ALLSTATE NEW JERSEY INSURANCE COMPANY; ALLSTATE NEW JERSEY PROPERTY and CASUALTY INSURANCE COMPANY; ALLSTATE INSURANCE COMPANY; ALLSTATE FIRE & CASUALTY INSURANCE COMPANY; ALLSTATE NORTHBROOK INDEMNITY COMPANY; and ALLSTATE PROPERTY AND CASULATY INSURANCE COMPANY,

Plaintiffs,

v.

CARTERET COMPREHENSIVE MEDICAL CARE, P.C., d/b/a MONROES COMPREHENSIVE MEDICAL CARE, d/b/a COMPREHENSIVE MEDICAL CARE, d/b/a FASSST SPORT, d/b/a COMPREHENSIVE VEIN CARE; INIMEG MANAGEMENT COMPANY, INC.; 311 SPOTSWOOD-ENGLISHTOWN ROAD REALTY, L.L.C.; 72 ROUTE 27 REALTY, L.L.C.; MID-STATE ANESTHESIA CONSULTANTS, L.L.C.; NORTH JERSEY PERIOPERATIVE CONSULTANTS, P.A.; INTERVENTIONAL PAIN CONSULTANTS OF NORTH JERSEY, L.L.C., d/b/a PAIN MANAGEMENT PHYSICIANS OF NEW JERSEY, d/b/a/ METRO PAIN and VEIN; SOOD MEDICAL PRACTICE, L.L.C.; ONE OAK MEDICAL GROUP, L.L.C., d/b/a NEW JERSEY VEIN TREATMENT

SUPREME COURT OF NEW JERSEY

Docket No.: 090337

Civil Action

Superior Court of New Jersey,
Appellate Division
Docket No. A-0778-23

Sat Below:
Hon. Robert J. Gilson, P.J.A.D.
Hon. Lisa Firko, J.A.D.
Hon. Avis Bishop-Thompson, J.A.D.

Superior Court of New Jersey,
Law Division

Dkt. No. MID-L-1469-23

Sat Below:
Hon. Christopher D. Rafano, J.S.C.

CLINIC; ONE OAK TREATMENT CLINIC; ONE OAK ORTHOPAEDIC & SPINE GROUP, L.L.C.; ONE OAK HOLDING, L.L.C.; JOSEPH BUFANO, JR., D.C.; CHRISTOPHER BUFANO; MICAH LIEBERMAN, D.C.; RICHARD MILLS, M.D.; JENNIFER M. O'BRIEN, ESQ.; GERALD M. VERNON, D.O., D.C.; ALVIN F. MICABALO, D.O.; JOSE CAMPOS, M.D.; JOHN S. CHO, M.D.; MICHAEL C. DOBROW, D.O.; RAHUL SOOD, D.O.; SACHIN SHAH, M.D.; FAISAL MAHMOOD, M.D.; RAVI K. VENKATRAMAN, M.D.; MANGLAM NARAYANAN, M.D.; SHANTI EPPANAPALLY, M.D.; JOHN AND JANE DOES 1 through 10; and XYZ CORPORATIONS 1 through 10,

Defendants.

PETITIONER CARTERET COMPREHENSIVE'S REPLY BRIEF TO THE NEW JERSEY SUPREME COURT

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Dated: October 16, 2025

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PRELIMINARY STATEMENT

Allstate is attempting to convince this court to take a myopic view of the AICRA arbitration process by emphasizing alleged shortcomings in discovery and evidence once an arbitration has been filed. This characterization misrepresents the procedural landscape. In reality, an insurer's right to investigate – including the right to compel document production, conduct Examinations Under Oath and invoke other due process mechanisms – attaches at the moment of the motor vehicle accident and remains available for years thereafter culminating in arbitration.

Both NJDOBI and Allstate concur that this case presents an issue of pure statutory interpretation. Accordingly, the standards of review is *de novo* review, and no heightened deference is owed to NJDOBI. It is well established that state agencies are not entitled to special preference in matters of pure statutory interpretation.

Moreover, NJDOBI and Allstate's assertion that arbitrators lack authority to adjudicate fraud claims in arbitration is demonstrably incorrect. Arbitrators routinely render fraud determinations in high-value disputes, often involving multiple health care providers and claims exceeding $100,000, consistent with the scope if authority contemplated under the arbitration framework. This also includes arbitrations initiated by insurance carriers.

LEGAL ARGUMENT

I. Petitioner's Response to Supplemental Brief of Allstate Ins. Co.

a. **Allstate Is Rewriting the Express Language of AICRA to Create an Arbitration System Limited to Small Denomination Disputes.**

Allstate contends that the 1998 AICRA amendments created an arbitration system limited to "small denomination disputes." (Allstate Supplemental Brief, p.1). There is no express language in AICRA that states this. While Allstate's characterization may have described the pre-1998 No- Fault 1.0 framework, the post-amendment system, No-Fault 2.0, was a comprehensive overhaul. It replaced a flawed arbitration model with a multi-step process designed to address fraud and overutilization. Arbitration under AICRA is available for any No-Fault dispute, regardless of claim value. See, N.J.S.A. §39:6A-1.1 (1998).

Allstate fails to advise this court that the No-Fault arbitration system includes a distinct sub-tier for "small denomination disputes" under $1,000. Pursuant to Forthright arbitration rules, such claims are adjudicated "on the papers" without an in-person hearing. *New Jersey No-Fault PIP Arbitration Rules*, R. 6 (2022). This limited format applies only to low-value disputes and does not define the broader arbitration framework. For claims exceeding $1,000—without any upper limit—parties are afforded full due process, including in-person hearings, discovery orders, full briefing, and post-award review for modification or clarification of the award and even appeal to a three-arbitrator panel. *New Jersey No-Fault PIP Arbitration*

Rules, R. 24 & 25 (2023). Allstate's assertion that the entire arbitration system is confined to small denomination disputes is therefore factually and procedurally incorrect.

B. Arbitration Discovery Is not Limited to 105 Days – Investigation of Claims Begins the Day of the Motor Vehicle Accident.

Allstate alleges that insurers are constrained to a 105-day window for investigating No-Fault claims, rendering fraud detection impracticable. This claim not only misstates the regulatory framework but Allstate's own contractual framework. The 105-day period pertains solely to the issuance of a coverage determination – not the duration of investigative authority. On the contrary, in practice, insurers initiate fraud investigations from the date of the accident and may continue through the life of the claim, including arbitration.

Moreover, Allstate has reserved extensive investigation and discovery rights through its Decision Point Review Plan ("DPR") and Assignment of Benefits ("AOB") contracts:

- Treatment to be guided by mandatory care paths in N.J.A.C.11:3-4 for different categories of injury. (C.C.D.a.131).
- Mandatory precertification of all care. (C.C.D.a.133).
- Utilization of approved networks for diagnostic testing, durable medical equipment and prescriptions with a 30% penalty for non-use. (C.C.D.a.135)
- Providing full and legible records on request. (C.C.D.a.8).
- Patients submit to physical examinations at the request of the carrier (C.C.D.a.8).
- Compliance with a two level, pre-service and post-service, appeal process as a condition precedent to arbitration. (C.C.D.a.8).

- That all disputes be submitted to arbitration following the appeal process (C.C.D.a.8).
- That health care providers who accept assignments of benefits submit to written statements and Examinations Under Oath at any time in the claim process, not just arbitration. (C.C.D.a.8).

These mandates are not merely procedural formalities, they carry substantive consequences. Failure to comply with these requirements results in Allstate being absolved from paying the claim and renders the assignment of benefits to the health care provider void. (C.C.D.a.9).

No-fault arbitrations operate under a rolling statute of limitations, permitting claims to be filed within two years of the last payment of *any* claim arising from the accident. See, N.J.S.A. §39:6A-13.1(a). In serious injury cases, treatment may span multiple years, and each payment, whether voluntary or compelled through arbitration, resets the statute of limitations for an additional two years. Thus, the statute may extend well beyond two years, often mirroring or exceeding the six-year statute of limitations under the NJIFPA. Throughout this extended period, insurers retain full investigatory authority including but not limited to, document demands, arbitrator issued discovery orders (the functional equivalent of paper discovery in civil matters), mandating physical examinations to ensure injuries are not falsified (the functional equivalent of an IME in civil actions), taking multiple EUOs of doctors and patients (the functional equivalent of depositions in civil matters).

Thus, Allstate's assertions are unfounded as the investigation of fraud is not limited to 105 days under AICRA.

C. No Fault Arbitration is Not a One-Way Street – Any Party Can File an Arbitration and Arbitrators Can Award Any Damages Available in Civil Claims under the New Jersey Arbitration Act.

Allstate's assertion that "arbitration is a one-way street," available only to claimants, is factually incorrect. Insurers, including Allstate, may initiate arbitration to contest coverage, enforce contractual provisions, or seek reimbursement. Likewise, the claim by Allstate and NJDOBI that arbitrators lack authority to award damages in No-Fault proceedings is incorrect.

Allstate's claim is refuted by the Forthright arbitration rules which expressly provides that" *Any* party may file a written demand for arbitration …" *Forthright* R. 7 (emphasis added). Insurers, including Allstate, is fully empowered to initiate an arbitration, including those involving suspected fraud.

Equally unfounded is the assertion that arbitrators lack authority to award damages to carriers. Neither AICRA, the No-Fault regulations, nor Forthright's arbitration rules prevent the award of damages to a carrier. Moreover, under principles of statutory construction, the New Jersey Arbitration Act ("NJAA"), which would supersede either a regulation or private arbitration rule, expressly provides arbitrators with this enumerated power: "An arbitrator may award punitive damages or *other exemplary relief if such an award is authorized by*

law in a civil action involving the same claim and the evidence produced at the hearing justifies the award in accordance with the legal standards otherwise applicable to the claim. . . .” N.J.S.A. §2A:23B-21(*emphasis added*).

In conclusion, No-fault arbitration is not a one-way street. Insurers are expressly permitted to initiate arbitration, arbitrators are empowered under the NJAA to award civil damages, including those authorized by the NJIFPA.

II. Petitioner’s Response to Supplemental Brief of the New Jersey Department of Banking & Insurance.

a. **While Deference is Normally Provided to Administrative Agencies, it is Not In Matters of Pure Statutory Interpretation and the Agency Cannot Rewrite an Unambiguous Statute by Regulation or Advisory Opinion.**

New Jersey courts recognize that administrative agencies possess specialized expertise, delegated authority, and discretion—but that does *not* compel judicial deference in all circumstances. Courts retain an independent duty to review agency action for legal validity, statutory compliance, reasonableness, and evidentiary support. Judicial review is not a rubber stamp—it is a constitutional safeguard ensuring that agency discretion remains within lawful bounds.

Under New Jersey law, courts retain the ultimate authority to interpret statutes and are not bound by administrative agency’s legal conclusions. Where the question involves pure statutory interpretation – particularly when it implicates issues of law or legislative intent – the standard of review is *de novo* with no deference afforded

to the agency's position or interpretation. Deference is unwarranted where an agency's construction of a statute conflicts with the statute's plain language or undermines the legislative intent. See, US Bank, NA v. Hough, 210 N.J. 187, 200 (2012); GE Solid State Inc. v. Director Div. of Taxation, 132 N.J. 298, 306 (1993).

This matter presents a question of pure statutory interpretation involving the interplay between AICRA, NJIFPA, and NJAA. NJDOBI admits as much in its supplemental brief, stating: "This appeal requires the Court to reconcile an apparent conflict between two related legislative schemes." (*NJDOBI Supplemental Amicus Brief*, p.3&9). Because the issue at hand presents a question of pure statutory interpretation and NJDOBI's position is at direct odds with the plain language of the AICRA statute, the Court should decline to defer to the agency's view and perform a *de novo* review.[1] The judiciary, not an administrative agency, bears the ultimate responsibility for interpreting statutes enacted by the Legislature.

b. **Respondents' Claim that Arbitrators Cannot Decide Fraud Claims is Factually Inaccurate.**

The respondents assert that arbitrators lack authority to decide fraud claims in No-Fault arbitrations. (*Allstate Supplemental Brief*, p. 20)("DOBI and the OIFP confirm that PIP arbitrators cannot decide IFPA and other fraud claims."). This is

[1] Respondent Allstate concurs that a *de novo* review is warranted. *(Allstate Supplemental Brief*, p.4.)

factually inaccurate – arbitrators routinely consider and decide fraud claims in the No-Fault forum.

The publicly available Forthright database contains over 1,300 decisions that cite the "Fraud Prevention Act" and more than 22,000 decisions that reference "fraud." (www.nj-no-fault.com/decisions). These written awards, mandated under AICRA's No-Fault 2.0 framework, frequently analyze allegations of material misrepresentation and fraudulent conduct, and in many instances, issue binding determinations that fraud occurred.

The following are representative examples of arbitration decisions in which arbitrators analyzed fraud claims under the NJIFPA and concluded that fraud had been established:

i) *TC v. Plymouth Rock Assurance Ins. Co. Forthright #: NJ2308002059894* (5/5/25): Arbitrator DeMarco denied $108,899 in claims involving ten different healthcare providers in a single arbitration voiding the Plymouth Rock insurance policy *ab initio* for violation of the NJIFPA. Significantly, there was Examination Under Oath testimony and document production as evidence before the arbitrator. The Arbitrator analyzed the NJIFPA, N.J.A.C. 11:16-6.2(regulatory definition of fraud and misrepresentation), as well as controlling case law on fraudulent misrepresentation.

ii) *Garden State Pain Mgmt a/s/o JS v NJPLIGA. Forthright #:* NJ2301002028485 (5/10/23) – Arbitrator Lisa Mundy addressed fraud claims of NJPLIGA where doctor-owner of claimant was indicted for commercial bribery and healthcare fraud. Analyzing under controlling caselaw Arbitrator Mundy found that respondent failed to establish fraud by a preponderance of the evidence due to the mere existence of an indictment and no direct evidence of fraud on that particular claim.

iii) *Premier Healthcare Center, LLC a/s/o LG v. Travelers Ins & St. Paul Ins., Progressive Group, CURE Auto Ins., Forthright* # NJ1809001805224 (9/2/19): Arbitrator Maureen Johnston addressed coverage issues related to four separate insurance carriers based upon misrepresentations made as to residency and coverage and ordered that three healthcare providers had to repay Travelers Ins. claims previously paid.

iv) *St. Paul Protective Ins. Co. v. Spine and Rehab of Saddle Brook, Forthright #:* NJ2010001918380 (8/3/21). This arbitration was initiated by the No-Fault carrier to determine if the carrier could claw back claim monies previously paid to the medical practice and sought counsel fees for respondent carrier. Arbitrator Debra Cassella awarded 100% recoupment to the insurance carrier plus $1,200 attorney's fees and $225 costs for the practice's submission of claims under improper information.

v) *One Oak Medical Group, LLC a/s/o HA v. Progressive Ins. Co. Forthright #: NJ2503002144183* (9/8/25) – Arbitrator Vanderhoef determined that fraud occurred based upon a series of staged accidents warranting denial of all coverage under the Progressive policy. The evidence consisted of Examination Under Oath testimony, extrinsic evidence of other staged accidents outside of the arbitration, as well as forensic expert testimony presented by Progressive.[2]

The above decisions represent only a sampling of the extensive body of no-fault awards in which fraud was alleged, Examinations Under Oath were conducted, documents were produced, extrinsic evidence was considered, and expert testimony was provided.[3] These decisions reflect the complexity and evidentiary depth routinely present in No-Fault arbitrations. NJDOBI's characterization - that "PIP arbitration is designed to resolve disputes arising out of one accident involving one

[22] N.J.A.C.11:3-5(e.) requires Forthright to make available summaries or indices of arbitration decisions. Respondent submits the Court can take judicial notice of these decisions pursuant to *N.J.R.E.* 201 and 202.

[3] Due to limitations on brief length a full analysis of the 1,310 decisions that reference the NJIFPA over decades cannot be presented here so it is limited to a sampling of decisions.

policyholder, where the dispute turns on the binary question of whether the claim should be allowed or denied" (*NJDOBI Supplemental Brief,* p.3) – is not supported by the record. The breadth and substance of these decisions rebut that position unequivocally.

Thus, NJDOBIs allegations that arbitrators cannot determine fraud issues is meritless.

CONCLUSION

In conclusion, respondents seek relief from the judiciary for a policy dilemma of their own making, one that lies squarely within the Legislature's domain. If Allstate wishes to retain the benefits of the No-Fault arbitration system while selectively litigating other claims in civil court, it must petition the Legislature to amend AICRA, which currently prohibits such bifurcation. Alternatively, Allstate may opt out of the arbitration system entirely and have unfettered access to the courts for No-Fault disputes. Neither remedy falls within the Court's purview, nor should it.

Respectfully submitted,

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