty Lobby, supra, 477 U.S. at 250, 106 S. Ct. at 2511, 91 L. Ed. 2d at 213. The import of our holding is that when the evidence "is so one sided that one party must prevail as a matter of law," Liberty Lobby, supra, 477 U.S. at 252, 106 S. Ct. at 2512, 91 L. Ed. 2d at 214, the trial court should not hesitate to grant summary judgment.
>
> Id. at 540.

In discussing this standard, the Court further stated:

> The thrust of today's decision is to encourage trial courts not to refrain from granting summary judgment when the proper circumstances present themselves. Some have suggested that trial courts out of fear of reversal, or out of an overly restrictive reading of Judson, supra, 17 N.J. at 67, or a combination thereof, allow cases to survive summary judgment so long as there is any disputed issue of fact. As to fear of reversal, we believe our judges are made of sterner stuff and have sought conscientiously over the years to follow the law.
>
> Id. at 541.

The resolution of this matter involves the analysis/interpretation of the subject policy of insurance and no issues of material fact exist or have been presented that would impact upon same. As such, it was appropriate for the Trial Court to grant Summary Judgment in Defendant-Respondent's favor,

dismiss Plaintiffs-Appellants' Complaint with prejudice and, in turn, deny Plaintiffs-Appellants' Cross-Motion for Summary Judgment.

B. SUPPLEMENTAL COVERAGE LIMITS ARE PART OF, AND NOT IN ADDITION TO, THE STANDARD POLICY LIMITS AND THE POLICY LANGUAGE PERTAINING TO SAME IS CLEAR AND UNAMBIGUOUS

New Jersey law advises that a contract is required to be read as whole and in a common-sense manner. Cypress Point Condominium Ass'n, Inc. v. Adria Towers, LLC, 226 N.J. 403, 415 (2016). An insurance policy should be enforced as written when the terms are clear and not rewritten to provide for a better policy than the one purchased. President v. Jenkins, 180 N.J. 550, 562 (2004). Courts should not engage in a strained construction to find coverage. Longobardi v. Chubb Ins. Co. of New Jersey,121 N.J. 530, 537 (1990).

The subject policy's Homeowner Declarations indicates that the limit of insurance relative to the subject property at the time of loss was $392,000 (the "Coverage A limit") (Pa38). There is no dispute as to same (Pb1-2).

There is also no dispute that the costs to repair the subject property exceeded the Coverage A limit of $392,000 and that Defendant-Respondent paid Plaintiffs-Appellants the full $392,000 (Pb3).

Thereafter, Plaintiffs-Appellants sought additional coverage for complying with building codes/laws in rebuilding the property (Pa23-25).

Coverage for "the enforcement of any codes, ordinances, or laws, regulating construction…" is excluded by virtue of the policy's Building Law Exclusion (Pa49).

However, the policy reintroduces coverage for "loss caused by enforcement of any… code or law" under certain circumstances by virtue of the Building Code or Law ("BCL") Supplemental Coverage (Pa42).

The policy's Homeowners Coverage Form indicates a BCL Supplemental Coverage limit of 10% of Coverage A, or $39,200. There is no dispute as to same (Pb3).

The policy's MPL 44 11 00 endorsement ("Increased Special Limit Section I") increases the BCL Supplemental Coverage limit to 20% of Coverage A, or $78,400 (Pa78). There is no dispute as to same (Pb3). The endorsement further notes that "all other provisions in this policy are unchanged" (Pa78).

BCL Supplemental Coverage is added as the 11th Supplemental Coverage offered by the policy under Section IB (Pa42). All Section IB Supplemental Coverages are subject to the following preamble, or introductory language, in pertinent part:

SECTION IB – SUPPLEMENTAL COVERAGES

> Unless otherwise stated, the limits shown for the following **are part of, and not in addition to**, the limits shown in the Declarations (emphasis supplied) (Pa46).

As such, the $78,400 limit of available BCL Supplemental Coverage is a part of, and not in addition to, the Section I Coverage A limit of $392,000.00, as shown in the Declarations.

Plaintiffs-Appellants argue that, because they paid an additional $90 premium for the endorsement that increases the BCL Supplemental Coverage limit from $39,200 (10% of the Coverage A limit) to $78,400 (20% of the Coverage A limit), they are entitled to coverage over and above the Coverage A limits, arguing that, otherwise, the additional premium payment is "unnecessary" and the increase in limits is "illusory"(Pb11).

However, had this not been a total loss requiring exhaustion of the $392,000 Coverage A limits, and, instead, been only a partial loss requiring payment of less than $392,000, Plaintiffs-Appellants would have received the Supplemental Coverage they are seeking.

In addition, the beginning portion of the BCL Supplemental Coverage reads, in pertinent part, as follows:

> **11. Building Code or Law Coverage**
> **(a)** Coverage A is extended to cover…(Pa42)

Plaintiffs-Appellants argue that the phrase "Coverage A is extended to cover…", and specifically the use of the word "extended", means that

Coverage A *limits* are extended. However, this is a misinterpretation of the plain language of the policy. The policy clearly states that *coverage* (that would otherwise be excluded) is extended, not *limits*.

More specifically and as noted above, coverage for complying with the enforcement of building codes/laws is excluded by the policy pursuant to the Building Law Exclusion (Pa49). However and by virtue of the BCL Supplemental Coverage, *coverage* for complying with the enforcement of building codes/laws is reintroduced, or *extended*, to the insured under certain circumstances. *Limits*, however, are not increased, extended or expanded and there is no language to that effect within the BCL Supplemental Coverage provision (Pa42).

The Trial Court Judge, recognizing "the difference between coverage and limits" (T6-25) rightfully agreed with Defendant-Respondent noting that the subject provisions do "not talk about increasing the limits of coverage only that it extends the protection, meaning when you are entitled to insurance" (T22-6-8). The Judge further noted that "coverage is to provide you with insurance protection for areas that you would otherwise not be covered for" (T7-1-3) and that the policy "doesn't indicate anywhere that they're going to increase… the limits that they have to pay" (T7-17-20). The Judge elaborated by noting that "if your house is damaged but then you're required to incur

additional expenses because of zoning laws or the like you have that additional insurance coverage, that protection [but] [t]hey don't say they're going to pay you more money" (T7-3-8).

Accordingly, the Trial Court Judge held that he was "constrained under this circumstance to provide the coverage as written… and that supplemental coverages are contained therein, and are not in addition to" the Coverage A limit (T23-13-18).

In further support of this position, Supplemental Coverages #3 and #4 similarly state that "Coverage C is *extended*…", but then also specifically indicate that the limit, applicable to Supplemental Coverage #3 and #4, "is an additional amount of insurance" (Pa46-Pa47). No such language exists within the BCL Supplemental Coverage provision (Pa42).

In fact and, again, as noted above, the policy specifically indicates that the limits for BCL Supplemental Coverage "**are part of, and not in addition to**" Coverage A's limit of $392,000 (Pa46).

Pursuant to the above, the Trial Court correctly found that Defendant-Respondent had paid the full policy limit owed to Plaintiffs and that no additional payment relative to Building Code or Law Coverage was warranted (T23-18-23).

POINT II

PLAINTIFFS-APPELLANTS FAILED TO RESPOND TO DEFENDANT-RESPONDENT'S STATEMENT OF MATERIAL FACTS FILED AS PART OF DEFENDANT-RESPONDENT'S MOTION FOR SUMMARY JUDGEMENT

Plaintiffs-Apellants failed to respond to Defendant-Respondent's Statement of Material Facts filed as a part of Defendant-Respondent's Motion for Summary Judgment. As such and pursuant to Rule 4:46-2(b), all statements are deemed admitted.

In this regard, Rule 4:46-2(a) provides the requirements to be satisfied by the movant on a Motion for Summary Judgment motion, which includes a requirement that the motion papers contain a "Statement of Material Facts". The Rule provides, in pertinent part:

> The statement of material facts shall set forth in separately numbered paragraphs a concise statement of each material fact to which the movant contends there is no genuine issue together with a citation to the portion of the motion record establishing the fact or demonstrating that it is uncontroverted.

Rule 4:46-2(b) sets forth the requirements to be met by a party opposing a Motion for Summary Judgment motion, and states in, pertinent part:

> A party opposing the motion shall file a responding statement either admitting or disputing each of the facts in the movant's statement. Subject to *R.* 4:46-5(a)**, all material facts in the movant's statement which are sufficiently supported will be deemed admitted for purposes of the motion only, unless specifically disputed by citation conforming to the requirements of paragraph (a) demonstrating the existence of a genuine issue as to the fact** (emphasis supplied).

Consistent with Rule 4:46-2(a), the motion papers filed by Defendant-Respondent included a Statement of Material Facts in Support of Motion for Summary Judgment.

While Plaintiffs-Appellants filed a Cross-Motion for Summary Judgment, they did not respond to Defendant-Respondent's Statement of Material Facts. As such, all Statements are deemed admitted.

CONCLUSION

Pursuant to the above, Defendant-Respondent respectfully submits that the Trial Court properly granted Summary Judgment in favor of this Defendant-Respondent and it is respectfully requested that this Court affirm the Order of the Trial Court entered February 28, 2025, which granted Defendant-Respondent's Motion for Summary Judgment, dismissed Plaintiffs-Appellants' Complaint with prejudice and, in turn, denied Plaintiffs-Appellants' Cross-Motion for Summary Judgment.

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Superior Court of New Jersey

Appellate Division

Docket No. A-002311-24

BARRY INGRAM and ILEANA INGRAM, *Plaintiffs-Appellants,* vs. FARMERS INSURANCE COMPANY OF FLEMINGTON, *Defendant-Respondent.*	:	CIVIL ACTION ON APPEAL FROM THE FINAL ORDER OF THE SUPERIOR COURT OF NEW JERSEY, LAW DIVISION, OCEAN COUNTY DOCKET NO.: OCN-L-2217-23 Sat Below: HON. CRAIG L. WELLERSON, J.S.C.

REPLY BRIEF ON BEHALF OF PLAINTIFFS-APPELLANTS

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PRELIMINARY STATEMENT

Plaintiff-Appellants, Barry Ingram and Ileana Ingram ("Plaintiffs"), submit this brief in further support of their appeal from an order of Superior Court, Ocean County (Wellerson, C.), entered February 28, 2025, which granted Defendant Farmers Insurance Company of Flemington's ("Defendant") Motion for Summary Judgment and dismissed Plaintiffs' Complaint with prejudice while subsequently denying Plaintiffs' Motion for Summary Judgment. For the reasons set forth in Plaintiffs' main brief and the foregoing reasons, Plaintiffs respectfully submit that the Superior Court erred in Granting Defendant's motion and in denying Plaintiffs' motion.

Plaintiffs maintain and it is undisputed that the terms of the policy issued to Plaintiffs by Defendant (the "Policy"), which covered Plaintiffs' property located at 38 Fielder Avenue in Ortley Beach, New Jersey (the "Property") contained a Coverage A limit of insurance that was $392,000. The Policy declarations also contained Building Code or Law Coverage ("BCL Coverage") for 10% of the Coverage A limit, or $39,200. Notably, pursuant to Plaintiffs' purchase of the "Increased Special Limit-Section I", the BCL Coverage was increased to 20% of the Coverage A limit, or $78,400. This purchase resulted in an additional $90 cost to Plaintiffs' premium. The costs to repair the Property as a result of the fire exceeded the Coverage A limit of

$392,000, and the parties agree that Defendant issued payment to Plaintiffs in that amount. However, during the rebuild of the Property, Plaintiffs were required to comply with local building codes and laws, which increased the cost to repair the home beyond the Coverage A limit. Despite Plaintiffs' purchase of the increased BCL Coverage—for which they paid an additional premium—Defendant alleged that the BCL Coverage was included within the Coverage A limit and has refused to pay the additional monies that the Plaintiffs are entitled to pursuant to that supplemental coverage.

This appeal arises from a dispute over whether the supplemental BCL Coverage is subject to, or in addition to, the Coverage A limit of the Policy. The Superior Court erroneously granted Defendant's motion for Summary Judgment under Rule 4:45-1 *et. seq*. and held that the BCL did not extend the Coverage A limit, contrary to both the policy language and the insured's reasonable expectations. Plaintiffs seek a reversal of that decision.

PROCEDURAL HISTORY

Plaintiffs rely upon the Procedural History included in their original brief.

STATEMENT OF FACTS

Plaintiffs rely upon the Statement of Facts included in their original brief.

LEGAL ARGUMENT

POINT I

POLICY INTERPRETATION IS A QUESTION OF LAW FOR THE COURT (Pa1)

Defendant's assertion that there are no issues of material fact misses the fundamental nature of this dispute. The central issue in this case is the interpretation of insurance policy language. New Jersey courts have consistently held that the interpretation of contracts, including insurance policies, is a matter of law subject to de novo review[1]. *Abboud v. Nat'l Union*

[1] Defendant's contention regarding Plaintiffs' alleged noncompliance with Rule 4:46-2(b) lacks merit. The substance of Defendant's Statement of Material Facts in Support of Its Motion for Summary Judgment included arguments and legal conclusions rather than factual assertions, contrary to the requirements of Rule 4:46-2. Such arguments and legal conclusions are not entitled to admission or deference under the Rule. Additionally, Plaintiff's cross-motion sufficiently references the record and includes sufficient support to demonstrate a genuine dispute concerning the interpretation of the policy language in question. Further, the issue before the Court centers on this policy interpretation, not the existence of factual disputes.

Fire Ins. Co., 450 N.J. Super. 400, 406, 163 A.3d 353 (App. Div. 2017). This legal standard ensures that appellate courts afford no special deference to trial court interpretations of insurance policy language. *Cypress Point Condominium Ass'n, Inc. v. Adria Towers, L.L.C.*, 441 N.J. Super. 369, 375 (App. Div. 2015).

Accordingly, Defendant's acknowledgment that there are no material factual disputes actually supports the position that this matter is appropriate for legal determination. When there are no material factual disputes, "the interpretation of a contract is subject to de novo review by an appellate court." *Matter of County of Atlantic*, 230 N.J. 237, 255 (2017). The lack of factual disputes is not determinative in this matter. Instead, the interpretation of the insurance policy language at issue here presents a question of law that this Court is fully empowered and required to decide.

POINT II

THE POLICY LANGUAGE CREATES AMBIGUITY THAT MUST BE CONSTRUED IN FAVOR OF COVERAGE (Pa1)

A. Standard for Determining Ambiguity Under New Jersey Law (Pa1)

Under New Jersey law, when a provision is subject to more than one reasonable interpretation, it is ambiguous. *Templo Fuente De Vida Corp. v.*

Nat'l Union Fire Ins. Co. of Pittsburgh, 224 N.J. 189, 200, 129 A.3d 1069 (2016). The critical test is whether "the phrasing of the policy is so confusing that the average policyholder cannot make out the boundaries of coverage." *Progressive Cas. Ins. Co. v. Hurley*, 166 N.J. 260, 273 (2001). New Jersey courts apply a clear hierarchy in policy interpretation. When the controlling language of an insurance policy supports two interpretations, one favorable to the insurer and the other favorable to the insured, courts are obligated to adopt the interpretation supporting coverage. *Id.* (quoting *Lundy v. Aetna Cas. & Sur. Co.*, 92 N.J. 550, 559, 458 A.2d 106 (1983)). While New Jersey courts give insurance policy words their plain, ordinary meaning, this principle only applies when the language is clear. *Id*.

Here, the Defendant's analysis completely ignores these fundamental standards and instead attempts to impose a singular interpretation without acknowledging the reasonable alternative interpretations that create genuine ambiguity. Defendant cites *President v. Jenkins*, 180 N.J. 550, 562 (2004), in stating that "[a]n insurance policy should be enforced as written *when the terms are clear* [emphasis added] and not rewritten to provide for a better policy than the one purchased," but seemingly ignores the aspect of the quotation that makes the principle inapplicable where ambiguity exists.

B. The Policy Language Remains Subject to Multiple Reasonable Interpretations (Pa1)

In interpreting an insurance policy, "[courts] are guided by general principles: 'coverage provisions are to be read broadly, exclusions are to be read narrowly, potential ambiguities must be resolved in favor of the insured, and the policy is to be read in a manner that fulfills the insured's reasonable expectations.'" *Sosa v. Mass. Bay Ins. Co.*, 458 N.J. Super. 639, 646 (App. Div. 2019). Courts should liberally construe the policy in the insured's favor "'to the end that coverage is afforded to the full extent that any fair interpretation will allow.'" *Progressive* at 273. In this case, the policy's use of the phrase "Coverage A is extended to cover" directly conflicts with the general preamble stating that supplemental coverages are "part of, and not in addition to" the Coverage A limits. This conflict creates precisely the type of ambiguity that New Jersey courts had in mind when developing the above-referenced guidelines with respect to policy interpretation.

The Policy provides in relevant part:

> **11. Building Code or Law Coverage**
> **(a)** Coverage A is extended to cover the loss or expense described in (1), (2), and (3) that ensues as a direct consequence of a covered loss at the residence premises. We cover such for an amount determined by applying the applicable factor shown in Supplemental Coverage Limit 11 (above) to the Coverage A limit of liability shown in the Declarations. The losses or expenses covered are:

(1) The loss caused by enforcement of any building, land use, or zoning code or law in force on the date of the covered loss, that:
- Requires the demolition of parts of the same prope1ty not damaged by a covered cause of loss.
- Regulates the construction or repair of buildings.
- Establishes the building, land use, or zoning requirements at the described premises.

(2) The increased expense you incur to construct, rebuild, or repair the property caused by enforcement of building, land use, or zoning code or law in force on the date of the covered loss. The property must be intended for the same use or occupancy as the current property unless otherwise prohibited by such code or law.

(3) The expense you incur to demolish undamaged parts of the property and clear the site of such parts, caused by enforcement of building, land use, or zoning code or law in force on the date of the covered loss. (Pa42).

With the inclusion of the word "extended", the Policy can reasonably be read to mean that the coverage is expanded beyond that which is included in the declarations page. Black's Law dictionary defines "extend" as "to expand, enlarge, prolong, lengthen, widen, carry or draw out further than the original limit." *Black's Law Dictionary* 583 (6th ed. 1990). Defendant, in drafting the Policy, used this specific term to describe the aforementioned supplemental coverage's impact on the existing Coverage A. While Defendant argues that the term applies to the protections, and not the limits, of Coverage A, there is no question that Plaintiffs' understanding and reasonable expectations regarding payment for BCL Coverage regardless of the previous exhaustion of Coverage A limits are practical.

Additionally, the Declarations page for this Policy lists the limit of the supplemental BCL Coverage as being 10% of the Coverage A limit or $39,200. (Pa42). However, the Increased Special Limit Endorsement—MPL-44-11/2000—increases this limit to 20% or $78,400:

B. Supplemental Coverage Limits

Increase In Limit	**New Limit**		
		Computer Media and Computer Software Coverage	
		Credit Card Coverage	
		Loss Assessment Coverage	
		Work Interruption Coverage	
10.00%	*20.00%*	**Building Code or Law Coverage**	(Pa78)

At the least, the language regarding application of the BCL Coverage is ambiguous and must be construed in favor of the insured's reasonable expectations. Here, Plaintiffs paid a $90 additional premium for this supplemental coverage and it was listed as an independent line item within the Policy. (Pa39). That premium would appear to Plaintiffs, and any reasonable insured, to be unnecessary, misleading, and illusory if such coverage were to be simply subsumed within the existing Coverage A limits. This additional premium would provide an increase in coverage amount in return is a reasonable and logical expectation of anyone insured by such a Policy. If Defendant did not intend for the coverage limits to be extended accordingly, it is unquestionable that, as described in *Sosa*, better drafting could have put this

issue "beyond debate." Instead, Defendant included the above wording which supports Plaintiffs' interpretation that the BCL coverage—for which they paid an additional premium—was intended to increase the total coverage amount. Defendant's insistence that the BCL Coverage would have applied had this not been a total loss is a red herring, as nothing in the Policy indicated to Plaintiffs that the extended coverage, for which they were paying an additional premium, would only apply in instances where the damage totaled less than $392,000.

Further, Defendant has pointed to two other provisions under Section 1B, specifically Supplemental Coverages #3 and #4 (the "**Supplemental Coverages**"), to differentiate the BCL Coverage provision. Defendant has noted that the Supplemental Coverages each end with the statement "[t]his is an additional amount of insurance," and contended that this sentence, which is absent from the BCL Coverage provision, would be used to signify an increase over the applicable coverage limit. (Pa18). However, while the statement in the Supplemental Coverages makes it clear that those provisions are in addition to the Coverage C that they modify, the BCL Coverage provision does not require such language because it starts out with the phrase "Coverage A is extended." (Pa42).

C. The Doctrine of Reasonable Expectations Supports Plaintiffs' Interpretation of Coverage (Pa1)

In its Brief in Opposition, Defendant-Respondent fails to address the reasonable expectations doctrine, which is fundamental to New Jersey insurance law. New Jersey law gives effect to the objectively reasonable expectations of an insured for the purpose of rendering a fair interpretation of the boundaries of insurance coverage. *Progressive* at 273. Courts will enforce only the restrictions and terms in an insurance contract that are consistent with the objectively reasonable expectations of the average insured. *Id*. at 274.

Here, Plaintiffs paid an additional $90 premium specifically for increased BCL Coverage. The doctrine of reasonable expectations is applied when there are misleading policy terms and conditions to resolve genuine ambiguities in favor of the insured and consistent with the insured's reasonable expectations of coverage. When such an ambiguity exists in the language of the insurance contract, the court must interpret the contract to comport with the objectively reasonable expectations of the insured.

The reasonable expectation that paying an additional premium would provide additional coverage, rather than merely reallocating existing coverage, is objectively reasonable. Courts will depart from literal text and interpret policy in accordance with insured's understanding when that text appears overly technical or contains hidden pitfalls, cannot be understood without

employing subtle or legalistic distinctions, or requires strenuous study to comprehend.

Nonetheless, the Superior Court erroneously accepted Defendant's restrictive interpretation of the Policy, which, as described above, is not supported by the plain language of the contract. The ordinary and common meaning of the terms used in the Policy, as understood by the average policyholder, support Plaintiffs' reasonable interpretation of the provisions and coverage amounts included therein, or are at least so ambiguous that they must be construed in favor of the insured. Thus, the Policy includes up to $78,400.00 in BCL Coverage in excess of the Coverage A limits.

CONCLUSION

Defendant has fundamentally failed to meet its burden of demonstrating that the policy language is unambiguous. Its analysis ignores Plaintiffs' practical interpretation of the policy, fails to address the reasonable expectations doctrine, and ironically demonstrates the very ambiguity it claims does not exist. Under New Jersey's well-established principles of insurance contract interpretation, the disputed language must be construed in favor of coverage and against the insurer.

For these reasons, Plaintiffs respectfully request that this Court reject Defendant's arguments and reverse the order of Superior Court, Ocean County

(Wellerson, C.), entered February 28, 2025, which granted Defendant Farmers Insurance Company of Flemington's ("Defendant") motion for Summary Judgment and dismissed Plaintiffs' Complaint with prejudice, and request that Plaintiffs' Complaint be reinstated in its entirety. Plaintiffs further request that this Court subsequently grant Plaintiffs' Motion for Summary Judgment against Defendant.

Dated: November 3, 2025

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