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.

SUPPLEMENTAL REPLY BRIEF OF SOOD DEFENDANTS IN RESPONSE TO ALLSTATE'S SUPPLEMENTAL BRIEF AND BRIEFS OF AMICUS CURIAE

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Dated: October 16, 2025

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Defendants respectfully submit this supplemental reply brief in response to Allstate's supplemental brief and DOBI's amicus curiae brief.[1]

LEGAL ARGUMENT

I. Allstate gives the Arbitration Statute's plain language an artificially narrow reading to circumvent the Legislature's arbitration preference.

Allstate's argument is premised on a cramped interpretation of the Arbitration Statute. Allstate contends that the statutory language "[a]ny dispute regarding the recovery of medical expense benefits" refers only to "whether the insurer must pay the insured or assignee" under an auto policy. (PSuppb7). But the statute does not say that. It does not restrict arbitration to the narrow class of disputes about as-of-yet unrecovered or unpaid PIP benefits. See N.J.S.A. 39:6A-5.1(a). If that is what the Legislature intended, it could easily have written the statute to say that. It did not. And, as this Court and the Third Circuit observed, courts are not in the business of imposing limitations that do not exist in the plain text. DiProspero v. Penn, 183 N.J. 477, 492 (2005); Gov't Employees Ins. Co. v. Mount Prospect Chiropractic Ctr., P.A., 98 F.4th 463, 469 (3d Cir. 2024).

Allstate disputes that Defendants should have recovered certain PIP benefits, which Allstate now seeks to disgorge. Allstate alleges that Defendants "are liable to

[1] All abbreviations are the same as those in the Sood Defendants' Supplemental Brief ("DSuppb"). "PSuppb" is Allstate's Supplemental Brief. "DOBIb" is DOBI/ OIFP's Amicus Brief here. "CCMCSuppb" is Carteret's Supplemental Brief.

[Allstate]" for the "No-Fault (PIP) insurance benefits paid" by Allstate to the medical providers and related parties. (Pa0034-35 ¶ 106; see Pa0035-37 ¶¶ 107-10 (PIP dollars paid); Pa0079-81 ¶¶ 360, 366, 369(c); Pa106-09 ¶¶ 476-77, 483(b)-(c) (seeking disgorgement of PIP benefits)). Allstate's claims are plainly "[a]ny dispute" regarding Defendants' recovery of certain PIP benefits, which Allstate is seeking to claw back. Dispute, Black's Law Dictionary 593 (11th ed. 2019) (defining "dispute" as "[a] conflict or controversy, esp. one that has given rise to a particular lawsuit"). It is no less of qualifying dispute merely because Allstate paid those benefits but now wants them back — over a decade later in many instances. (See Pa0123-32).

Allstate's desire to claw back those PIP benefits now under the guise of a statutory or tort claim does not make it any less of a dispute about Defendants' recovery of PIP benefits. (PSuppb6-7). The Appellate Division previously rejected a similar creative tort refashioning in Endo Surgi Center, P.C. v. Liberty Mutual Ins. Co., 391 N.J. Super. 588 (App. Div. 2007). There, the Appellate Division found that a medical facility could not bring a bad faith tort claim for an insurer's misconduct related to its claim for PIP benefits — a dispute about recovery of PIP benefits — because that would circumvent the Arbitration Statute. Id. at 593-95. So, if the Court here was to adopt Allstate's position (it should not), then Endo Surgi Center's logic would be fatally undercut such that the Court would need to reconsider the case to allow tort claims by medical providers related to PIP benefits. Insurers cannot be

permitted to re-label PIP disputes as tort or statutory claims while medical providers are not permitted to do the same.

And we also know from the Arbitration Statute's plain language that the Legislature intended allegations of fraud to be arbitrated in the PIP arbitration forum. See State Farm Ins. Co. v. Sabato, 337 N.J. Super. 393, 396 (App. Div. 2001) (observing that fraud should be resolved by an arbitrator). Subsection (c) of the statute provides, in a non-exhaustive list, that PIP arbitrators adjudicate assertions contesting, for example, "whether the disputed medical treatment was actually performed." N.J.S.A. 39:6A-5.1(c). DOBI ignores this when it argues that subsection (c) "focuses on garden-variety disputes over interpretation of the insurance contract" and does not refer expressly to fraud. (DOBIb12). Clearly, if a provider billed for a treatment that it did not actually perform, that is fraud, and fraud is adjudicated by AICRA arbitrators. The Appellate Division acknowledged this. (Pa31 (citing Sabato, 337 N.J. Super. at 394)); accord Mount Prospect, 98 F.4th at 470 (explaining the type of claims in subsection (c) subject of the Arbitration Statute includes fraud-based claims). The argument that adjudication of fraud-based claims is off limits to arbitrators is unsupported by statute and by practice. See, e.g., In re Back to Health Chiropractic & Wellness v. Travelers of N.J. Ins. Co., Forthright File No. NJ2306002051493, at 8-10 (Forthright May 7, 2024) (finding arbitrator has jurisdiction to adjudicate insurer's assertion of fraud).

II. Neither the Arbitration Statute nor the regulations prevent arbitration of affirmative IFPA claims.

Allstate and DOBI argue that IFPA and RICO claims cannot be arbitrated under the Arbitration Statute because the statute and regulations do not provide insurers remedies for affirmative claims. (PSuppb11-13; DOBIb13-14). Again, their argument is based on false premises.

First, as to the statutory piece of this argument, AICRA does not contain any prohibition on arbitrators awarding remedies to insurers. AICRA's lack of an express, affirmative grant of the availability of remedies like compensatory damages, attorney's fees, or other relief, as noted by Allstate (PSuppb11, 13), is not equivalent to a prohibition. General arbitration principles are not inapplicable in this forum and, as previously noted, insurers like Allstate do not forgo statutory remedies under the IFPA and RICO by arbitrating those claims. (DSuppb4 (quoting Martindale v. Sandvik, Inc., 173 N.J. 76, 93 (2002)). So those statutory remedies are available to insurers in arbitration here. These remedies are in addition to the statutory remedies that AICRA affirmatively grants to insureds and assignees. See N.J.S.A. 39:6A-5(h); N.J.S.A. 39:6A-5.1(e); see also N.J.A.C. 11:3-5.6(e).

Second, as to the regulatory constraints on which Allstate and DOBI attempt to rely, those are equally baseless. DOBI's AICRA regulations allow for remedies to be awarded to insurers on affirmative claims, notwithstanding Allstate's and DOBI's claims. (PSuppb20-21; DOBIb13-14). DOBI requires that any arbitration

service provider's plan "shall" contain provisions that give the arbitrator "sufficient authority to provide **all relief** and to determine **all claims** arising under PIP coverage." N.J.A.C. 11:3-5.4(b)(3) (emphasis added). In fact, plans must also allow arbitrators to provide emergent and expedited relief. N.J.A.C. 11:3-5.4(b)(3)(i). So DOBI's assertion, that AICRA does not authorize an arbitrator to grant equitable relief, contradicts its own regulation. (DOBIb14). And if, as Allstate claims, DOBI approved Forthright Rules that do not meet its own regulatory requirement for the availability of all relief including damages, equitable relief, and fees, (see PSuppb20-21), then that is a DOBI-created problem that DOBI must fix. It is not a shortcoming of the Arbitration Statute or even the regulation. The Appellate Division was wrong that the consequence of that error should, in effect, penalize Defendants. (Pa30).

Allstate's and DOBI's reliance on New Jersey Coalition of Health Care Professionals, Inc. v. New Jersey Department of Banking & Insurance, 323 N.J. Super. 207 (App. Div.), certif. denied, 162 N.J. 485 (1999), to support its remedies argument is misplaced. (PSuppb13; DOBIb13). Simply because the Coalition decision held that there is no fee-shifting in favor of an insurer when an arbitrator affirms an insurer's denial of benefits to a claimant or medical provider does not foreclose statutory fee shifting under an IFPA claim. Nothing in AICRA's language

provides that fees cannot be awarded to an insurer if it is successful on an affirmative claim, like an IFPA or RICO claim. See N.J.S.A. 39:6A-5.1, -5.2(g).[2]

Third, Allstate further mischaracterizes the regulations' determinative effect in this appeal. Allstate is wrong to assert that an IFPA claim cannot be arbitrated because it would need to commence separate arbitrations for each accident. (PSuppb22). That is contrary to the DOBI regulations. The AICRA regulations expressly require that the Forthright Rules must permit case consolidation. Those rules "shall provide for **consolidation of claims into a single proceeding** where appropriate in order to promote prompt, efficient resolution of PIP disputes consistent with fairness and due process of law." N.J.A.C. 11:3-5.4(b)(2) (emphasis added). To this point, GEICO (the State's largest PIP insurer) compelled arbitration in Forthright of a putative class action. (DSuppb22-23). So, DOBI's assertion that AICRA "does not permit an aggregation of claims" and that it is "unclear" how an insurer in arbitration would prove a pattern of fraud, (DOBIb15), is inconsistent with DOBI's regulation and is unsupported by the statute itself.

Finally, Allstate's fallback complaint that the 105-day pay or deny limitation in N.J.S.A. 39:6A-5(g) would hinder its fraud detection ability is inconsequential,

[2] Interestingly, contemporaneous with AICRA's enactment, DOBI understood N.J.S.A. 39:6A-5.2(g) to itself allow fee-shifting even for insurers that successfully defended claim denials in PIP arbitrations. Coalition, 323 N.J. Super. at 260, 262 (citing N.J.A.C. 11:3-5.6(d)(3) (superseded)). Still, nothing in Coalition precludes fee-shifting under another statute when that claim is heard in this arbitral setting.

and, in fact, is a red herring. (PSuppb10). Defendants never argued that insurers have to bring IFPA claims within the 105-day maximum period for payment or denial under subsection (g). Insurers have six years to bring an IFPA claim. N.J.S.A. 17:33A-7(e). It is settled that arbitration does not itself curtail statutes of limitation that are contained in public interest statutes. Rodriguez v. Raymours Furniture Co., 225 N.J. 343, 346-47, 361-65 (2016). While an insured or medical provider would potentially have issue preclusion defenses, but that would be case specific.

Accordingly, the Court should reject Allstate's and DOBI's views because they are not faithful to AICRA and the regulations.

III. Arbitrating IFPA and RICO claims is not contrary to the public interest.

To cover for the shortcomings of its statutory and regulatory positions, DOBI takes the Chicken Little approach. DOBI contends that if the Court interprets the Arbitration Statute to encompass arbitration of IFPA claims, then that would "jeopardize" its detection and prevention of insurance fraud. (DOBIb19). But the sky is not falling, not by a long shot, contrary to DOBI's and Allstate's hyperbole.

First, nothing about this case affects or impairs DOBI's ability to bring its own civil insurance fraud cases, which is governed by N.J.S.A. 17:33A-5. Nor does DOBI argue that it does. DOBI boasts about its robust public enforcement actions. N.J. Office of the Ins. Fraud Prosecutor, 2018 Annual Report 4 (2018), https://www.nj.gov/oag/insurancefraud/report/oifp-ar-2018-complete.pdf; (CCMCSuppb9-10).

Second, contrary to DOBI's assertion, there is no provision in AICRA or in DOBI's own regulations that prohibits it from intervening in an insurer's arbitration of an IFPA or RICO claim. (DOBIb20). That is why DOBI does not cite any such provision. (Ibid.). DOBI simply speculates without citation that arbitration under the Arbitration Statute does not "contemplate intervention" by DOBI. (Ibid.). In this regard, DOBI's assertion conflicts with this Court's Consumer Fraud Act ("CFA") case law. The CFA, the IFPA's "closest statutory analogue," Allstate New Jersey Ins. Co. v. Lajara, 222 N.J. 129, 147 (2015), permits the Office of the Attorney General to intervene in CFA cases. N.J.S.A. 56:8-20. And it well-settled that CFA claims can be arbitrated. See, e.g., Goffe v. Foulke Mgmt. Corp., 238 N.J. 191, 202, 212-13 (2019); Atalese v. U.S. Legal Servs. Grp., L.P., 219 N.J. 430, 446-48 (2014); Gras v. Associates First Capital Corp., 346 N.J. Super. 42, 52-54 (App. Div. 2001), certif. denied, 171 N.J. 445 (2002). Suffice it to say, DOBI is crying wolf when it claims that it cannot intervene and would lose a tool to combat fraud. (DOBIb20).

Third, DOBI's argument that insurers like Allstate "would hardly be able to use the IFPA to combat insurance fraud" if they had to arbitrate is false. (DOBIb19). It is false because the Arbitration Statute does not impair insurers' ability to pursue IFPA claims; they merely have to pursue them in arbitration, not in court. And DOBI's argument is also revealing. DOBI says that many cases that the OIFP investigates are referrals from insurers. (DOBIb21). And those referrals will

supposedly dry up because, if insurers cannot bring IFPA claims in court, "that will doubtless reduce their own internal incentives to investigate insurance fraud." (DOBIb22). DOBI said the quiet part out loud. What is this "internal incentive?" Money. Insurers do not bring IFPA claims as altruistic actors interested in policing fraud. Insurers bring IFPA claims against medical providers to try to claw back benefits as a revenue source to help their bottom line. But again, DOBI's worry is unwarranted because insurers can avail themselves of the same IFPA remedies in arbitration. See supra, Section II.

And fourth, Allstate's claim that it is "simply nonsensical" that the Legislature permitted arbitration of an IFPA claim even though the IFPA allows suit in a court under N.J.S.A. 17:33A-7(a), does not square with the arbitrability of innumerable comparable statutes. (PSuppb23). As Defendants noted, that statutory language is boilerplate in many remedial statutes like the CFA, CEPA, LAD, and WHL, all of which can be arbitrated under settled law. (Db20 (collecting statutory provisions and cases)). Allstate apparently believes that the Legislature gave insurers the privilege to avoid arbitration that it did not give to whistleblowers and to victims of discrimination, wage theft, and consumer fraud. Now *that* is nonsensical.

Moreover, the IFPA's forum clause in subsection 7(a) uses the phrase "**may** sue," N.J.S.A. 17:33A-7(a) (emphasis added), which is permissive, not obligatory. (Db22 (collecting cases from this Court explaining "may" is permissive)); Mount

Prospect, 98 F.4th at 468. So, Allstate's assertion that insurers have "express rights" to sue in court under subsection 7(a) is not accurate. (PSuppb23).

IV. Allstate and DOBI confirm GEICO's arbitration clause is not at issue.

Allstate's and DOBI's arguments recognize that this case is not about the arbitration clause in GEICO's DPR Plan. (See PSuppb25; DOBIb17). Allstate says this case does not require the Court to examine different language in a different DPR Plan. (PSuppb25). And DOBI says that whether the particular language in GEICO's DPR Plan requires arbitration is "not squarely presented" here. (DOBIb17). Indeed, DOBI agrees that the GEICO DPR Plan language is very different and broader than Allstate's and is not the subject of this case. (Ibid. (quoting Mount Prospect, 98 F.4th at 471)).[3] Allstate's and DOBI's positions are consistent with Defendants' position that the Appellate Division's commentary about GEICO's DPR Plan is *dicta*, and that this Court should disavow it. (See DSuppb19-23; Pet15-17).

CONCLUSION

Allstate's and DOBI's supplemental arguments do not advance the ball. They try to dress up PIP disputes that belong in arbitration as something they are not. The Court should reject their arguments, reverse, and reinstate the order compelling arbitration under the Arbitration Statute.

[3] GEICO, in fact, initiated arbitration in JAMS in a remanded Mount Prospect case, in a matter captioned GEICO v. Hassan, JAMS Ref. No. 5425004496.

Respectfully submitted,

MANDELBAUM BARRETT PC

Dated: October 16, 2025

By: */s/ Andrew Gimigliano*

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